

Development Management Officer
Committee Report
Addendum

Summary	
Committee Meeting Date: 16 August 2022	
Application ID: LA04/2021/2519/F	
Proposal: Variation of condition no.11 of planning approval LA04/2018/0059/F (variation of restricted opening hours from 11pm to 01.00am)	Location: Lands at Nos 348-350 Ormeau Road Belfast BT7 2FZ.
Referral Route: Request for referral to the Planning Committee under Section 3.8.1 of the Scheme of Delegation.	
Recommendation:	Approve - Subject to Conditions
Applicant Name and Address: Fratelli Ormeau Road Ltd C/O Galgorm Spa & Golf Resort Galgorm BT42 1EA	Agent Name and Address: Clyde Shanks Ltd 2nd Floor 7 Exchange Place Belfast
<u>ADDENDUM REPORT</u>	
<p>This full application was previously listed for Planning Committee on 27th June 2022. The application was presented and subsequently deferred to enable a site visit to be undertaken by the Planning Committee to acquaint itself with the location and the proposal at first hand.</p> <p>A site visit for elected members took place on 5th August 2022.</p> <p>Additional information following the Planning Committee meeting and site inspection is set out below.</p> <ol style="list-style-type: none"> 1. Mr Malcolm McFarlane from Bredagh GAC has requested removal of letter of support. 2. Environmental Health has provided additional clarifying comments on their position in relation to noise control <p>Although it is noted within the body of the report that BCC Environmental Health (EHO) has no objection to the proposal, concerns remain regarding potential for noise disturbance due to patron dispersal from the premises. EHO has responded further with the following:</p> <p><i>'The matter of predicting noise impact from patron behaviour is complex and hard to predict as so many differing scenarios can arise such as the number of patrons potentially shouting and the fact that they will be on the move and some may linger in an area.</i></p> <p><i>Once patrons have left the premises whether individually or in small groups, and as they disperse, they will pass by in closer proximity to some of the nearby houses and it is possible on some nights that disturbance may occur from rowdier patrons who may loiter and whose behaviour and noise</i></p>	

level can be difficult to predict and assess. Having a robust noise management plan can help to reduce such negative patron behaviour.

There are concerns that although the noise assessment has demonstrated that it is possible to control the music noise level and patron dispersal much of that control is dependent on successful management by the operator of the premises.

*Documents submitted by the planning agent as well as within the NMP make the point that the developer/operator, Galgorm Collection, has a proven track record of operating and managing other similar premises considered a luxury experience. **The reputation of the developer/operator is not the subject of question, and significantly any permission to grant approval goes with the land and not with the applicant, the developer /operator may change at any point.***

Although the developer has, in communication with the Council, advised on patron dispersal it is unclear what legal measures can be taken by the operator of the premises to disperse patrons once they leave the confines of the site onto the public street / road.

The conditions recommended by EHO are as follows:

1. The restaurant (and bar) shall not operate outside the following hours 11am to 1am on Fridays and Saturdays
and
10am - 11pm from Sunday to Thursday.

Reason: Protection of residents against adverse noise impact.

2. Prior to operation of the hereby approved bar/restaurant, the applicant shall submit to the planning authority, for review and approval in writing, a final Noise Management Plan. The NMP shall outline operational measures to be put in place to control noise breakout including but not exclusively; to ensure doors are not left open, managing the settings on the in-house music and speaker system to ensure these are kept at the recommended settings, supervision and management of patrons within the premises and outside during patron arrival and dispersal.

The Noise Management Plan as approved in accordance with this condition shall be adhered to at all times thereafter.

Reason: Protection of residents against adverse noise impact.

3. Prior to operation of the hereby approved bar/restaurant the applicant shall submit to planning service, for review and approval in writing, a noise verification report. The verification report shall confirm the maximum permissible internal music level as well as confirm the details of the music limiting technology installed to ensure a maximum level across 1/1octave bands will not be exceeded. The verification report shall include noise measurements, and calculations where necessary, taken by a competent acoustic consultant which demonstrates compliance with noise rating curve NR15 across octave centre frequency bands inside habitable rooms of nearby sensitive receptors after 11pm while music is being played within the bar/restaurant.

Reason: Protection of residents against adverse noise impact.

4. The maximum permissible music noise level from any amplified sound as presented in the verification report, once approved, within the hereby permitted bar/restaurant shall not be exceeded at all times thereafter to ensure the noise levels across octave centre frequency bands (Leq) will not exceed NR15 target levels inside habitable rooms of nearby sensitive residential premises

Reason: Protection of residents against adverse noise impact.

As this is a variation application, all other conditions on the original approval LA04/2018/0059/F will be repeated.

Summary

- The site visit by members has taken place.
- EHO have provided clarification on their comments, they do not object subject to the imposition of conditions. The recommendation therefore remains as set out in the case officer's report of June 2022 to approve.

Recommendation

The proposal is recommended for approval subject to Conditions.

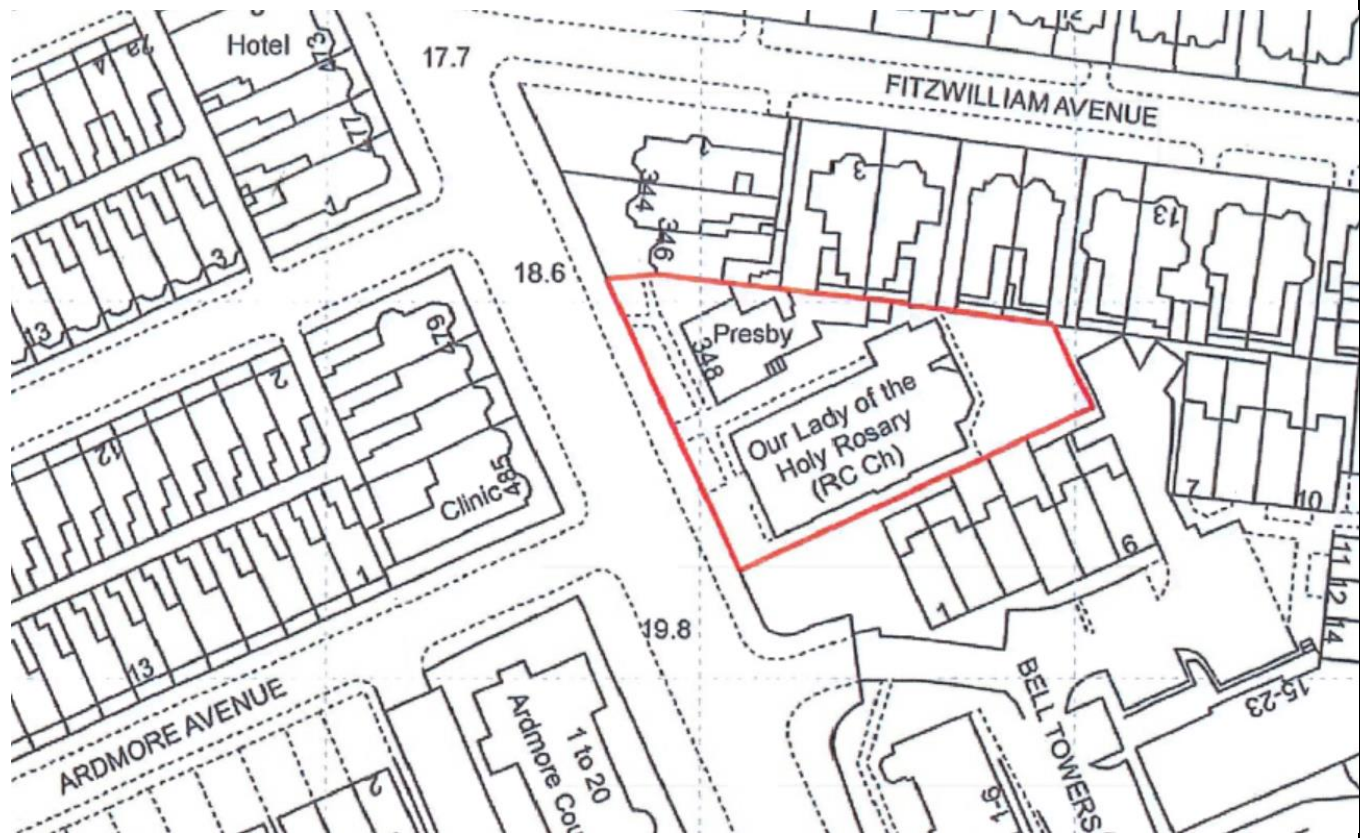
It is requested that delegated authority be given to the Director of Planning and Building Control to finalise the wording of conditions.

Committee Report

Development Management Report	
Application ID: LA04/2021/2519/F	Date of Committee: Tuesday 27 th June 2022
Proposal: Variation of condition no.11 of planning approval LA04/2018/0059/F (variation of restricted opening hours from 11pm to 1.00am)	Location: Lands at Nos 348-350 Ormeau Road Belfast BT7 2FZ.
Referral Route: Referral to the Planning Committee original approval LA04/2018/0059/F granted by Committee	
Recommendation:	Approval
Applicant Name and Address: Fratelli Ormeau Road Ltd C/O Galgorm Spa & Golf Resort Galgorm BT42 1EA	Agent Name and Address: Clyde Shanks Ltd 2nd Floor 7 Exchange Place Belfast
Executive Summary: <p>The proposal is for a variation of planning condition 11 of LA04/2018/0059/F to extend the opening hours of the proposed licenced restaurant from 11pm to 1am.</p> <p>The site is located within the existing settlement limits of the City as defined within the BUAP and draft BMAPs and the buildings on site are Listed. Planning approval was granted for an 18 bedroom hotel and licenced restaurant on 22 November 2019. No works have commenced on site to date.</p> <p>The key issue to be considered is:</p> <ul style="list-style-type: none"> • Impact on neighbouring amenity due to noise, nuisance and general disturbance <p>The site is the Former Holy Rosary Church and Parochial Hall and is primarily surrounded by residentially dwellings in the Bell Towers and in Fitzwilliam Avenue. 18 objections have been received, raising concern in respect of noise impact and parking issues. Two letters of support for the development have also been received.</p> <p>BCC Environmental Health was consulted and offered no objections to the change in hours subject to planning conditions.</p> <p>Having had regard to the expert advice of Environmental Health it is recommended that the condition be varied to allow the following opening times:</p> <ul style="list-style-type: none"> -1am for Friday and Saturday nights, - mid-night for Sunday night - the remaining nights retained at 11pm. <p>Recommendation - Approve subject to conditions</p> <p>It is recommended that the application is approved, and it is requested that delegated authority be given to the Director of Planning and Building Control to finalise the wording of conditions</p>	

Case Officer Report

Site Location Plan



Front of site



Arial image – site outlined red

Characteristics of the Site and Area

1.0 Description of Proposed Development
 The proposal is for a variation of planning condition 11 to extend the opening hours of the proposed licenced restaurant from 11pm to 1am.

2.0 Description of Site
 The application site is a vacant parochial house and Church which enjoys extant planning permission and listed building consent for limited demolition and extensions to facilitate a change of use to a hotel and restaurant. The site fronts onto the Ormeau Road an arterial route serving the city. There is currently a 2.4m timber hoarding on the boundary which currently has the benefit of temporary planning permission. The surrounding area is defined by commercial, ecclesiastic, and residential developments.

Planning Assessment of Policy and other Material Considerations

3.0 Site History
 LA04/2020/1229/F Variation of planning condition no 11 of permission refused

 LA04/2018/0059/F; Demolition of 2 storey rear return, external steps and single storey outbuilding of former Parochial House, demolition of existing vestry entrance porch, external steps, single storey boiler house and part of internal wall to tower and relocation of internal spiral staircase of former Holy Rosary Church. Erection of 3 storey and single storey rear and 2 storey side extensions and associated works. Change of use to 18 bed hotel and licenced restaurant Planning Permission granted

 LA04/2018/2017/2800/LBC associated listed building consent Planning Permission granted

 LA04/2018/1979/F; Retention of boundary fence around the grounds of former church & parochial house. Planning Permission granted

 LA04/2018/1977/LBC associated listed building consent Planning Permission granted

4.0 Policy Framework

4.1 Belfast Urban Area Plan 2001

4.2	Draft Belfast Metropolitan Area Plan 2004
4.3	Draft Belfast Metropolitan Area Plan 2015 The extant development plan is the BUAP. However, given the stage at which the Draft BMAP has reached pre-adoption through a period of independent examination, the policies within the Draft BMAP still carry weight and are a material consideration in the determination of planning applications. The weight to be afforded is a matter of judgement for the decision maker.
4.4	Belfast Local Development Plan Draft Plan Strategy 2035 The Belfast Local Development Plan Draft Plan Strategy 2035 will guide future planning application decision making to support the sustainable spatial growth of the city up to 2035. The draft Plan Strategy has been subject to examination by the Planning Appeals Commission and the Council has been provided with a copy of their Report, together with a Direction from the Department for Infrastructure in relation to additional required steps before it can be adopted. Paragraph 1.10 of the Strategic Planning Policy Statement (SPPS) states that a transitional period will operate until such times as a Council's Plan Strategy has been adopted. Accordingly, whilst the Draft Plan Strategy is now a material consideration it has limited weight until it is adopted and during this transitional period existing policies will be applied including the SPPS and relevant PPSs.
4.5	Strategic Planning Policy Statement for Northern Ireland (SPPS)
5.0	Statutory Consultees Responses None
6.0	Non Statutory Consultees Responses BCC Environmental Health
7.0	Representations The application was neighbour notified and advertised in the local press. The planning service received 18 letters of objection. The objections are from residents of the adjacent streets and raised the following concerns: <ul style="list-style-type: none"> - Noise impact - Parking Two letters of support were received from Bredagh GAA Club and Ormeau Business Assoc <ul style="list-style-type: none"> - Support hotel in the area and the re-use of the church will be an improvement. Hours will be comparable with others. Issued addressed below.
8.0	Other Material Considerations None
8.1	Any other supplementary guidance None
9.0	Assessment
9.1	The proposal is considered to be in compliance with the development plan.
9.2	Consideration:
9.3	The principle of the site being used for hotel and restaurant has been established within the extant planning approval on site LA04/2018/0059/F for an 18-bedroom hotel with an associated licenced restaurant. The issue for consideration is the acceptability of extending the opening hours of the restaurant and the potential to impact on the neighbour amenity, primarily by way of increased noise at unsociable hours.

<p>9.4</p> <p>9.5</p> <p>9.6</p> <p>9.7</p> <p>9.8</p> <p>9.9</p>	<p>It is noted that within Environmental Health response to application LA04/2018/0059/F dated 30th October 2019 that a closing time for the restaurant was recommended to be 00.00hrs however this was altered to 11pm on the Decision Notice under delegated authority as officers considered 11pm closing to be appropriate. This was based on the tight residential context and that the primary use was a hotel and restaurant and therefore, a restaurant closing at 11pm is typical. The 11pm closing time was considered to allow the restaurant to operate on the same footing as other licenced restaurants and to offer a level of protection to the neighbouring residential properties from increased noise at unsociable hours and to residents of the hotel. EH advised that the original 00.00hrs closing time was to facilitate patrons of the hotel and not the public and therefore was content with the alteration.</p> <p>In processing this current application for extended opening hours, Officers retained concerns regarding potential increased noise levels impacting on neighbouring amenity at unsociable hours given the proximity of the residential dwellings. This is reflective in the level of objections received, 18 in total, all indicating a concern regarding noise impact.</p> <p>The current application was submitted to extend the opening hours from 11pm to 1am, information within the statement to support the increased opening hours, by various ways of noise control mitigation, was supplied to Environmental Health. Having assessed the information EH has advised that the potential for noise disturbance can be controlled by way of Planning Conditions and Noise Management Plan enforced by the operator.</p> <p>Officers, concerns regarding the potential for noise disruption and nuisance to neighbouring amenity are guided by the comments and expertise of BCC Environmental Health. EH advise that the level of noise can be controlled to allow the premises to be operated as a licenced restaurant with extended opening hours. Subject to a recommended conditions from EH setting out extended opening hours for Friday and Saturday to 1am, Sunday to mid-night and the remainder of the week to remain at 11pm and through a Noise Management Plan.</p> <p>Officers consider that a recommendation to refuse would not be sustainable given the support for the proposal from Environmental Health and therefore the proposal subject to a new hours of operating condition is acceptable.</p> <p>In regards to an increase on street parking raised by objectors the level of parking was considered within the original approval LA04/2018/0059/F, it is not anticipated that any significant impact on demand will arise from the change in operating hours.</p>
<p>10.0</p>	<p>Summary of Recommendation: Approval subject to conditions.</p> <p>Conditions attached to the original approval LA04/2018/0059/F will also be repeated in addition to those set out below.</p>
<p>11.0</p> <p>11.1</p> <p>11.2</p> <p>11.3</p>	<p>Conditions</p> <p>The development hereby permitted shall be begun before 21st Nov 2024. Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.</p> <p>The hereby permitted licenced restaurant shall not be permitted to operate beyond 1am on Fridays and Saturday nights, midnight on a Sunday and 11pm Monday to Thursday. Reason: Protection of residents against adverse noise impact.</p> <p>Prior to operation of the hereby approved bar/restaurant, the applicant shall submit to the planning authority, for review and approval in writing, a final Noise Management Plan. The NMP shall outline operational measures to be put in place to control noise breakout such as ensuring doors are not left open, managing the settings on the in-house music and speaker system to ensure these are kept at the recommended settings, supervision and management of patrons within the premises and outside during patron arrival and dispersal. Reason: Protection of residents against adverse noise impact.</p>

<p>11.4</p> <p>11.5</p>	<p>The hereby approved Noise Management Plan shall be adhered to at all times thereafter.</p> <p>Reason: Protection of residents against adverse noise impact.</p> <p>Prior to operation of the hereby approved bar/restaurant the applicant shall submit to planning service, for review and approval in writing, a noise verification report. The verification report shall confirm the maximum permissible internal music level as well as confirm the details of the music limiting technology installed to ensure a maximum level across 1/1octave bands will not be exceeded. The verification report shall include noise measurements, and calculations where necessary, taken by a competent acoustic consultant which demonstrates compliance with noise rating curve NR15 across octave centre frequency bands inside habitable rooms of nearby sensitive receptors after 11pm while music is being played within the bar/restaurant.</p> <p>Reason: Protection of residents against adverse noise impact.</p> <p>The maximum permissible music noise level from any amplified sound as presented in the verification report, once approved, within the hereby permitted bar/restaurant shall not be exceeded at all times thereafter to ensure the noise levels across octave centre frequency bands (Leq) will not exceed NR15 target levels inside habitable rooms of nearby sensitive residential premises</p> <p>Reason: Protection of residents against adverse noise impact.</p>
<p>Notification to Department (if relevant): No</p>	
<p>Representations from Elected members: None</p>	