

**Report of:** CHIEF PLANNING OFFICER Derek McKenzie

**Report to:** PLANNING COMMITTEE **Date of Meeting:** 10th April 2024

**Subject:** [DC/2024/00229](#)  
[1 Harris Drive Bootle L20 6LD](#)

**Proposal:** Change of use from Class E to a drinking establishment (Sui Generis) with the provision of outdoor seating and live music

**Applicant:** Mr Michael Parkes **Agent:** Mr Andrew Stott  
The Feathers group NW Ltd The Plan Centre

**Ward:** Litherland Ward **Type:** Full Application

**Reason for Committee Determination:** Deferred from 15<sup>th</sup> April 2024 to allow further discussions with the applicant regarding how the proposal could be made safer both for the customers using the outdoor space and pedestrians using the shopping parade.

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## Summary

The proposal seeks to change the use of 1 Harris Drive, Bootle, from a retail use to a drinking establishment 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 vehicle 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

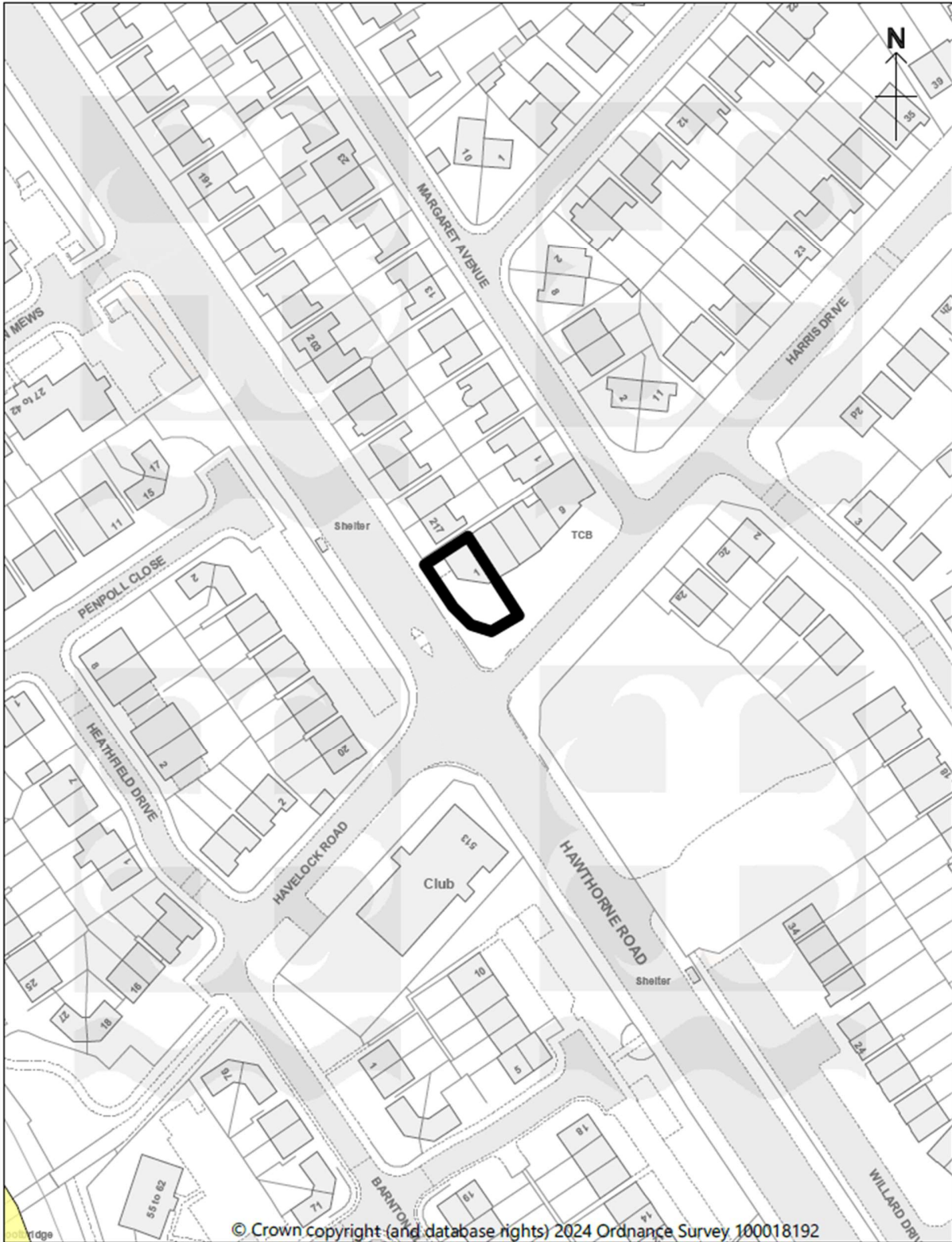
**Email** [planning.department@sefton.gov.uk](mailto:planning.department@sefton.gov.uk)

**Telephone** 0345 140 0845

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S8DQTONWJEJ00>

# Site Location Plan



## Assessment of the Proposal

This application was originally deferred from 13<sup>th</sup> March 2024 Planning Committee for the following reason:

*To allow further discussions with the applicant regarding how the proposal could be made safer both for the customers using the outdoor space and pedestrians using the shopping parade.*

The full report to 13<sup>th</sup> March 2024 Planning Committee is attached as an Annex.

Discussions have taken place with the applicant to attempt to make the outside seating area a safer space for both customers using the outdoor space and pedestrians also using the shopping parade. The applicant has submitted amended plans to show a revised layout of the seating area. The layout shows how the seating area would be set away from the main entrance, this would prevent pedestrians being forced to walk around the seating area closer to the junction and would instead allow them to freely move between the outside seating space and the main entrance. It is considered that this arrangement would help to improve the safety of pedestrians using the shopping parade.

Further information has also been provided in relation to the perimeter structure of the outside seating area. The applicant has confirmed that Tensator's Café Barriers will be utilised which will provide a rigid structure to the seating area. The barrier system consists of a weighted base plate and vertical posts connected with horizontal rods. The bar has also stated that a management policy to monitor customers/public will be implemented to ensure the barriers are not tampered with. This is considered to improve the safety of customers using the seating area.

Concerns were also raised by the committee with regard to vehicles crashing into the barriers located at the junction of Hawthorne Road with Harris Drive along the edge of this forecourt. Only one incident in the last three years has been recorded which relates to the replacement of 2 panels of guardrail and this was identified in September 2022.

Amendments are made to conditions 2 and 3 within Annex 1 and will read as follows:

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

- 1865/02 (Rev D, submitted 02/04/2024) - Proposed Site Plan*
- 1865/03 (Rev D, submitted 02/04/2024) - Proposed Ground Floor Plan*
- 1865/07 (Rev A) - Proposed Harris Drive Elevation*
- 1865/08 (Rev A) - Proposed Hawthorne Road Elevations*
- 1865/09 (Rev /) - Proposed Rear Elevation*
- 1865/10 (Rev /) - Location Map & Site Plan*

*Reason: For the avoidance of doubt.*

- 3) *The outdoor seating plan shall be carried out in accordance with the Proposed Site Plan ref. 1865/02 (Rev D, submitted 02/04/2024).*

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

To conclude, the amendments to the scheme along with the supplementary information is considered to provide acceptable safety measures to both pedestrians and customers using the outside seating area. The previous recommendation to approve the application subject to conditions still stands.



Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S8DQTONWJEJ00>

## The Site

The application site comprises the shop unit and external area to the front of 1 Harris Drive which is a single storey building located at the junction with Hawthorne Road in Bootle. The premises are located at the end of a shopping parade which runs from the corner of Hawthorne Road, towards Harris Drive and accommodates a number of different commercial uses. The Mell Inn Social club is located beyond the parade on the opposite side of Hawthorne Road. The wider area is predominantly residential.

## History

DC/2023/01975 – Pre-application advice was sought for this application.

DC/2024/00230 – Advertisement consent for the display of 2 No. illuminated signs (Pending Decision)

## Consultations

### Highways Manager

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

### Environmental Health Manager

No objection subject to conditions.

## Neighbour Representations

The application has been 'called-in' to be determined by Planning Committee by Councillor Trish Hardy. The call-in is made on the grounds that the proposal is harmful to residential amenity by way of noise.

23 neighbouring properties were notified by letter on 9<sup>th</sup> February 2024. One representation has been received objecting to the proposal on the following grounds:

- Noise concerns
- Highway Safety and Parking concerns
- Increase in traffic
- Increase in anti-social behaviour

## 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

### Introduction

The proposal seeks to change the use of 1 Harris Drive from Class E use to operate as a “sui generis” use (i.e. a use of its own kind) as a drinking establishment with an outside seating area to the front of the premises.

The main issues to consider are the principle of development, impacts on neighbouring residents and matters relating to parking and highway safety.

### Principle of Development

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. In terms of character, the shopping parade consists of various commercial uses at ground floor level including a barbers, a café, a convenience store and an estate agents. All of these uses have been established for some time. The nearest drinking establishment is the Mell Inn Social Club which is located south of the site. 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. Subject to conditions suggested below the proposal is considered to meet the requirements of policy HC3 part 2.

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 would 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.

### Impact on Neighbouring Residents

The application site occupies a corner plot where Harris Drive meets Hawthorne Road. The nearest property to the site is no. 21 Hawthorne Road and its flank wall is 2.7m from the rear of the application site across the entrance to the rear alleyway. There are also two properties located on Willard Drive which face towards the site at a distance of approximately 30.0m.

The premises are small-scale with a seating capacity of approximately 16 people internally and 14 people externally. A key consideration is noise and disturbance associated with both internal and external activities.

The Mell Inn Social Club is the only use near to the local shopping parade which operates outside of standard business hours. Noise, particularly fuelled by drinking and live entertainment, has been cited as a cause for concern in the councillors call-in reasons. 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.

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 and amplified music 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.

Following advice from the Environmental Health Manager, it is considered that opening hours of 09:00 – 23:00 Monday to Saturday and 14:00 – 22:00 on Sunday and Bank Holidays inside the property would be reasonable. Opening hours of 09:00 – 22:00 Monday to Saturday and 14:00 – 22:00 outside the property are also considered to be reasonable. In terms of general comings and goings, 23:00hrs is considered to be a reasonable cut off point through the week when compared with other late evening and night time uses in the immediate vicinity of the site. Based on the context of relatively high levels of environmental noise from the high levels of road traffic noise as noted by the Environmental Health Manager, it is not considered that the proposal, would lead to any unacceptable impacts on neighbouring amenity.

The proposed bin store is internal, and bins would need to be kept inside until the time of collection which is proposed to be between 09:00 and 17:00 as stated on the proposed ground floor plan. Given the potential noise associated with bottles being emptied into bins, a condition would be recommended specifying the location of storage and the times within which collection can take place to prevent noise nuisance.

As set out above, internal noise levels, opening hours and management of noise from waste storage arrangements have been considered and can be satisfactorily management by condition. The management of customers attending the premises would be covered by licensing, the Licensing Act 2003 requires consideration of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. If these requirements and any other conditions of a license aren't followed a license can be reviewed with the possibility of it being revoked or restricted, such as a reduction of opening hours.



Overall, it is considered that the small-scale proposal would not have an unacceptable impact on neighbouring properties through noise and disturbance.

### Parking and Highway Safety

The Council's Highways Manager has raised no objection to the proposal. Amended plans have been received removing the illegal parking space from the existing and proposed plans. Further information has also been received in relation to the proposed chairs and tables which would be put away each evening and the barriers to demarcate the seating area within the private forecourt. The indicative seating in the forecourt is for 14 people and it is similar in space to the internal bar area. The barriers are proposed to be set in from the edge of the public highway leaving 1.6 metres on Hawthorne Road and 2.1m on Harris Drive. The pavement around the site is also in itself sufficient to allow unobstructed pedestrian access at 3.0 metres on Hawthorne Road and 5.0 metres on Harris Drive.

There are double yellow lines which encompass the junction at Harris Drive and Hawthorne Road to prevent dangerous parking. It is acknowledged that illegal parking in front of units within the parade still takes place and does not appear to be managed. There are bollards which prevent the pedestrian crossing on Harris Drive from being used as a vehicular access to the forecourts and fencing around the junction protecting pedestrians and encouraging the use of the formalised crossing points. There is no concern in highway safety terms to the lawful use of the forecourts in relation to the commercial units.

The Highways Manager does not envisage that the loss of the illegal parking arrangements in front of the unit, would have a significant impact on the wider area, as parking can be accommodated by the informal on-street parking provision on the east side of Hawthorne Road to the north within 100m desirable walking distance of the site. It should also be noted that there would be less demand for parking later into the evening with the majority of uses closing by 18:00.

### Equality Act Consideration

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.

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.

### Conclusion

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 that 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**

### **Time Limit for Commencement**

- 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).

### **Approved Plans**

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

1865/02 (Rev D) - Proposed Site Plan  
1865/03 (Rev B) - Proposed Ground Floor Plan  
1865/07 (Rev A) - Proposed Harris Drive Elevation  
1865/08 (Rev A) - Proposed Hawthorne Road Elevations  
1865/09 (Rev /) - Proposed Rear Elevation  
1865/10 (Rev /) - Location Map & Site 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. 1865/02 (Rev D).

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

### **During Building Works**

- 4) Prior to the commencement of the use

a) A scheme of sound insulation to protect existing residential dwellings from the proposed drinking establishment shall be submitted to and approved in writing by the Local Planning Authority prior to the proposed change of use taking place.

b) The soundproofing shall be carried out in accordance with the scheme approved under (a) before the drinking establishment is brought into use and shall be retained for the lifetime of the development.

Reason: To prevent unreasonable noise and disturbance to neighbouring occupants in the interests of residential amenity.

- 5) 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.

### Ongoing Conditions

- 6) The premises shall not be open for business outside the hours of 09:00 to 23:00 Monday to Saturday and 14:00 to 22:00 Sunday and Bank Holidays.

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

- 7) The outdoor seating area shall not be open for business and shall be removed from the external pavement outside the hours of 09:00 to 22:00 Monday to Saturday and 14:00 to 22:00 Sunday and Bank Holidays.

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

- 8) 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.

- 9) 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.

### **Informatives**

- 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.
- 2) New plant must not exceed the existing background L90 when assessed in accordance with current guidance such as BS4142.
- 3) A licence is required from the Highway Authority for the pavement cafe and the number of tables and chairs would be agreed under the terms of the licence. Please contact Sefton Council Network Management on telephone number 0151 934 4321.