



**CITY OF DURHAM
PARISH COUNCIL**

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16th September 2021

Dear Mr Jones,

DM/21/02928/FPA | External seating area with associated structure, awnings, lighting and heating | Turtle Bay Unit 11 The Riverwalk Millburngate Durham DH1 4SL

The Parish Council considered this application at its meeting on 17th September 2021 and agreed to respond as follows.

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) operates under a presumption in favour of sustainable development. It states that development proposals, which accord with the development plan, should be approved without delay. The adopted Development Plan where the site is located comprises the planning policies of the County Durham Plan (CDP) and the Durham City Neighbourhood Plan.

The application site sits within the Durham City Conservation Area, within the inner setting of the World Heritage Site and within close proximity to Listed buildings. As such, the Local Planning Authority has statutory duties under the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area and to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest that they possess.

The proposed advertisements are modern in character which, although often discouraged within the historic core of the conservation area, are well established at Riverwalk and the positioning of the signs broadly reflects the same modern aesthetic.

The Parish Council's concerns with this particular application relate partly to the introduction of the vast amount of illuminated signage to the facade of the building as well as the lighting to the external seating area.

In previous and similar such applications, the County's Design and Conservation team have been very clear on this type of introduction into the historic core of the city, as follows: *"the illumination seems unjustified and it would be recommended that it is omitted. There is a desirability to reduce illumination rather than increase light levels in the city centre."*

The Parish Council fully endorses that assessment and would add that light pollution in general is a growing and concerning issue within the City; the damaging effects of which must be mitigated against through the planning system. Indeed, paragraph 5.325 of the supporting text for CDP Policy 31 is clear that: *"Light pollution is artificial light that illuminates areas that are not intended to be lit. The intrusion of overly bright or poorly directed lights can cause glare, wasted energy, have impacts on nature conservation, and affect people's right to enjoy their property. It can also severely affect our view of the night sky. Light pollution may also damage the perception of a heritage asset in its setting, especially if the asset is experienced at night or is floodlit. The NPPF is clear that planning policies should limit the impact from light pollution on local amenity."*

In its present form, it is the Parish Council's view that this application would be contrary to Adopted County Durham Plan (CDP) Policy 44, which clearly states: *"In determining applications, particular regard will be given to:*

- f. the demonstration of understanding of the significance, character, appearance and setting of the conservation area and how this has informed proposals to achieve high quality sustainable development, which is respectful of historic interest, local distinctiveness and the conservation or enhancement of the asset;*
- g. the manner in which the proposal responds positively to the findings and recommendations of conservation area character appraisals and management proposals; and*
- h. respect for, and reinforcement of, the established, positive characteristics of the area in terms of appropriate design (including pattern, layout, density, massing, features, height, form, materials and detailing). "*

Furthermore, the Parish Council believes that the introduction of the illuminated signage and lighting to the external seating area renders this application contrary to Policy H2 of the Durham City Neighbourhood Plan (DCNP), which clearly states: *"Development proposals within or affecting the setting of the Durham City Conservation Area should sustain and enhance its special interest and significance as identified within the Conservation Area Appraisals. Development proposals within and affecting the Durham City Conservation Area should take into account, and meet where relevant, the following requirements, by having materials, detailing and lighting appropriate to the vernacular, context and setting".*

The level of fenestration to the front and the likely consequential impact of this being yet more light pollution further adds to the Parish Council's concerns. The Parish Council notes that, on sections of the Leazes Road elevation, largescale internal vinyl applications to windows are proposed. If the aim of this vinyl is to reduce the impact of light spill from the premises, the Parish Council wonders if this might also be acceptable to the façade of the premises.

Moreover, as this premises is seeking permission for an external seating area within close proximity of residential areas, the Local Planning Authority has a duty to assess the environmental impacts which are relevant to the development in relation to its potential to cause a statutory noise nuisance, as defined by the Environmental Protection Act 1990. Lambton Walk is a row of maisonettes with a river view close to the exit route from the premises towards North Road / Framwellgate Bridge and there are 253 students living in Dunholme Court which surrounds the premises.

The Parish Council does not believe that the information submitted in support of this application is sufficient to allow for full consideration in relation to the likely impact upon amenity of nearby residents against the thresholds stated in the Technical Advice Notes (Noise TANS section 3.7 page 18). The Parish Council asks that the applicant provides the following information for consideration:

1. Is the applicant intending on selling alcohol for consumption to the external seating area?
2. Please can some clarification be provided on the number of tables/chairs that will be proposed for the external area as well as standing space? The plans submitted appear to indicate a total of 18 seating spaces.
3. Please can the proposed hours of use for the external area only be clarified?
4. Please can the applicant advise whether there is an intention to have amplified music outside the premises?
5. Does the applicant have an agreed noise management plan and, if so, can this be provided please?

The Parish Council is also concerned at the specification proposed for the external heaters and the carbon implications arising from their usage. This is of particular significance to both Durham County and City of Durham Parish Councils as both organisations have now passed Climate Emergency declarations, committing us to bring our influence to bear as appropriate in transitioning to a low carbon future.

Durham City Neighbourhood Plan Policy S1 is clear that there is a need for all developments to demonstrate *“the responsible use of resources and increase in resilience to climate change by: h) securing, wherever possible, on-site renewable energy generation, minimising energy consumption and carbon emissions, and securing the local sharing of technologies such as*

district heating schemes". This aspect of the proposal is clearly contrary to this key policy and therefore the Parish Council requests that a different specification be selected for the external heating or else this be removed entirely from the proposal.

It is clear that this application is lacking key information and that which is provided is contrary to key development plan policies as well as the NPPF. This application must therefore be refused in its current form.

Yours sincerely,

Adam Shanley
Clerk to the City of Durham Parish Council