

Report of: CHIEF PLANNING OFFICER Derek McKenzie

Report to: PLANNING COMMITTEE **Date of Meeting:** Wednesday 26th July 2023

Subject: **DC/2023/00540**
201A Altway, Aintree, Liverpool, L10 6LB

Proposal: Change of use of ground floor from retail (E) to a bar/café with the provision of outdoor seating (Sui Generis)

Applicant: Mr Kieron Jamieson **Agent:**

Ward: Molyneux Ward **Type:** Full Application

Reason for Committee Determination: Called in by Cllr. Marion Atkinson

Summary

The proposal seeks to change the use of 201A Altway, Aintree, from a class E use to operate within a “sui generis” use class as a bar and café with a small outside seating area to the front of the premises. The main issues to consider are the acceptability of the use in principle and any impact on neighbouring residents and the general environment and matters relating to parking and highway safety.

The premises are fairly small and in a shopping parade where commercial activity is expected, and it is considered that subject to appropriate conditions any impacts can be managed. There are no highway safety concerns or unacceptable implications in terms of parking provision. There are no objections from any statutory consultees subject to appropriate conditions.

Recommendation: Approve with Conditions

Case Officer John Kerr

Email planning.department@sefton.gov.uk

Telephone 0345 140 0845

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RS6PPJNWFKK00>

Site Location Plan



The Site

The application site comprises the ground floor and small external area to the front of 201A Altway which is located at the junction with Stowe Avenue in Aintree. The premises are located at the end of a shopping parade running between Haileybury Avenue and Stowe Avenue which accommodates a number of different commercial uses, and the Valentine public house is located beyond the parade on the opposite side of Haileybury Avenue. Altway is to the south of the site and the wider area is primarily residential.

History (Relevant)

There is no relevant planning history.

Consultations

Environmental Health Manager

Further information required regarding external plant and equipment and noise mitigation. If approved, it should be subject to conditions.

Highways Manager

There are no objections to the proposal as there are no adverse highway safety implications.

Neighbour Representations

11 individual representations have been received from 8 different properties within the locality objecting to the proposal on the following grounds:-

Living Conditions

- Late night noise and disturbance associated with comings and goings in a residential area
- Issues regarding antisocial behaviour, urination and littering smoking to the rear of premises
- Alcohol related rowdy behaviour and noise associated with emptying bottle bins
- Potential odour and smells
- Poorly kept area to the rear will likely attract vermin
- Numerous similar establishments in the area already

Highway Safety and Parking

- Increased demand for on-street parking worsening existing issues for residents and encouraging illegal parking

Other Matters

- Impact on price of properties
- Area is home to many families
- Not a suitable use close to local residents

Policy Context

The application site lies within an area designated as Primarily Residential in the Sefton Local Plan which was adopted by the Council in April 2017.

Assessment of the Proposal

1. Introduction

- 1.1 The proposal seeks to change the use of 201A Altway from a Class E use to operate as a “sui generis” use (i.e. a use of its own kind) as a bar and café with a small outside seating area to the front of the premises.
- 1.2 The main issues to consider are the principle of development, impacts on neighbouring residents and matters relating to parking and highway safety.

2. Principle of Development

- 2.1 The application site is situated within a Primarily Residential Area subject to Local Plan policy HC3 (Primarily Residential Areas), which only permits non-residential development when it can be demonstrated that an unacceptable impact will not be had on the living conditions of neighbouring properties and that the character of the area will not be harmed.
- 2.2 In terms of character, the shopping parade consists of various commercial uses at ground floor level including a restaurant and a hot food takeaway, a pub is also located west of the shopping parade. All of these uses have been established for some time. The proposal to change the property to a bar/café is considered to be consistent with the prevailing characteristics of the area. While there are similar businesses operating near to the site, there are no such bar/café uses. This indicates that there would not be an unacceptable grouping of similar uses and the proposal would contribute towards the vitality and viability of the immediate parade in which it sits.
- 2.3 The proposal is a non-retail development within a local shopping parade so is also subject to point 8 of Policy ED2 (Retail, Leisure and Other Town Centre Uses) and the proposal is considered to accord with the criteria. The proposal is to bring a vacant property back into use which would improve the appearance of the parade, it would also further diversify

what the parade has to offer. Subject to conditions it is considered that there would be no unacceptable impact on neighbouring uses. This is discussed further below.

3. Impact on Neighbouring Residents

- 3.1 The application site occupies a corner plot where Altway meets Stowe Avenue, Stowe Avenue itself is residential. The nearest property to the site is located to the rear on Stowe Avenue and its flank wall is 4.0m from the rear of the application site across the entrance to the rear alleyway. The nearest property to the site on Altway is to the east and is over 17.0m away.
- 3.2 The premises are small-scale with a seating capacity of approximately 40 people internally and 4-6 people externally. A key consideration is noise and disturbance associated with both internal and external activities.
- 3.3 Within the local shopping parade there are several established uses close to the site which operate outside of standard business hours including a public house, a restaurant and a hot food takeaway.
- 3.4 Noise, particularly fuelled by drinking and live entertainment, has been cited as a cause for concern. However, as conditions are available to manage the use (the hours of opening for example) such concerns in themselves are not usually reasonable grounds to refuse an application, particularly where there is not an over concentration of such uses. Outside of planning the licensing regime has the ability to alter opening hours and require management to address issues should they arise.
- 3.5 Due to the proximity to residential neighbours, it is considered important to ensure that noise levels are suitably controlled, and it would therefore be necessary to restrict live music, amplified and live entertainment from taking place outside the premises to reduce any potential or unwanted noise to nearby residents. A condition could ensure that any music within the property is not above a level of LAeq 65dB which would ensure that any entertainment within the premises does not cause disturbance for neighbouring occupiers. There is an open space to the rear that fronts an alleyway which serves the rear of the shopping parade. This area is not included within the red edge which defines this proposal; therefore, it would not be used by patrons as part of this application.
- 3.6 Following advice from the Environmental Health Manager, it is considered that opening hours of 08:00 – 23:00hrs Monday – Sunday inside the property and 08:00 – 22:00hrs outside the property would be reasonable. In terms of general comings and goings 23:00hrs is considered to be a reasonable cut off point through the week given the other late evening and night time uses in the immediate vicinity. A recent planning approval at the opposite end of the shopping parade which is used as a restaurant is subject to 23:00hrs closing times through the week, so this is established as acceptable. It is not considered that the proposal in combination with the nearby pub, restaurant and Hot Food

Takeaway would lead to any unacceptable impacts on neighbouring amenity.

- 3.7 Neighbour representations relate to noise issues regarding bottle bins being emptied, it is noted that the premises have no external storage so bins would need to be kept inside until the time of collection. There is however a small store to the rear, accessed externally and near to the adjacent neighbour on Stowe Avenue. If this is used to store empty bottles, this activity could occur throughout the evening. Given the potential noise associated with bottles and the proximity of the neighbour, a condition would be required specifying the location of storage, times it will be used and how noise will be managed.
- 3.8 Overall, it is considered that the small-scale proposal would not have an unacceptable impact on neighbouring properties through noise and disturbance.

4. General Environmental Issues

- 4.1 Representations have been received relating to potential odours and smells being emitted from the property. A condition could ensure that no cooking takes place at the site unless appropriate extraction facilities have been installed and if any plant or equipment is to be installed on site, a written scheme would need to be submitted and approved by the Local Planning Authority. This would ensure impacts from unwanted odours is controlled in the interest of neighbouring residents.
- 4.2 Comments were also made in relation to the area to the rear attracting vermin if poorly kept, however good waste management practices would resolve this which can be secured by condition. If managed properly, there would be no unacceptable visual impacts. The Environmental Health Manager is able to intervene should this be causing harm or attracting vermin.

5. Parking and Highway Safety

- 5.1 The Council's Highways Manager has raised no objection to the proposal. While there may be high demand for parking given the busy commercial nature of Altway, it is considered that sufficient capacity exists within the area to accommodate parking during the hours for which permission has been applied. This also reflects there would generally be less demand for parking into the evening.
- 5.2 There are double yellow lines which encompass the junction at Altway and Stowe Avenue to prevent dangerous parking. The increase in vehicle movements associated with use of the premises as a small-scale bar/café into the evening would not be so significant as to cause disturbance to nearby residents. The majority of trips are likely to be made via Altway as opposed to Stowe Avenue which is the area's principal arterial road. This would blend with existing traffic and patrons of the nearby hot food takeaway and restaurant.

6. Other Matters

- 6.1 Representations have been received in relation to the proposal impacting on house prices within the locality. This is not a material planning consideration and therefore does not form part of this assessment.

7. Equality Act Consideration

- 7.1 Section 149(1) of the Equality Act 2010 establishes a duty for the Council as a public authority to have due regard to three identified needs in exercising its functions. These needs are to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - Advance equality of opportunity between people who share a relevant protected characteristic (age, disability, race, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion and belief, sex and sexual orientation) and people who do not share it;
 - Foster good relations between people who share a relevant protected characteristic and those who do not share it.
- 7.2 The decision to approve this scheme would comply with the requirements of the Equality Act 2010, that no one with a protected characteristic will be unduly disadvantaged by this development.

8. Conclusion

- 8.1 It is considered that, subject to conditions, the proposal would be acceptable in principle and would not cause unacceptable harm to neighbouring residents. The Highways Manager considers there are no issues with regard to parking and that the proposal can be accommodated without causing harm to highway safety. The application therefore complies with adopted local policy and is recommended for approval.

Recommendation - Approve with Conditions

Conditions

This application has been recommended for approval. The following conditions and associated reasons apply:

- 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: In order that the development is commenced in a timely manner, as set out in Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2) The development shall be carried out in accordance with the following approved plans and documents:

Site Location Plan (dated 09/05/2023)
OFS-201AA-PP-CI-04-2023-003 – Proposed Site Layout Plan

Reason: For the avoidance of doubt.

- 3) The outdoor seating plan shall be carried out in accordance with the Proposed Site Layout Plan ref. OFS-201AA-PP-CI-04-2023-003.

Reason: For the avoidance of doubt and to ensure control is maintain over the scale of the outdoor seating area to protect neighbouring residents.

- 4) The premises shall not be open for business outside the hours of 08:00 to 23:00.

Reason: To protect nearby residents from unacceptable levels of late evening and night time noise and disturbance.

- 5) The outdoor seating area shall not be open for business and shall be removed from the external pavement outside the hours of 08:00 to 22:00

Reason: To protect nearby residents from unacceptable levels of late evening and night time noise and disturbance.

- 6) No live, amplified or recorded music or entertainment shall take place within the premises above a level of LAeq 65dB, 10 minutes, measured 1 metre from any instrument, speaker or wall located within the premises.

Reason: To prevent noise and disturbance to nearby residents and to prevent the emission of noise above a level that would be detrimental to the aural amenity of the area.

- 7) No live music, amplified music, or live entertainment shall take place outside of the premises.

Reason: To prevent noise and disturbance to nearby residents and to prevent the emission of noise above a level that would be detrimental to the aural amenity of the area.

- 8) No cooking, with the exception of warming or reheating, shall take place on the premises without appropriate extraction facilities first being installed. Prior to the installation of any plant or equipment a written scheme of noise control, and detail of control of odours, for the proposed plant and equipment shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be operated and maintained in accordance with the approved details for as long as the use continues.

Reason: To safeguard the living conditions of neighbouring/adjacent occupiers and land users.

- 9) Prior to the change of use of the building hereby permitted, a waste management plan shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that that the refuse will be appropriately stored and collected from the site in the interest of protecting neighbouring residential.

Informative

- 1) Background music is not prescribed under the Licensing Act 2003 and is exempt from other activities regarded as regulated entertainment. It shall be defined as any amplified music, which has a music noise level not exceeding LAeq 10min 65dB. Measurements to determine the music level shall be made at a position not less than 1 metre from any loudspeaker, instrument or wall.