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<b>Case No:</b>	<b>15/01838/S73 (RENEWAL OF CONSENT/VARY CONDITIONS)</b>
<b>Proposal:</b>	<b>REMOVAL OF CONDITION 3 OF PLANNING PERMISSION 15/00417/FUL, VARIATION OF CONDITION 4 FOR HOURS OF CAFE OPENING TO BE FROM 7:00 A.M. UNTIL 12:00 (MIDNIGHT), VARIATION OF CONDITION 5 TO ALLOW THE BAR TO BE OPEN 11:00 A.M. UNTIL 12:00 (MIDNIGHT) SUNDAY TO THURSDAY AND FROM 11:00 A.M. TO 02:00 A.M. FRIDAY AND SATURDAY, VARIATION OF CONDITION 6 TO ALLOW MUSIC TO BE PLAYED DURING THE TIMES THE PREMISES ARE OPEN AND VARIATION OF CONDITION 7 TO ALLOW STORAGE OF REFUSE AND RECYCLING WITHIN PROPOSED COMPOUND TO REAR OF PREMISES</b>
<b>Location:</b>	<b>THE MASONIC HALL 83 HIGH STREET PE29 3ER</b>
<b>Applicant:</b>	<b>MR A SUBHAN</b>
<b>Grid Ref:</b>	<b>523691 272031</b>
<b>Date of Registration:</b>	<b>14.10.2015</b>
<b>Parish:</b>	<b>HUNTINGDON</b>

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**RECOMMENDATION - APPROVE**  
**(With Condition 5 only until Midnight)**

This application is referred to the Development Management Panel under the Scheme of Delegation because the Head of Development considers that it should be presented to the Panel for decision in light of the comments received, the nature of the application type and the recommendation to approve the application subject to different hours than those applied for.

**1. DESCRIPTION OF SITE AND APPLICATION**

- 1.1 This application relates to the site of a detached, three storey building of brick and tile construction in Huntingdon.
- 1.2 The site lies within the Huntingdon Conservation Area. A number of trees protected under TPO/007 are located at the front of the site.
- 1.3 A previous application (15/00417/FUL) was approved, granting a change of use of the ground floor (former Masonic Hall) to a café/bar with ancillary function room, with the first floor retained as existing - private meeting rooms and a one bedroom flat.
- 1.4 This application seeks the variation of a number of conditions which were attached to 15/00417/FUL, specifically:

- Condition 4, which limited the hours of use of the café to between the hours of 11.00 - 17.00 Monday to Saturday and from 13.00 - 16.00 on Sundays.
- Condition 5 which limited the hours of use of the bar to between the hours of 17.00 - 23.00 Monday to Saturday and from 16.00 - 22.00 on Sundays.
- Condition 6, which limited the hours where amplified music could be played to between 11.00 - 23.00 Monday to Saturdays and 11.00 - 22.00 on Sundays.
- Condition 7, which stated that no storage of goods, materials or waste shall take place in the external areas of the site.

1.5 The variations sought:

- Condition 4: Hours of use of the café from 07.00 - midnight.
- Condition 5: Hours of use of the bar from 11.00 - midnight (Sunday to Thursday) and 11.00 - 02.00 (Friday and Saturday).
- Condition 6: Music to be played during opening hours.
- Condition 7: To allow storage of refuse and recycling within a designated bin store on the site.

1.6 And the removal of:

- Condition 3, which limited the hours of use of the existing meeting rooms to between the hours of 09.00 - 17.00 Monday to Friday.

## 2. NATIONAL GUIDANCE

2.1 The National Planning Policy Framework (2012), with particular reference to paragraphs 17, 19, 56, 58, 70, 123 and 129.

For full details visit the government website

<https://www.gov.uk/government/organisations/department-for-communities-and-local-government>

## 3. PLANNING POLICIES

3.1 Saved policies from the Huntingdonshire Local Plan (1995)

- E7: Small Businesses
- S14: A3 Uses
- EN5: Development within or directly affecting Conservation Areas will be required to preserve or enhance their character and appearance
- EN6: Conservation Areas: Design
- EN9: Conservation Areas
- EN25: General Design Criteria
- H30 - Commercial uses/activities within existing residential areas

3.2 Adopted Huntingdonshire Local Development Framework Core Strategy (2009)

- CS1: Sustainable development in Huntingdonshire

3.3 Draft Huntingdonshire Local Plan to 2036: Stage 3 (2013)

- LP1: Strategy and Principles for Development
- LP13: Quality of Design

- LP15: Ensuring a high standard of Amenity
- LP19: Supporting a Strong Local Economy
- LP31: Heritage Assets and their Settings

3.4 Supplementary Planning Documents:

- Huntingdonshire Design Guide Supplementary Planning Document 2007

Local policies are viewable at <https://www.huntingdonshire.gov.uk>

#### 4. **PLANNING HISTORY**

4.1 15/00417/FUL - Approved - 24.08.2015

#### 5. **CONSULTATIONS**

5.1 **Huntingdon Town Council:** "Recommend refusal. Members felt that the variations would have an adverse affect on neighbouring residents' quality of life, due to the loud music, risk of noise from late night customers, food waste smells, and littering. Particular issues were highlighted concerning the wellbeing of dementia patients in Cromwell Nursing Home, where any loud noise or strangers can cause great distress. Concern was also raised over access for deliveries as this was likely to be through Priory Gardens which would inconvenience Priory Garden residents".

#### 6. **REPRESENTATIONS**

6.1 25 representations have been received, objecting to the proposal and highlighting concerns relating to:

- \*Negative impact on residential amenity;
- \*Noise, particularly in summer when doors/windows are open;
- \*Proximity to neighbours, with the nursing home a particular concern;
- \*Odour;
- \*Disruption - litter and anti-social behaviour;
- \*Negative impact on character of area;
- \*Location is within a residential area - use is therefore incongruous.
- \*Residential properties were in place before the proposed development;
- \*Access/patron thoroughfare via car park of Priory Gardens;
- \*Disturbance from customers;
- \*Area will become unsafe at night;
- \*Increase in waste/refuse;
- \*Pest/health issue with bin store;
- \*Access for delivery vehicles;
- \*Detrimental impact on traffic flow;
- \*Dust and air pollution;
- \*Certificate A being incorrect;
- \*Alcohol license would be inappropriate for the area;
- \*Devaluation of property price;
- \*Reduced ability to attract/retain tenants to rental properties;

6.2 With regard to the following points:

- \*Devaluation of property price;
- \*Reduced ability to attract/retain tenants to rental properties.

It must be noted that these are not material considerations and cannot be considered further in the determination of the application.

- 6.3 With regard to:  
\*Alcohol license would be inappropriate for the area.  
It must be noted that the planning and licensing regimes are entirely separate entities involving the consideration of different (albeit related) matters. A recommendation of approval from one body would not automatically result in a similar recommendation from the other.
- 6.4 With regard to:  
\*Certificate A being incorrect.  
The LPA accepts certification in good faith and at face value unless they have good reason to indicate otherwise. Clarification has been sought from the Agent. At the time of writing none had been received.
- 6.5 With regard to:  
\*Dust and air pollution  
Whilst a material planning consideration, consultation with HDC Environmental Health offered no objection in this regard. It is considered that the proposed variation of conditions will not have a significant detrimental impact upon the amenity of neighbouring occupiers in terms of dust/air pollution. In the event that a complaint regarding dust/air pollution arises, then recourse would be via HDC's Environmental Health team under specific, relevant legislation.

## **7. ASSESSMENT**

- 7.1 A number of representations included reference to the "residential area/location" of the application site. The proximity of neighbouring residential units to the application site is recognised; however the site is located within Huntingdon town centre (as defined by the 1995 Local Plan).
- 7.2 The main issue to consider is the impact on the amenity of neighbours.
- The impact on the amenity of neighbours:**
- 7.3 The representations received in response to the application are noted and the concerns regarding the potential impact on the amenity of neighbouring occupants understood. The proximity of the neighbouring residential units (to the east) and the Cromwell Nursing Home (to the north) with the application site is recognised and the close relationship between the structures must be taken into account when assessing the potential for a negative impact upon amenity.
- 7.4 The potential for a negative impact upon the amenity of the area by extending opening hours until 0200 on Fridays and Saturdays is recognised. In order to strike an appropriate balance between the objectives of supporting businesses and safeguarding residential amenity, it is considered reasonable and necessary to limit the opening hours of the bar until midnight on Fridays and Saturdays, rather than 0200 as applied for.
- 7.5 A clear area of concern from the submitted representations relates to the potential for music noise to reach a point where it becomes a disturbance. As such, it is considered necessary to secure music

noise by way of condition, as per the advice of HDC Environmental Health and in accordance with paragraph 123 of the NPPF. Similarly, a condition will be attached to control deliveries to the site, in order to avoid disturbance outside of working hours to ensure the amenity of neighbouring properties.

- 7.6 Concerns relating to the bin store are noted, however due regard must be given to the provisions of the GPDO 2015 (as amended) which permits the erection of a means of enclosure, provided it is not adjacent to a highway and not more than 2m in height. Information submitted with the application states that "collections will be undertaken by an authorised waste management company on a weekly basis" and that "levels of waste will be closely monitored by the staff on site". Should the Waste and Recycling Strategy be adhered to, the proposed variation of conditions will not have a significant detrimental impact upon the amenity of neighbouring occupiers in terms of odour and pest/health issues. The implementation of the Waste and Recycling Strategy will be secured by condition. In the event that a complaint regarding pest/health issues arises, then recourse would be via HDC's Environmental Health team under specific, relevant legislation.
- 7.7 Comments relating to patrons potentially gaining access via the car park of Priory Gardens and subsequent disturbance are understood, however the submitted plans do not include an access point in this location, nor is there an extant right of way through either the site or Priory Gardens.
- 7.8 The potential for behaviour considered to be anti-social within a town centre location is recognised; indeed a certain level of pedestrian/vehicle activity and subsequent disruption along High Street is inevitable, but the overall safety of the area is not considered to be significantly affected by the proposed variation of conditions. Condition 8 of 15/00417/FUL, which states that "the external areas of the site shall not be used by customers, other than for vehicular parking", remains unchanged.

#### **Conclusion:**

- 7.9 Taking national and local planning policies into account and having regard for all relevant material considerations, it is recommended that the application be granted planning permission.

#### **8. RECOMMENDATION - APPROVAL subject to conditions varied as following**

- Condition 4: Hours of use for the café from 07.00 - midnight.
- Condition 5: Hours of use of the bar from 11.00 - midnight (every day)
- Condition 6: Music may be played during opening hours; subject to Environmental Health requirements (see new conditions below).
- Condition 7: To allow storage of refuse and recycling within a designated bin store on the site.

- And that Condition 3 (which limited the hours of use of the existing meeting rooms to between the hours of 09.00 - 17.00 Monday to Friday), be removed.

#### **8.1 And subject to the following conditions:**

- Time Limit (as per 15/00417/FUL)
- Accordance with plans
- All windows and doors to be kept closed during any performance of live or recorded music inside the premises.
- The music noise level (MNL), measured as a 15 minute L(A)eq, 1 metre from the façade of noise sensitive properties, or within noise sensitive rooms with doors and windows open in a typical manner for ventilation, shall not exceed the representative background level L90 (without entertainment noise). And, The L10 of the entertainment noise measured over 15 minute period 1 metre from the façade of noise sensitive properties, or within noise sensitive rooms with windows open in a typical manner for ventilation, shall not exceed the representative background noise level L90 (without entertainment noise), in any third octave band between 40 Hz and 160Hz.
- For events continuing after 23:00, the music noise should not be audible within noise sensitive premises with windows open in a typical manner for ventilation.
- Implementation of Waste and Recycling strategy
- No access via Priory gardens
- No deliveries outside of the hours 0800 - 2000

If you would like a translation of this document, a large text version or an audio version, please contact us on 01480 388388 and we will try to accommodate your needs.

#### **CONTACT OFFICER:**

Enquiries about this report to **Mr James Lloyd Assistant Development Management Officer 01480 388389**

**HUNTINGDON TOWN COUNCIL**

**PLANNING COMMENTS : 12<sup>th</sup> November 2015**

15/01838/S73

Mr A Subhan, Darjeeling Restaurant, 69 High Street, Huntingdon, PE29 3DN

Removal of Condition 3 of Planning Permission 15/00417/FUL, variation of Condition 4 for hours of Café opening to be from 7am until midnight, variation of Condition 5 to allow the bar to be open 11am until midnight Sunday to Thursday and from 11am to 2am

**Recommend REFUSAL. Members felt that the variations would have an adverse affect on neighbouring residents' quality of life, due to the loud music, risk of noise from late night customers, food waste smells, and littering. Particular issues were highlighted concerning the wellbeing of dementia patients in Cromwell Nursing Home, where any loud noise or strangers can cause great distress. Concern was also raised over access for deliveries as this was likely to be through Priory Gardens which would inconvenience Priory Garden residents.**



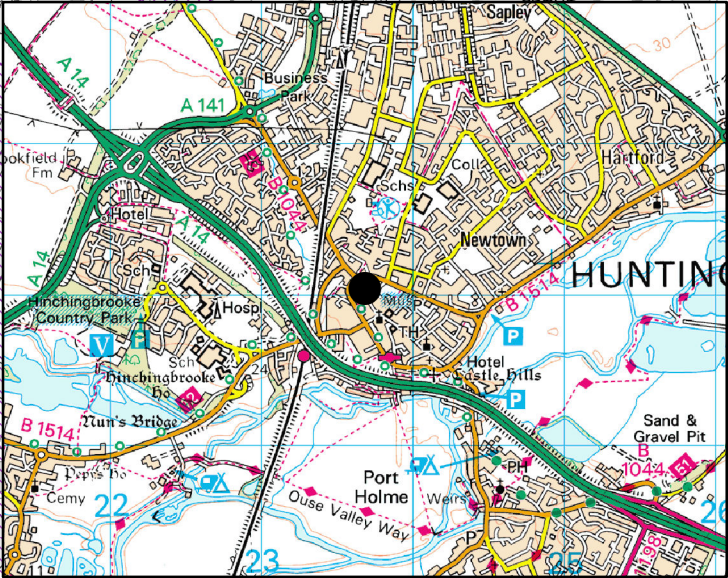
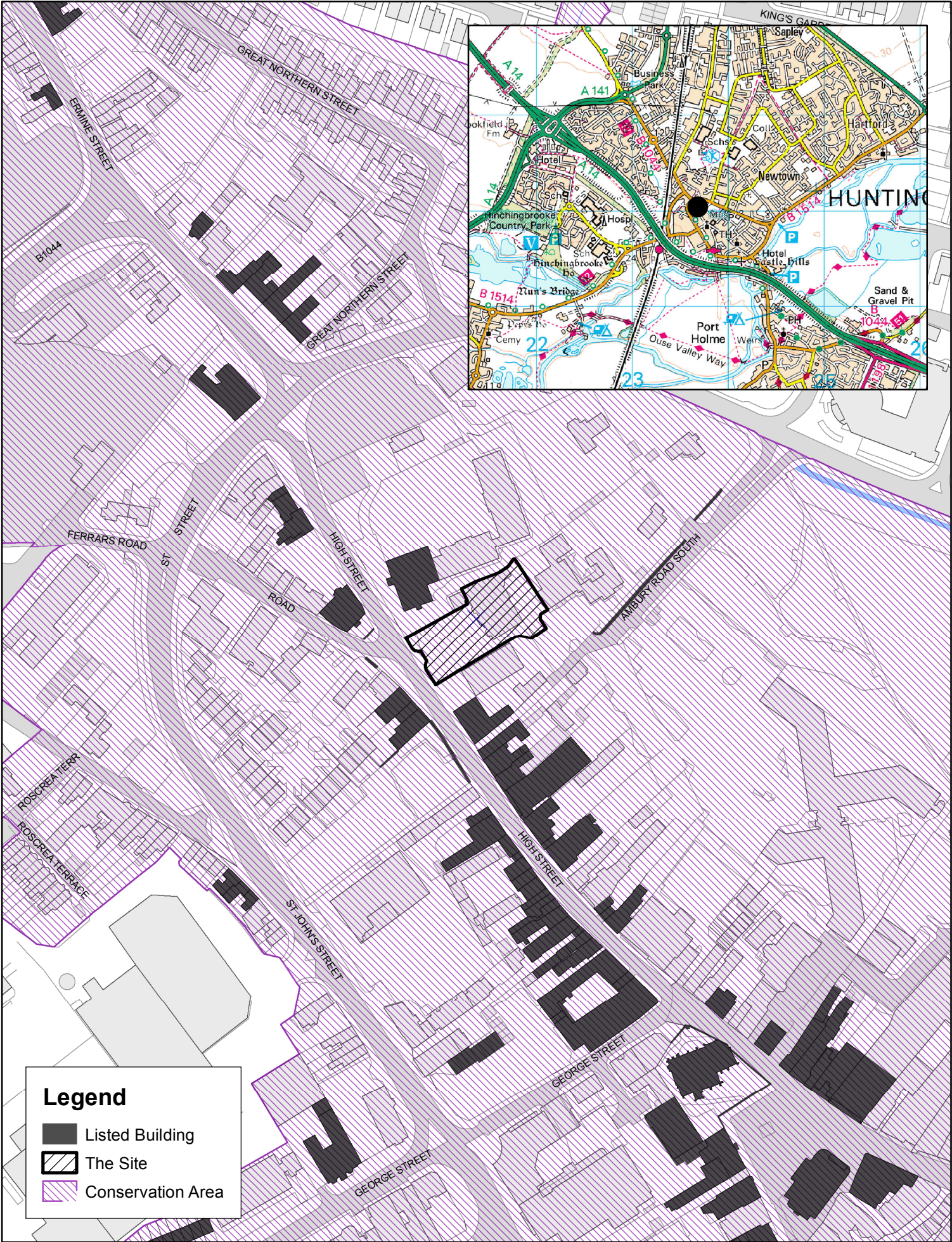
# Development Management Panel



Scale =1:1,974  
Date Created: 04/01/2016

Application Ref: 15/01838/S73  
Location:Huntingdon

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Ordnance Survey HDC 100022322







Refuse and Recycling Plan

1:500

October 2015

— Refuse and recycling area