



Committee Report

Planning Committee South – 20 December 2022

Application no DC/22/1341/FUL

Location

55-57 Undercliff Road West
Felixstowe
Suffolk
IP11 2AD

Expiry date 19 July 2022

Application type Full Application

Applicant The Skye Lounge Ltd

Parish Felixstowe

Proposal Retrospective Application - Change of use from restaurant use (Class E) to drinking establishment (Sui Generis)

Case Officer Eleanor Attwood
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1. Summary

- 1.1 This application seeks retrospective approval for change of use from restaurant use (Class E) to drinking establishment (Sui Generis) at 55-57 Undercliff Road West, Felixstowe.
- 1.2 The officer recommendation of refusal is contrary to Felixstowe Town Council's recommendation of approval. The application was subject to consideration by the Referral Panel on 22 November 2022 with a recommendation that the application be determined under delegated powers. The Panel recommended that the application be referred to Planning Committee South for determination.

2. Site Description

- 2.1 The site is located on the north side of Undercliff Road West, within the Conservation Area of Felixstowe. The site is located on the sea front, opposite the Leisure Centre. The site is within a parade of units which operate as shops and takeaways.

- 2.2 The site previously operated as a restaurant/takeaway but was converted, without planning permission, into a drinking establishment (bar) in 2021.
- 2.3 The site is partly located within Flood Zone 3.

3. Proposal

- 3.1 Retrospective planning permission is sought for the change of use of the premises from a restaurant/takeaway to a drinking establishment (bar). The change of use was completed in December 2021 and is the subject of a current enforcement case.
- 3.2 The hours of opening are Monday to Friday 12pm to 12am, Saturday 12pm to 1am, and Sundays/bank holidays 12pm to 12am.

4. Third Party Representations

- 4.1 4 representations of objection have been received which raise the following concerns:
- Noise and Disturbance
 - Anti-social Behaviour

5. Consultees

Parish/Town Council

Consultee	Date consulted	Date reply received
Felixstowe Town Council	7 June 2022	23 June 2022
"Committee recommended APPROVAL."		

Statutory consultees

Consultee	Date consulted	Date reply received
Environment Agency - Drainage	1 July 2022	No response
Summary of comments: No response.		

Consultee	Date consulted	Date reply received
SCC Flooding Authority	1 July 2022	12 July 2022

Summary of comments:
Holding objection due to lack of Flood Risk Assessment.

Non statutory consultees

Consultee	Date consulted	Date reply received
East Suffolk Environmental Protection	7 June 2022	28 June 2022

Summary of comments:
Comments included in report. Raised concerns in relation to noise and requested a noise assessment and noise management plan.

Consultee	Date consulted	Date reply received
East Suffolk Economic Development	7 June 2022	No response

Summary of comments:
No response.

Consultee	Date consulted	Date reply received
East Suffolk Planning Enforcement Team	7 June 2022	No response

Summary of comments:
No response.

Consultee	Date consulted	Date reply received
Felixstowe Society	N/A	4 July 2022

Summary of comments:
No objections.

Re-Consultation consultees

Consultee	Date consulted	Date reply received
Environment Agency - Drainage	15 August 2022	No response

Summary of comments:
No response.

Consultee	Date consulted	Date reply received
SCC Flooding Authority	15 August 2022	15 August 2022

Summary of comments:

Suffolk County Council, as Lead Local Flood Authority (LLFA), is a statutory consultee under the Town and Country Planning Act for major applications and some minor applications where flooding has been identified. Therefore, as this is a minor application which has assessed the potential increase in flood risk we have no comment to make.

Consultee	Date consulted	Date reply received
East Suffolk Environmental Protection	24 August 2022	3 September 2022

Summary of comments:

Comments included in report. Raised concerns in regard to noise. Have requested further information in relation to internal noise levels. Have recommended a change to the hours of operation and have recommended conditions.

Publicity

The application has been the subject of the following press advertisement:

Category	Published	Expiry	Publication
Conservation Area	30 June 2022	21 July 2022	East Anglian Daily Times
Category	Published	Expiry	Publication
Conservation Area	16 June 2022	7 July 2022	East Anglian Daily Times

Site notices

General Site Notice

Reason for site notice: Conservation Area

Date posted: 22 June 2022

Expiry date: 13 July 2022

6. Planning Policy

National Planning Policy Framework 2021

SCLP6.1 - Tourism (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP6.2 - Tourism Destinations (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP6.4 - Tourism Development outside of the AONB (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP9.5 – Flood Risk (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP10.3 – Environmental Quality (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP11.1 - Design Quality (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP11.2 - Residential Amenity (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP11.5 - Conservation Areas (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP12.14 - Spa Pavilion to Manor End (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

7. Planning Considerations

Relevant Planning History

- 7.1 C/90/1631: USE OF PREMISES AS A RESTAURANT WITH TAKEAWAY FACILITIES (OPENING HOURS: 11.30 am TO 11.30 pm APRIL TO SEPTEMBER AND 11.30 am TO 11.00 pm OCTOBER TO MARCH.) at 55-57 Undercliff Road West, Felixstowe. Permitted 10 Dec 1990.
- 7.2 DC/15/2802/FUL: Proposal of new shop front and signage scheme. Replacement of existing extraction equipment on roof and new condensers at 55 Undercliff Road West, Felixstowe. Permitted 10 Sep 2015.
- 7.3 DC/15/2803/AND: Installation of internally illuminated fascia sign and internally illuminated projecting sign (Application for Advertisement Consent) at 55 Undercliff Road West, Felixstowe. Permitted 10 Sep 2015.

Principle

- 7.4 Policies SCLP6.1, SCLP6.2 and SCLP6.4 are generally supportive of tourist uses. As guided by Policy SCLP6.1 (Tourism), proposals that improve the visitor experience and support opportunities for year-round tourism will be supported where increased tourism uses can be accommodated, in a way that protects the features that make the area attractive to visitors. This premise is further supported by Policy SCLP6.2 (Tourism Destinations), which welcomes facilities that broaden the tourist opportunities within the district subject to accordance all other respective policies within the local plan. Development should also be of the highest standard of design and seek to protect and enhance the special character and interest of the destinations and the distinctiveness of the area.
- 7.5 The site is also located between Spa Pavilion and Manor End (Policy SCLP12.14). Within this area, high intensity tourist uses will be supported and promoted, and will need to maintain the active commercial frontage and be of a high-quality design which respects the town's

heritage. Between the Pier and the Spa Pavilion, activities which promote cultural attractions including cafes, restaurants and shops on the ground floor will be supported where they make a positive contribution to the significance of the two Conservation Areas, and respect the Registered Gardens and the Victorian and Edwardian architectural heritage of the resort.

- 7.6 The site is located within a sustainable area and is well-related to existing tourism and leisure uses. The site is located between a convenience store and ice-cream parlour and the previous use of the site was a restaurant/takeaway. The proposed use, as a bar, is similar to other uses within the local area, on Undercliff Road West and Sea Road. The proposed use is considered to be of a character which is in keeping with the surrounding area and is considered unlikely to result in any meaningful detriment to the natural or historic environment.

Visual Amenity and Heritage

- 7.7 The Conservation Area Appraisal identifies the site as making a positive contribution to the Conservation Area and states:

"No.s 49-67 single storey parade of shop units - important for its group of uses which relate well to their location adjacent the pierhead building and seaside character: fish and chips, cafes, ice cream parlour, sweet shop - these are all characteristic and, therefore, important uses that should be supported - the parade is unremarkable architecturally but there are pilasters between units with moulded capitals which imply that this parade is older than the modern shopfronts suggest".

- 7.8 Therefore, it appears that the positive contribution arises from the group value of the mix of uses along this shopping parade. The proposed use of the premises is similar to other uses within the local area. The use relates to the resort function of Felixstowe, which enjoys a concentration of premises in the area of this application. The proposed use is not considered to result in an adverse impact on the Conservation Area. It appears that the only external alterations which have been undertaken is a change to the signage; this has been changed to a dark sign with the name of the premises, The Skye Lounge. Therefore, no adverse impacts are identified to visual amenity and the Conservation Area through external changes to the premises.

Noise and Residential Amenity

- 7.9 Policy SCLP10.3 (Environmental Quality) states that development proposals will be expected to protect the quality of the environment and to minimise and, where possible, reduce all forms of pollution and contamination – including noise pollution. Policy SCLP11.2 (Residential Amenity) sets out that when considering the impact of development on residential amenity, the Council will have regard to (amongst other factors) noise and disturbance. Development must not cause an unacceptable loss of amenity for existing or future occupiers of development in the vicinity.
- 7.10 Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution. Paragraph 185 states that decisions should ensure new development is

appropriate for its location, mitigating and reducing to a minimum potential adverse impacts resulting from noise from new development, and should avoid noise giving rise to significant adverse impacts. These premises, although on the seafront and in the midst of other commercial premises, have some sensitivity as they have residential dwellings immediately behind, and in fact overlooking the various commercial premises along this section of Undercliff Road West. The council's Environmental Protection team have been consulted on the application and have advised that since the premises have opened as a bar, they have received numerous noise complaints. The complaints have been in relation to noise from people outside the bar but also music breakout from the building itself.

- 7.11 In response to these concerns, the Applicant has submitted a Noise Impact Assessment and Noise Management Plan for this application. The noise assessment has stated that the internal noise levels are not to exceed 90 dB. Although this might be a little lower than expectations within a nightclub, the level is not much below this. This would be a high noise environment within the small bar premises and is not considered to be a suitable noise level for a bar. The report does describe a number of measures for the control and management of noise (music) from the premises. However, the majority of these could not be controlled or be enforceable through the planning process. The Environmental Protection Team have reviewed the report and have advised that the report does not provide confidence that the internal music noise level can be controlled so as to avoid any significant adverse impacts or detriment to residential amenity. As part of their recommendations, they have advised that there is further work to do, which would include setting the source music noise level lower than 90dB as currently proposed, and consideration of alternative criteria to be achieved at residential receptors.
- 7.12 Concerns have been raised in regard to noise from people outside of the premises. This problem does not lend itself very well to a physical control measure such as a barrier or screen. Given that door supervision is having some benefits but not on a consistent basis, the Environmental Protection Team have advised that the best means of protection of nearby residential amenity would be to recommend operational hours for the premises. Therefore, the Environmental Protection Team have recommended that the same hours of operation should apply to these premises as they did for the restaurant and takeaway use (C90/1631). In this way, the use can only take place for a maximum of 30 minutes into the sensitive night-time period, impacts are controlled, and any adverse noise impacts on residential amenity are minimised. Applying these hours would then control both the duration of music within the premises, but also the noise associated with people congregating outside. The hours of operation as specified within C90/1631 were 11:30am to 11:30pm (April to September) and 11:30am to 11pm (October to March). The applicant has suggested a compromise to closing at 12:30, but it is not considered that this would be sufficient.
- 7.13 Further recommendations have been for the installation, validation and use of a noise limiting device, and a further validation noise survey condition post installation of the noise limiting device. The Noise Assessment has proposed the installation of an air conditioning unit, which would minimise external windows and doors being open when music is playing. It is therefore considered that the condition should be attached which would require details of the air conditioning unit prior to installation, and a BS 4142 noise condition be applied in order to ensure a suitable assessment of the air conditioning unit.

- 7.14 As per the Environmental Protection Officer's advice, the submitted noise report does not provide sufficient confidence that noise from the premises can be sufficiently controlled in order to prevent unacceptable impacts on residential amenity. Furthermore, the suggested internal noise level is considered to be too high and should be reduced. The applicant has not agreed to change the hours of operation, neither has further information been submitted in regard to internal noise levels nor further recommendations submitted. Therefore, it has to be concluded that the use of the premises as a bar does result in a detrimental impact on residential amenity through noise and disturbance. There are insufficient measures and controls to enable this to be minimised and therefore, the application is contrary to policy SCLP11.2.

Flood Risk

- 7.15 As required by national and local planning policy, a site-specific Flood Risk Assessment has been submitted in support of this application. It demonstrates that the site lies partly within Flood Zone 3 and that the principal flood risk is from tidal sources. The FRA demonstrates that there is an acceptable level of flood risk to the site if the mitigation strategies recommended are implemented in the scheme. Therefore, these compliance within these mitigation strategies should be conditioned on any grant of consent.
- 7.16 As this application is for a change of use it is not subject to the sequential or exception tests, in accordance with paragraph 168 of the NPPF.

Parking

- 7.17 This application is for retrospective change of use from restaurant/takeaway to bar. The site is sustainably located close to number of dedicated public car parks within the vicinity and sustainable transport links within walking distance.

8. Conclusion

- 8.1 Whilst there is no objection to the principle of the premises as a bar, there is a detrimental impact on residential amenity through noise and disturbance. The submitted noise report does not provide sufficient confidence that noise from the premises can be sufficiently controlled in order to prevent unacceptable impacts on residential amenity. The applicant has not agreed to change the hours of operation of the premises, neither has further information/evidence been submitted in relation to noise impact and mitigation. Therefore, the application is contrary to policies SCLP10.3 and SCLP11.2 and is recommended for refusal.

9. Recommendation

Refuse

The reason for the decision to refuse permission is:

1. This application seeks retrospective planning permission for the use of the premises as a bar.

The current use of the premises as a bar is considered to have a detrimental impact on the residential amenity of nearby dwellings in terms of noise and disturbance, due to music breakout from the building itself and noise from customers outside of the premises. The submitted Noise Assessment furthermore does not provide sufficient confidence that noise from the premises can be sufficiently controlled in order to prevent unacceptable impacts.

The proposal is therefore contrary to policies SCLP10.3: Environmental Quality and SCLP11.2: Residential Amenity of the East Suffolk Council - Suffolk Coastal Local Plan (September 2020) and to paragraphs 174 and 185 of the National Planning Policy Framework. These require proposals to protect the quality of the environment by minimising all forms of pollution, including noise pollution, and avoid noise and disturbance giving rise to significant adverse impacts that result in an unacceptable loss of amenity for existing or future occupiers of development in the vicinity.

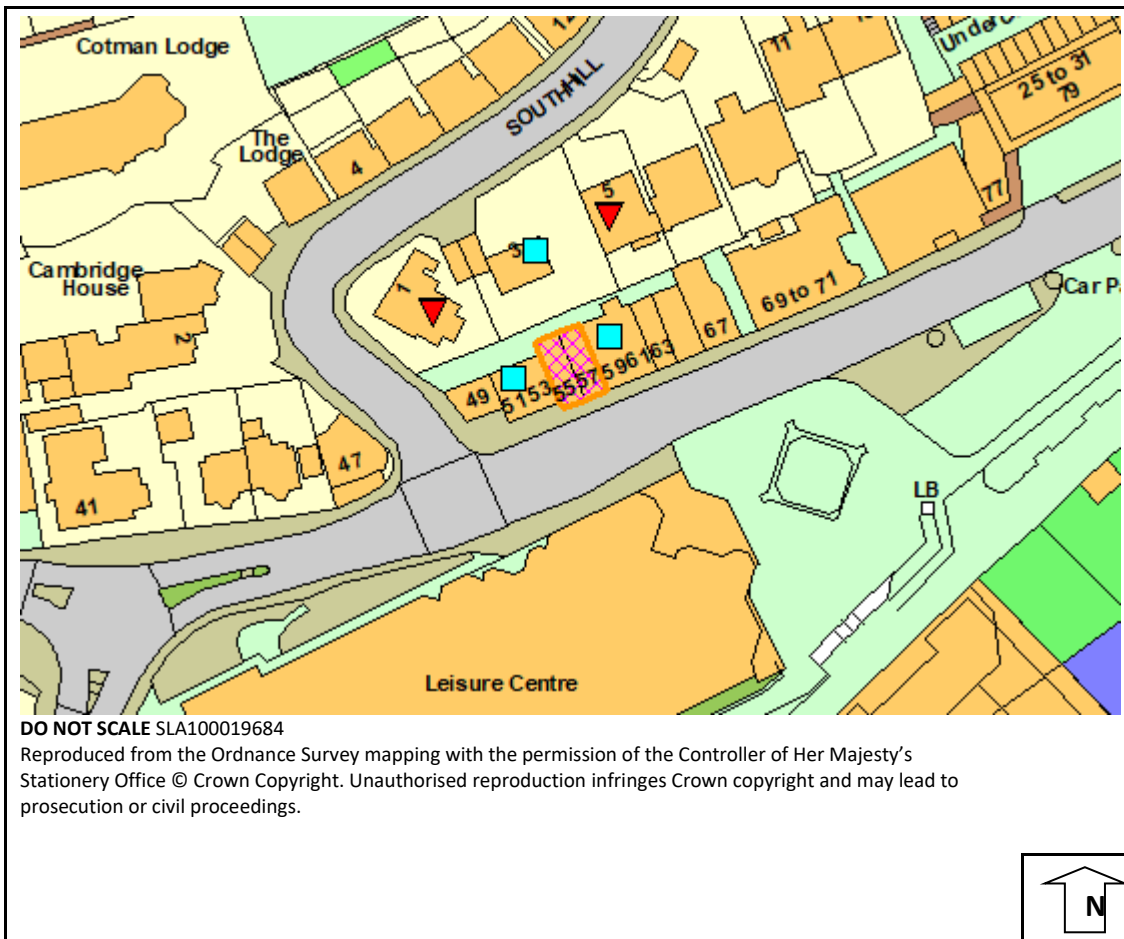
Informatives:

1. The Council offers a pre-application advice service to discuss development proposals and ensure that planning applications have the best chance of being approved. The applicant did not take advantage of this service. The local planning authority has identified matters of concern with the proposal and the report clearly sets out why the development fails to comply with the adopted development plan. The report also explains why the proposal is contrary to the objectives of the National Planning Policy Framework and local plan to deliver sustainable development

Background information

See application reference DC/22/1341/FUL on [Public Access](#)

Map



Key



Notified, no comments received



Objection



Representation



Support