

Our Ref: JM/KN0150/24

22 August 2024

Ms Anne McDonald
Development and Conservation
North Hertfordshire District Council
PO Box 10613
Nottingham
NG6 6DW

via email

Dear Ms McDonald,

**Letter of Objection to Application 24/01426/FP
9 – 10 High Street, Hitchin**

We are instructed by our clients, Greene King Brewing and Retailing Ltd (Greene King) and Cinnabar Venues, to object to planning application 24/01426/FP.

The application seeks planning permission for the following development at the site of 9 – 10 High Street, Hitchin:

“Demolition and redevelopment to provide 44 residential apartments (in four part 4 storey / part 5 storey linked blocks) 325 sqms of Class E floorspace at ground floor fronting the High Street, landscaping, amenity and associated parking.”

Greene King own the adjacent Cinnabar pub at 8 High Street. Cinnabar Venues is the tenant. The pub offers food and drink, and plays music (live and recorded) into the early hours. Our clients have significant concerns regarding the proposed development, which we set out below.

Agent of Change

If the proposed apartments are allowed to be delivered, then it is likely that their future occupiers will complain to the Council about noise and disturbance from Cinnabar, which could lead to the curtailment of its operations. This would be significantly detrimental to the operation and viability of the pub, and the amenity of residential occupiers.

It is well-documented that the pub sector has been struggling for many years. A change in consumer social habits, discounted alcohol being sold in supermarkets and the COVID-19 pandemic has resulted in the accelerated closure of many establishments. According to the British Beer and Pub Association,



the number of pubs has declined from 60,700 in 2001 to 55,400 in 2010, and 45,300 in 2023.¹ The pub sector is now facing additional challenges including a substantial increase in the cost of utilities, high inflation and staff shortages; all of which is putting further pressure on businesses such as Cinnabar.

Any change to the operation of Cinnabar, as a result of a complaint by a neighbour to the Council, could be catastrophic to the survival of the business, in a sector which is already under pressure.

Paragraph 97 of the National Planning Policy Framework (NPPF) (December 2023) makes clear that planning decisions should guard against the unnecessary loss of valued community facilities, ensure that facilities are retained for the benefit of the community, and ensure an integrated approach to considering the location of housing, economic uses and community facilities. Policy HCI of the North Hertfordshire Local Plan (November 2022) also establishes the Council's aim of protecting and preserving community facilities, including pubs.

Cinnabar is a valued community facility which makes optimal use of a 450 year old, Grade II listed building. In accordance with the NPPF and the Local Plan, the business should not be exposed to an adjacent development proposal which puts its operation and viability at risk.

Cinnabar is an established pub and music venue which makes a positive contribution to the Town Centre's evening economy and vitality. The premises offers food and drink, both internally and externally, in addition to music (live and recorded) until 11pm on Thursdays, 3am on Fridays, Saturdays and Bank Holidays, and 5pm on Sundays. The premises has an outdoor terrace to its rear which has over 100 covers. A drinking establishment has always operated from the building, and Cinnabar is a popular location for the residents of Hitchin and the wider area.

The operating hours and late-night operation of the premises is acceptable at present, owing to the fact that there are no nearby residential uses. However, the playing of music and noise from patrons into the early hours (including karaoke) within, to the front and to the rear of the premises (the outdoor terrace) – all of which forms part of the pub's operation and causes no nuisance – will inevitably have a significant adverse impact on the amenity of neighbouring residential occupiers. Noise breakout from the premises, from opening doors, will also worsen this impact.

Paragraph 123 of the NPPF states that planning decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

¹ <https://beerandpub.com/data-statistics/>



The submitted drawings indicate the proposal for residential units adjacent to Cinnabar. Whilst none of the units will be physically attached to the pub, they are proposed to be sited in close proximity. Specifically, the residential windows and doors of units 004 to 007, 106, 107, 109, 206, 207, 209, 302, 303 and 304 will be circa 5 to 10m in distance from the outdoor terrace to the rear of the pub. The residential windows of units 011, 012, 113, 114, 213 and 214 will also face directly onto High Street, immediately adjacent to Cinnabar's entrance where:

- Up to 24 patrons can be found eating and drinking (via the outdoor seating provided) between 8am and 11pm; and
- Lots of patrons (potentially 100+) can be found queuing / congregating and making noise (talking, etc) into the early hours (3am on Fridays, Saturdays and Bank Holidays).

The planning application is supported by a Noise Impact Assessment prepared by KP Acoustics. The Assessment is underpinned by an environmental noise survey, whereby measurements were recorded via microphones on the roof of the existing building, to its front (adjacent to High Street) and centrally. The survey was undertaken between 1pm on Wednesday 11th January 2023 and 1pm on Thursday 12th January 2023; a period where the background noise climate was dominated by road traffic.

We express significant concerns regarding the methodology for the environmental noise survey. Notwithstanding the fact that it was undertaken circa 20 months ago, it is in no way representative of the *"worst-case levels expected on the site due to all nearby sources"*, as stated in section 2.2 of the Assessment. The Assessment pays no regard whatsoever to the operation of the pub and the noise that it inevitably generates, with the survey being undertaken during the quieter mid-week period covering a Wednesday evening when Cinnabar was not open.

The Noise Impact Assessment is therefore fundamentally flawed. The applicant must be requested to provide a revised Assessment and Ventilation Strategy, having regard to the worst-case noise levels that arise during the operation of the pub on Fridays, Saturdays and Bank Holidays until 3am.

Cinnabar is serviced by delivery vehicles via Jackson's Yard Car Park, to the west. There are no planning restrictions for the servicing of the pub, and the application contains no assessment of the impact of the pub's servicing on the amenity of the scheme's residents. The adjacent residents will be exposed to an uncontrolled level of noise and disturbance from the servicing of the pub, including delivery vehicle engine noise and impulsive noise (bangs and clatters) from the movement of barrels and other items being transferred into the premises, potentially during the early morning and night-time periods. No residential occupier should be exposed to the prospect of uncontrolled noise from these sources, nor is it our clients responsibility to mitigate this.

Given the immediate proximity of the aforementioned sources of noise from Cinnabar – from its servicing operation and from music and patrons – any proposal for mitigation is unlikely to be effective in safeguarding residential amenity to an acceptable standard. Any limited effectiveness that there is would be totally dependent on the quality of workmanship undertaken, and the Authority and industry's willingness to enforce said level of effectiveness in perpetuity.



The planning application has absolutely no regard to the fact that there is a neighbouring pub and music venue which generates noise, internally and externally, into the early hours. The existence of Cinnabar is not once mentioned in the applicant's Planning Statement, nor is it considered in the Noise Impact Assessment. The proposal has residential windows and doors in close proximity to the pub and its outside areas, which is totally illogical, and the Noise Impact Assessment is flawed.

Our clients understand that this is a brownfield site in the heart of the Town Centre, and that it is prime land for redevelopment. However, any aspirations to see the site redeveloped should not put the Cinnabar's operation and viability at risk, nor should it impact upon the amenity of future residents.

Any change to the operation of Cinnabar, such as a curtailment of its operations brought about by a noise complaint from a resident to the Council, could prove catastrophic for the business in terms of its viability, noting the challenges that the industry faces. As directed by planning policy, the Council must safeguard what remaining pubs exist, especially pubs in town centres, whilst ensuring that no resident is subjected to impacts on their health and well-being.

The scheme flies in the face of numerous planning policies relating to the safeguarding of community facilities and residential amenity. The applicant should be requested to pursue a full re-design of the scheme.

Principle of Development

The site forms part of a wider mixed-use allocation in the Local Plan, known as Paynes Park. Policy HT12 of the Local Plan states that the allocation site will accommodate approximately 3,000 sq.m gross of additional shop, café, restaurant, pub, drinking establishment or takeaway town centre use floorspace at ground floor level, alongside other main town centre uses or residential uses at upper or basement level where these can be suitably accommodated.

The proposed development is a residential-led mixed-use scheme comprising 44 apartments and just 325 sq.m of ground floor Class E floorspace. The scheme encompasses a significant portion of the allocation site and fails to align with the Council's aspirations for a comprehensive redevelopment providing the quantum of town centre use floorspace expected.

The applicant's Planning Statement does not acknowledge Policy HT12, nor does it provide any satisfactory evidence to justify the proposed reduction in retail floorspace. There is the suggestion that the site was marketed for main town centre uses; however, no evidence is provided.

In the absence of any evidence to justify the departure from Policy HT12 and the loss of retail floorspace, which will be detrimental to the vitality and viability of the Town Centre, the application should not be supported.



Design and Heritage

As noted, Cinnabar occupies a 450 year old Grade II listed building. This adjoins the application site and the existing building that is proposed for demolition. The site is in the Hitchin Conservation Area and there are several other listed buildings within the vicinity of the site.

Paragraph 200 of the NPPF requires applications to describe the significance of any heritage assets affected by a proposal. The level of detail should be proportionate to the assets' importance and the potential impact of the proposal on their significance. This is echoed by Policies HE1 and SP13 of the Local Plan which seek to balance the need for growth with the proper protection and enhancement of the historic environment.

Paragraph 135 of the NPPF states that planning decisions should ensure that developments, inter alia, are sympathetic to local character and history, establish and maintain a strong sense of place, add to the overall quality of the area and are visually attractive.

The planning application is supported by a Heritage Assessment prepared by PowerHaus Consultancy. The Assessment identifies; (a) that the existing building, which is proposed to be demolished, makes a positive contribution to the Conservation Area and; (b) that the building proposed will make a positive contribution. We agree with the first statement and the existing building, in particular its frontage to High Street, could be regarded as a non-designated heritage asset. However, we disagree with the claim that the proposed building will make a positive contribution to the Conservation Area.

The proposed elevation fronting High Street incorporates a façade which is vastly out of character with the Conservation Area. The proposed 'pale brick' and 'stone banding' is confusing, whereby the applicant has potentially tried to replicate the surrounding brick buildings by proposing traditional materials (i.e. the pastiche approach), but has failed. Indeed, none of the surrounding buildings consist of 'pale brick', nor do any of them incorporate 'stone banding'.

The confusing design is worsened by the proposal for 'bronze effect' metal panelling around the shopfront at ground level and the windows above. The panelling is an incongruous addition which unbalances the street scene and eradicates the traditional 'sash' window which is typical of the area's character. The zinc finish to the mansard roof is totally random and does not pay regard to any local design cues. Indeed, none of the surrounding buildings are finished in zinc, nor do any of them have mansard roofs.

Moving to its rear, the proposed building takes on a drastic appearance of inconsistent pitched roofing and dominant glazing; all of which is wholly out of keeping with the character of the Conservation Area. The proposal retains its excessive bulk and massing across four linked blocks. The amount of development proposed will be harmful to the character of the Area and the setting of adjacent listed buildings.

Cinnabar's occupation of the Grade II listed building represents the optimum viable use of the heritage asset. As noted, a curtailment to its operations could prove catastrophic for the business, putting the



use of the asset at risk. Notwithstanding this point, the submitted Heritage Assessment does not describe the significance of the Grade II listed pub building, nor does it accurately assess the impact that the development would have on this asset, including the perception of the development from viewpoints within its curtilage.

Overall, the proposed development must be considered unacceptable in design and heritage terms, and a full re-design should be requested by the Council. The application, in its current form, is contrary to Policy HE1 of the Local Plan and the NPPF.

Daylight and Sunlight Provision

Policy D3 of the Local Plan states that planning permission will be granted for development proposals which do not cause unacceptable harm to living conditions. This includes residential proposals which are served by an appropriate level of natural light.

The building, as proposed, will be sited in close proximity to Cinnabar and the properties to the north. The applicant has stated at paragraph 5.71 of its Planning Statement that five bedrooms and one living room will not meet the BRE minimum illuminance recommendations. It is further stated that 39 of the 44 units will have at least one habitable room window which faces within 90 degrees of due south. This implies that five of the units will be served by an insufficient level of natural light.

The applicant has not offered any justification for failing to meet the BRE recommendations for all of the units, nor have they demonstrated any scheme benefits which would outweigh the impact to the future residents of the affected units. The scheme, as currently proposed, fails to provide adequate natural light to all of the habitable rooms. This flies in the face of good planning and design, and must be considered contrary to Policy D3 of the Local Plan and the NPPF.

Ecology

The planning application is supported by a Preliminary Ecological Appraisal (PEA) prepared by The Ecology Partnership.

Paragraph 3.10 of the PEA explains that only part of the existing building, which is proposed for demolition, was surveyed for bats, with most of it being inaccessible at the time that the survey was carried out. In accordance with law, the applicant must be requested by the Council to provide the results of a full bat survey covering the entire existing building.

Conclusion

Our clients have significant concerns regarding the proposed development at 9 – 10 High Street, as noted above.

The scheme, in its current form, is wholly unsuitable. If the proposed apartments are allowed to be delivered, then its residential occupiers would be subject to a significant adverse impact on their level



of amenity, by way of noise and disturbance from the pub and its operations (including music), and inadequate natural light to a number of the units.

Any change to the operation of Cinnabar, such as a curtailment of its operations brought about by a noise complaint from a resident to the Council, could prove catastrophic for the business in terms of its viability, noting the challenges that the pub industry faces. The proposal is contrary to planning policies relating to the safeguarding of community facilities and residential amenity, and the applicant should be requested to pursue a full re-design.

The scheme is contrary to Policy HT12 of the Local Plan, and the loss of retail floorspace in the Town Centre has not been justified. The scheme is unacceptable in design terms, and will harm the significance of the Grade II listed pub and Hitchin Conservation Area. A full bat survey covering the entire existing building has also not been carried out.

We trust that the concerns and objections in this letter are noted. It is requested that we be kept updated with the progress of the application, and informed of the submission of any revised proposals or information.

Yours sincerely,



Jake McLeod MTCP MRTPI
Principal Consultant

