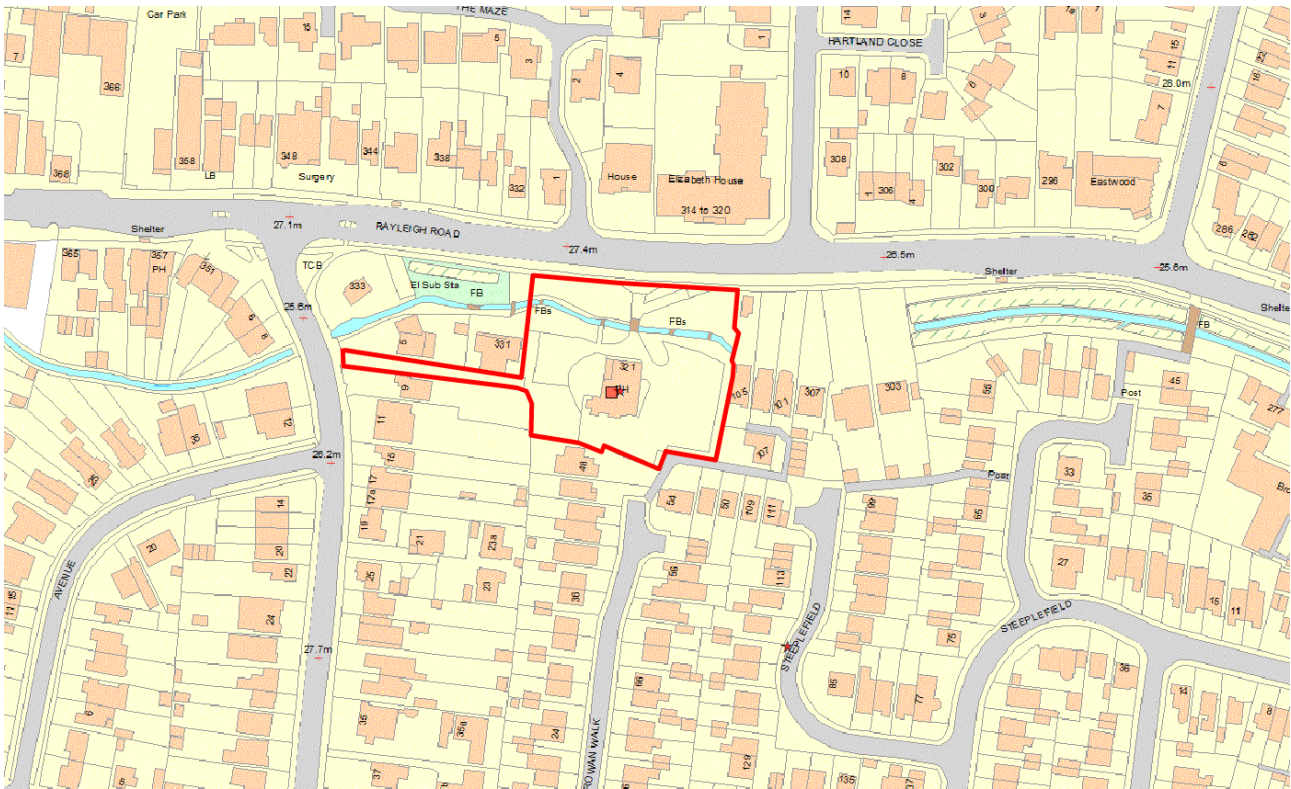


Reference:	21/01644/AMDT	
Application Type:	Minor Material Amendment	
Ward:	Eastwood Park	
Proposal:	Application to vary condition 2 to allow access from Bellhouse Road for emergency vehicles and delivery vehicles between the hours of 08:00 and 15:00 Mondays to Saturdays and 9am to 3pm on Sundays and Bank Holidays and update condition 1 in relation to parking provision at the site (Minor material amendment to application D/423/69 dated 02.10.1969)	
Address:	The Bellhouse Public House 321 Rayleigh Road Eastwood Essex SS9 5PX	
Applicant:	Mr P Barthaud	
Agent:	Stone Me Ltd	
Consultation Expiry:	27 th October 2021	
Expiry Date:	5 th November 2021	
Case Officer:	Abbie Greenwood	
Plan Nos:	1999-01 Design and Access Statement by Stone Me Design Rev A Delivery Access Management Plan dated 8.9.21 Rev B	
Recommendation:	GRANT PLANNING PERMISSION	



1 Site and Surroundings

- 1.1 The Bellhouse is a former farmhouse which dates from the C16. It is currently in use as a restaurant and bar and has had planning permission for use as a public house since 1969. The building is Grade II listed, sited centrally on a generous plot with a large car parking area, together with seating areas and landscaped grounds which include a small woodland and trees. Some of the trees are subject to a tree preservation order. These are located to the eastern and northern sides of the building. The site is surrounded by residential properties.
- 1.2 Currently vehicular access to the premises is via a limited width bridge over Eastwood Brook from an access point on Rayleigh Road, the A1015 which is a busy classified road. The access is forked with alternative routes for in and out which converge at the bridge over the brook. Both parts of the route are very narrow and very steep, the bridge is the narrowest point at 2.7m wide. There is a traffic island on Rayleigh Road opposite the 'out' fork which reduces space for existing vehicles to manoeuvre and prevents them from turning right onto Rayleigh Road. The site is at a lower level than Rayleigh Road. The site has another access to Bellhouse Road to the west, currently used by pedestrians only. This route extends for some 60m, has a width of between 4.3m – 4.9m and passes alongside No 331 Rayleigh Road and between Nos 5 and 9 Bellhouse Road. The route is currently surfaced with gravel and vehicular access is blocked at the western end with a bollard. There is an existing vehicular crossover in this location. At present Fire Appliances cannot access the site and must park on Rayleigh Road.
- 1.3 The site is located within flood zone 3. Aside from the listed building and preserved trees there are no other policy designations at the site.

2 The Proposal

- 2.1 The proposal seeks, as a variation to condition 2 of the 1969 permission, to use the access to Bellhouse Road for delivery vehicles and waste collection vehicles between the hours of 08:00 hours and 15:00 hours Mondays to Saturdays and 09:00 hours and 15:00 hours on Sundays and Bank Holidays. No changes are proposed to the surfacing of the route as part of this application. As amended during the course of its processing, the application also seeks to update condition 1 of that same permission, in relation to parking provision at the site. The proposal relates solely to the use of an existing access and does not include any new building or other operational works.
- 2.2 The Design and Access Statement states that a total of 18 deliveries and collections are expected per week which are:
- 2x Refuse collections per week
 - 2x Beverage deliveries per week
 - 2x Catering related deliveries per day (fresh goods)
- 2.3 A Delivery Access Management Plan has been submitted with the proposal. This confirms that the existing fixed bollard at the junction of Bellhouse Road will be replaced by a lockable bollard. This will be removed only for scheduled deliveries or emergency vehicles but will remain in place at all other times to prevent unauthorised access and use of the accessway by other vehicles. The Delivery Access Management Plan also restricts the total number of service vehicles movements to 36 per week (18 each way).

Background to the Proposal

- 2.4 The building has had planning permission for use as a public house since 1969 under application reference D/423/69. This consent included condition 2 in relation to this access. The application is seeking to amend condition 2 to allow for a limited number of movements by service vehicles along this access for deliveries and collections (36 per week):

“The existing access into Bellhouse Road shall not be used by vehicular traffic”

The reason stated for this was:

“To safeguard the amenities of residential properties in Bell house Road”

- 2.5 Planning application 11/01072/FUL sought approval to use the access from Bellhouse Road for the egress of all vehicles including patrons and deliveries but limiting its use after 2230 by means of an electronic barrier. That application also proposed a new asphalt surface to replace the existing gravelled surface and landscaping, low level lighting, signage and the provision of a separate pedestrian path along the route and a suggested 10mph limit. That proposal included three additional parking spaces, including two for disabled use, bringing the total number to 48, the reconfiguration and landscaping of the parking area and provision of a taxi ‘holding’ area. That proposal was refused for the following reason:

01 It is considered the vehicular and pedestrian movements generated by the proposed development and associated noise and nuisance, particularly during unsociable hours, including headlight glare, and the loss of privacy would seriously detract from the level of amenity the occupiers of nearby residential properties would expect to enjoy. The

proposals would, therefore, be harmful to residential amenity, contrary to policies KP2 and CP4 of the Southend-on-Sea Core Strategy, to supplementary guidance contained in the Southend-on-Sea Design and Townscape Guide and to policies C11 and E5 of the Southend-on-Sea Borough Local Plan and Planning Policy Guidance Note 24 (Planning and Noise).

2.6 That proposal was subsequently dismissed at appeal (reference APP/D1590/A/12/2175463). The full appeal decision is attached to this report as Appendix 1. Key points from the appeal decision were:

- No highways objections were raised by the Council or Inspector in relation to the use of the access. [para 6]...
- The activities likely to cause the most noise and disturbance to nearby residents are likely to peak in the evenings and late at night. The Inspector noted that there was already potential for a considerable amount of noise from customers leaving the premises, talking, car doors slamming and car radios and so on with or without the use of this access by vehicles. [para 11].
- The submitted noise report was found to be inadequate in relation to the background noise level measurements late at night (2300 hours) and it was considered out of date. [para 13].
- The properties principally affected by the proposal are 5 and 9 Bellhouse Road and 331 Rayleigh Road. [para 15 and 16].
- The appeal proposal could represent a very substantial number of vehicular movements with the associated noise and disturbance and the occupiers of the three properties in closest proximity would be likely to suffer a significant reduction in the quality of their living conditions. [para 16].
- Concerns raised in relation to headlights disturbing occupiers of 8 Bellhouse Road opposite the site were dismissed by the Inspector [para 18].
- The Inspector noted that *'Given that the access can already be used by pedestrians, it is unlikely that privacy would be actually be materially reduced. Boundary treatment is at a height that would prevent actual overlooking into gardens or windows and people in cars would be at a lower level than pedestrians. Whilst some larger delivery vehicles or similar may use the access this would be infrequent. However, there is little doubt that the more regular use of the access would encourage people into this area. Local residents raise concerns about security and crime and also point to inconsiderate behaviour from people using the access now and the possibility of the access being used as a rat run. These representations lend weight to my view that the change in the use of the access is likely to create if not an actual, at the very least, a perceived reduction in privacy and adds to my overall concerns.'*[para 19]

2.7 It concludes that:

20. In reaching a conclusion, I have carefully considered the issues. The appellant wishes to improve highway safety and the restaurant and bar contributes to the local economy and the proposal would enhance this heritage asset through the other associated works. On the other hand the Council is concerned about the impact on nearby residents from noise and disturbance and a loss of privacy. Based on the inadequacies of the evidence before me and my observations at the site visit, the increase in activity along the access and the associated noise and disturbance would constitute a significant effect on the quality of life of those potentially affected by the proposal in spite of the mitigation measures proposed. I conclude the living conditions of the occupiers of No 331 Rayleigh Road and Nos 5 and 9 Bellhouse Road would be

materially harmed.

2.8 The appeal decision carries some weight in the assessment of the current proposal but does not raise any specific concerns in relation to the use of the access for delivery vehicles. The main issue within the appeal decision was the impact of the increase in noise and disturbance from vehicle usage of the access especially late into the evening. There is no mention of noise and disturbance being a concern during daytime hours.

2.9 This application was called to committee by Councillors Walker, Collins and Moring.

3 Relevant Planning History

3.1 The site has extensive planning history. Those relevant to the proposal are noted below.

3.2 11/01072/FUL - Use side access road onto Bellhouse Road for motor vehicles and lay out part of car park with grass and landscaping – refused and dismissed at appeal

3.3 10/00365/FUL - Form hardstanding and use side access road onto Bellhouse Road for a period of 6 months - Refused

3.4 D/423/69 – use building as public house - Granted.

4 Representation Summary

Public Consultation

4.1 68 neighbouring properties were consulted by letter and a site notice posted. 7 letters of objection from 5 residents and 1 letter of support have been received. The comments objecting to the application are summarised as follows:

- No objection to the occasional lorry / van but we do not want this to be a permanent access for all vehicles at all times of the day.
- The business is supported but they should continue to use existing arrangements.
- The path is tight so may take some time for lorries to navigate.
- Concern over damage to adjacent fences.
- The proposal should not be linked to such an old planning permission. It relates more to the more recent refusals concerning use of the access - concern that residents are not properly consulted as it is an amendment application not a full planning application. Lack of consultation with local residents.
- The access was overgrown in 1969 therefore not suitable for vehicles at this time anyway.
- Two previous applications and an appeal for use of this access have failed due to unacceptable neighbour impact. This application should be refused for the same reason.
- Harm to neighbour amenity including increased noise and disturbance.
- The previous owners had no objections to using the Rayleigh Road access for deliveries. This access seems unsuitable for large lorries and some have parked on Rayleigh Road to make their deliveries from the main road therefore there is no justification for changing this arrangement.
- An application for widening the bridge was made in 2010 reference 10/00329/LBC [Officer comment: this application was for listed building consent only which only relates to the building so this application was not proceeded with].

- The crossover to Bellhouse road is shared with the neighbour and is narrow.
- Concerns over visibility and pedestrian and vehicle safety as cars often come into Bellhouse Road at speed.
- Harm to highway and pedestrian safety.
- Disabled badge holders park in Bellhouse Road and can obscure visibility.
- Tarmac will increase speeds along the access.[Officer Comment: Tarmac is not proposed as part of the proposal.]
- The access is narrower than Bellhouse Road [Officer Comment: plans show that the bridge over the brook is 2.7m wide and the access to Bellhouse Road is between 4.3m-4.9m wide].
- Large vehicles will need to use both sides of the road to obtain a wide enough sweep and enter and leave the access.
- Restricted access for any breakdowns or accidents which may occur in the access way which is 70m in length.
- Concerns over pedestrians passing vehicles along the access in confined space.
- Loss of privacy from raised lorry cabs. Lorries will pass close to the houses. Noise and vibration nuisance for neighbouring gardens.
- Impact on overhead power and telephone lines.
- Impact on underground services including drains, sewers and foundations, from added weight of vehicles. Weight may also cause rutting.
- Patrons do not park on Bellhouse Road.
- Lack of risk assessment.
- The access has been used without consent.
- The access via Rayleigh Road (bridge) should be widened instead.

The comments in support of the application are as follows:

- The existing exit onto Rayleigh Road is not easy to use for any vehicle as it is narrow and impeded by a traffic island. Lorries have had trouble using this as an exit point. This is potentially dangerous so an alternative access for deliveries is supported provided it is controlled by a lockable barrier.

A further public consultation was also undertaken in response to the need to update condition 01 of the 1969 application in relation to parking provision at the site which remains unchanged from the existing. At the time of writing no further representations had been received on that matter.

Officer Comment: These concerns are noted and those that represent material planning considerations have been taken into account in the assessment of the application. However, they are not found to represent a reasonable basis to refuse planning permission in the circumstances of this case

Highways

- 4.2 There are no highway objections to this proposal.

Existing Vehicular Access on Rayleigh Road

The revised layout for deliveries and emergency vehicles will ensure that the entrance from Rayleigh Road will be for cars only. This will greatly improve the impact on the free flow of traffic in Rayleigh Road. When large vehicles are attempting to enter / exit they do so at very slow speed and a wide swept path due to the narrow access way which is not

suitable for large vehicles as it measures 2.7m. The site is also in close proximity to a pedestrian crossing point which can impede pedestrian visibility splays when large vehicles are entering the site.

Proposed Vehicular Access Bellhouse Road

The visibility splay at the proposed emergency / delivery access is acceptable and meets the required standard as set out in Manual for Streets. Large vehicles will not be travelling at speed along the accessway and this can be controlled by the applicant installing speed humps. The accessway onto Bellhouse road is wider in width than at Rayleigh Road and meets the emergency vehicle width requirement. Drainage issues will fall to the applicant to strengthen to ensure they are suitable for vehicular traffic.

Having a separate access for emergency / delivery vehicles will ensure that the circulation of these large vehicles will be kept away from patrons. It is considered the revised arrangements will provide a safer environment for all users of the public house but also improve the free flow of traffic and improve the safety of all road users on Rayleigh Road which is a primary route.

Therefore, the Highway Authority support this proposal.

Environmental Health

- 4.3 The Council Delivery Policy starts at 7am and the proposed Bellhouse Public House delivery starts at 8 am so it is not likely to cause noise nuisance to rest and sleep. A couple of deliveries a day will be of limited impact as the delivery is outside the sensitive period of rest and sleep. [Officer comment – the reference above to ‘Council Policy’ means Environmental Health’s standard approach to the subject of deliveries, with the identified time window based on accepted best practise and case law]

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (NPPF) (2021)
- 5.2 Core Strategy (2007) Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP3 (Transport and Accessibility), CP4 (The Environment and Urban Renaissance).
- 5.3 Development Management Document (2015) Policies DM1 (Design Quality) DM3 (Efficient and Effective Use of Land), DM5 (Southend-on-Sea’s Historic Environment), and DM15 (Sustainable Transport Management)
- 5.4 Design & Townscape Guide (2009)
- 5.5 CIL Charging Schedule (2015)

6 Planning Considerations

- 6.1 The main issues in this case are the effect of the proposal on the living conditions of the occupiers of No 331 Rayleigh Road and Nos 5 and 9 Bellhouse Road with particular reference to noise and disturbance, and privacy and impact on highway safety. Other issues include the impact on the setting of the listed building and preserved trees and flood risk.

7 Appraisal

Principle

- 7.1 The proposal is located within flood zone 3 but relates to the use of an existing access only and does not include any new building or other operational works. There are therefore no material implications in terms of flood risk. The principle of the proposal is acceptable subject to the detailed considerations set out below.

Design and Impact on the Setting of the Listed Building

- 7.2 The proposal relates to the use of an existing access to the site to allow it to be used for deliveries rather than using the existing bridge access to the north of the building which is very narrow. The access leads to the existing car park. This would have no material impact on the listed building or its setting. The proposal would therefore have an acceptable impact on the setting of the listed building and is acceptable and policy compliant in this regard.

Impact on Preserved Trees

- 7.3 The rerouting of delivery vehicles to the Bellhouse Road access would mean that these larger vehicles would not pass by the preserved trees which are located on the eastern side of the building and close to the bridge access to Rayleigh Road. The potential impact on these trees would therefore be reduced which is a benefit of this a proposal and a level of weight can be attached to this benefit. The proposal therefore has an acceptable impact on the preserved trees and is acceptable and policy compliant in this regard.

Impact on Residential Amenity

- 7.4 Policy DM1 of the Development Management Document states that development should, *“protect the amenity of the site, immediate neighbours and surrounding area, having regard for privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution and daylight and sunlight.”*
- 7.5 The previous application for unrestricted use of this access by all vehicles up to 2230 hours was refused and dismissed at appeal because it was considered to have a detrimental impact on the amenities of 5 and 9 Bellhouse Road and 331 Rayleigh Road. In reaching this decision the Inspector considered that the noise and disturbance caused by unrestricted vehicles using this route late into the evening was unacceptable. No concerns were raised in relation to its use by deliveries which the Inspector noted would be ‘infrequent’.
- 7.6 In order to reflect the Inspector’s comment, this proposal seeks to restrict use of the access to deliveries only during daytime hours between 08:00 hours and 15:00 hours Mondays to Saturdays and 09:00 hours and 15:00 hours on Sundays and Bank Holidays. The projected number of deliveries is 18 per week (totalling 36 movements, 18 in and 18 out) comprising the following:
- 2x Refuse collections per week
 - 2x Beverage Deliveries per week
 - 2x Catering Related Deliveries per day (Fresh Goods)

- 7.7 The application is also accompanied by a Management Plan setting out how deliveries would be managed and how the route would be restricted to prevent general vehicular use during other times. The Management Plan includes a restriction on the number of movements per week to a total of 36, indicatively 18 in and 18 out. No noise report has been submitted due to the relatively few journeys per week anticipated and the proposed timings which are daytime only. In response, the Council's Environmental Health Officer comments that, although each case is assessed on its merits, deliveries taking place close to residential properties are usually accepted by the Council between the hours of 7am and 7pm. This is a common 'rule of thumb' applied across the country which has been tested in the courts and found to be reasonable. No objections have been raised by Environmental Health on any grounds including noise and disturbance to neighbours arising from the proposed deliveries/collections.
- 7.8 Concerns have been raised in relation to the loss of privacy from any delivery or collection vehicles which have raised cabs and their potential views over the garden fences into habitable rooms at the rear of the neighbouring houses. In relation to this issue, it is noted that use of the access would be infrequent (an average of only 2.5 journeys per day looking towards the rear elevations of the properties) and, as the vehicles will not be stationary in the access for any period of time and the drivers will be concentrating on the road ahead, this impact would be minimal and short lived. It is therefore considered that any loss of privacy would not be significant in degree and would not reasonably constitute a reason for refusal.
- 7.9 There are no other impacts in relation to any other aspect of neighbour amenity. Overall, therefore, it is considered that, subject to a condition requiring the implementation and adherence to the submitted Management Plan, the proposal has satisfactorily addressed the 2011 appeal Inspector's concerns in relation to noise and disturbance of neighbours insofar as they can be considered to be relevant to this specific proposal. This proposal is therefore considered to be acceptable and policy compliant in its impact on neighbour amenity.

Traffic and Transportation Issues

- 7.10 The proposal will change the way delivery vehicles access the site from Rayleigh Road to Bellhouse Road. No changes are proposed to the number of parking spaces or to the actual access routes themselves. Concerns have been raised in relation to the suitability of the access and safety of pedestrians and vehicles. Plans show that the current access bridge over the brook is 2.7m wide and the access to Bellhouse Road is 4.3m-4.9m wide.
- 7.11 In response to this proposal the Council's Highways Officer comments that rerouting the larger deliveries vehicles via Bellhouse Road would have the benefit of greatly improving traffic flow on Rayleigh Road. They also note that the existing bridge access is very narrow and not so suitable for larger vehicles. They conclude that the proposal will be safer in highway terms than the existing arrangements.
- 7.12 The original 1969 permission included one other condition in relation to the retention of car parking for patrons which was as follows:

01 Before the premises are occupied or used in accordance with this planning permission, there shall be provided and permanently reserved within the site as shown on the plan accompanying this application space for the parking, loading and unloading of vehicles on a hardstanding with property constructed vehicular access from Rayleigh Road.

Reason: It is essential that suitable parking facilities be provided in all cases to ensure that streets do not become congested and that the minimum danger is caused to all traffic.

- 7.13 It is proposed that this condition be updated to reflect the current customer parking arrangements which requires that the 47 parking spaces shown on the plan and the vehicular access to Rayleigh Road are retained in perpetuity. The description of development was amended during the course of the application to reflect this, and neighbours were consulted on this amendment.
- 7.14 Overall, the proposal is considered to be acceptable and policy compliant in its impact on traffic and transportation.

Community Infrastructure Levy (CIL)

- 7.15 The proposal for does not create any new floor space, the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable.

8 Conclusion

- 8.1 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions, the proposal would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. The principle of the development is found to be acceptable and the proposal would have an acceptable the setting of the listed building and the locality more widely including preserved trees at the site. The highway impacts of the proposal are acceptable and the proposal has satisfactorily addressed the Inspector's concerns in relation to impact on the amenities of neighbouring occupiers insofar as they are relevant to this specific proposal. This application is therefore recommended for approval subject to conditions.

9 Recommendation

9.1 GRANT PLANNING PERMISSION subject to the following conditions:

01 The development hereby permitted shall begin no later than three years from the date of this decision.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990

02 The development hereby permitted shall be carried out in accordance with the following approved plans: 1999-01.

Reason: To ensure that the development is carried out in accordance with the Development Plan.

03 The accessway between 5 and 9 Bellhouse Road shall be used by vehicles for deliveries and refuse collections only. The accessway between 5 and 9 Bellhouse Road shall not be used by vehicles for customers, staff (other than those carrying out deliveries or refuse collection) or other visitors to the premises. The accessway

between 5 and 9 Bellhouse Road shall not be used by any vehicular traffic at all outside the following times: 08:00 hours until 15:00 hours on Monday to Saturdays and 09:00 hours until 15:00 hours on Sundays and Bank Holidays.

Reason: In order to protect the amenities of occupiers of surrounding occupiers in accordance with policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

04 The operational use and management of the access subject of the permission shall be carried out in strict accordance with the submitted Delivery Access Management Plan dated 8.9.21 Rev B, which requires a lockable bollard to be in place at all times except when the access is being used for deliveries, collections and emergencies and restricts the total number of movements along the access to a maximum of 36 per week. The procedures set out in the Delivery Access Management Plan shall be maintained and adhered to as such in perpetuity .

Reason: In order to protect the amenities of occupiers of surrounding occupiers in accordance with policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

05 The existing 47 on-site car parking spaces and the associated vehicular access for the site onto Rayleigh Road shall be permanently retained solely for the parking of vehicles and the accessing of the car parking spaces in connection with the staff and customers of the Bellhouse Public House

Reason: To ensure that satisfactory off-street car parking is provided in the interests of residential amenity and highways efficiency and safety, in accordance with the National Planning Policy Framework (2021), Core Strategy (2007) policy KP2, Development Management Document (2015) policy DM15 and the Southend Design and Townscape Guide (2009).

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.

Informatives:

01 You are advised that as the proposed extension(s) to your property equates to less than 100sqm of new floorspace the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable. See www.southend.gov.uk/cil for further details about CIL.

02 You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council may seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when

implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the Borough.

Appendix 1 Appeal Decision for 11/01072/FUL



Appeal Decision

Site visit made on 11 October 2012

by Ann Skippers BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 November 2012

Appeal Ref: APP/D1590/A/12/2175463

Bell House Harvester, 321 Rayleigh Road, Leigh-on-Sea, Essex SS9 5PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr. P. Barthaud against the decision of Southend-on-Sea Borough Council.
 - The application Ref 11/01072/FUL, dated 28 July 2011, was refused by notice dated 9 November 2011.
 - The development proposed is 'use of the side access road onto Bellhouse Road for motor vehicles and replace part of car park with grass and landscaping'.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the proposal on the living conditions of the occupiers of No 331 Rayleigh Road and Nos 5 and 9 Bellhouse Road with particular reference to noise and disturbance, and privacy.

Reasons

3. The Bell House is currently in use as a restaurant and bar and has had permission for use as a public house since 1969. The building is Grade II listed, sited centrally on a generous plot with a large car parking area together with seating areas and landscaped grounds which include a preserved woodland and trees, some subject to a tree preservation order. The site is surrounded by residential properties.
4. Currently vehicular access to the premises is via a limited width bridge over Eastwood Brook from an access point on Rayleigh Road, the A1015. The appeal site is at a lower level than Rayleigh Road. The site has another access to the west to Bellhouse Road, currently used for emergency vehicle and pedestrian access only. This route extends for some 60m, has a width of some 4m and passes alongside No 331 Rayleigh Road and between Nos 5 and 9 Bellhouse Road.
5. The proposal seeks to use the access to Bellhouse Road for the egress of vehicles, but limiting its use after 2230 by means of an electronic barrier. In addition a new asphalt surface would replace the existing gravelled surface and landscaping, low level lighting, signage and the provision of a separate pedestrian route along the route are proposed together with a suggested 10mph limit. The proposal also includes three additional parking spaces, including two for disabled use, bringing the total number to 48 and the reconfiguration and landscaping of the parking area and provision of a taxi

'holding' area. The use of this route for vehicles was refused permission at the time of the 1969 application and a temporary permission was refused in 2010 (ref 10/00365/FUL). Since the original application the activity levels around the site and its context have changed.

6. A highway considerations report submitted by the appellant indicates that vehicles have difficulties turning right into the access because they need to cross part of the junction laid out to provide a right turning facility for a junction on the opposite side of the road. It points out that this situation is exacerbated when vehicles are waiting to emerge from the premises. It concludes that highway safety will be increased as a result of the proposal. Accident records have also been submitted and show one injury relating to a vehicle emerging from the appeal site. Despite concerns from local residents, the Council has not raised any objection to the proposal on highway grounds or vehicular or pedestrian safety although a concern about glare from headlights has been raised and I deal with this later.
7. The National Planning Policy Framework (the Framework) was published after the determination of the application and cancels Planning Policy Guidance Note 24 *Planning and Noise* referred to in the decision notice. The main parties have been given an opportunity to comment on the Framework and their comments have been taken into account in the determination of this appeal.
8. The appellant rightly points out that the Framework sets out a presumption in favour of sustainable development together with 12 core planning principles. The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. The Framework advises that planning should not act as an impediment to sustainable growth and indicates significant weight should be placed on the need to support economic growth through the planning system.
9. However, one of the core planning principles is to always seek a good standard of amenity for all existing and future occupants of land and buildings. It is clear that preventing new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of noise pollution is also a key Government concern.
10. In particular the Framework states that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other impacts, including through the use of conditions. It recognises that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established. Policies KP2 and CP4 of the Council's Core Strategy (CS) broadly reflect the Framework. In addition Policies C11, E5 and U2 of the Southend-on-Sea Borough Local Plan (LP) seek, amongst other things, to protect the amenities of neighbours.
11. In this case the use of the premises has been established for a considerable time and the proposal seeks to improve an existing situation. Opening hours advertised on a board at the front of the site indicate that the restaurant is open for lunch and dinner between 1200 and 1500, and 1800 and 2130 respectively. The bar is open between 1100 and 2330 although it opens later and closes earlier on Sundays. However, even with the emphasis on the

restaurant, rather than bar, use, the activities likely to cause the most noise and disturbance to nearby residents are likely to peak in the evenings and late at night. There is already potential for a considerable amount of noise from customers leaving the premises, talking, car doors slamming and car radios and so on with or without the use of this access by vehicles.

12. Three residential properties would be particularly affected by the use of the access by vehicles; No 331 Rayleigh Road and Nos 5 and 9 Bellhouse Road. A noise impact assessment has been submitted by the appellant. From the available evidence it appears that the assessment was carried out in accordance with the Council's Environmental Health Officer's requirements and no adverse objections were raised. Based on the likely usage of the access, the assessment concluded that the predicted vehicle noise level would be 10dB below the existing quietest background noise at ground floor level and at the same level at first floor level to 2300.
13. I appreciate that Rayleigh Road is already a source of background noise for local residents. However, the noise assessment was carried out over just two evenings, on a Wednesday and a Sunday, for a period of 1.5 hours to 2305 in November 2010. The assessment assumed that 15 vehicles would leave the site during the last hour based on traffic counts by staff, but no evidence of any traffic count or any other indications of the number of vehicular movements have been submitted and therefore the likely levels of activity are difficult to assess properly. Nevertheless the assessment recognised that after 2300 the use of the access would have a more significant impact and recommended that after this time the existing Rayleigh Road access should be used together with a number of mitigation measures. In order to mitigate any adverse effects the appellant suggests that the use of the access is terminated at 2230 and that an electronic barrier controls this.
14. At my site visit, I noted that No 331 is at a similar land level to the appeal premises. This dwelling is sited close to its boundary with the access which is formed by a close boarded fence. There are three large windows to the ground floor and a further one to the first floor. The Council indicates the three ground floor windows are to habitable rooms and this is not disputed by the appellant. No 5, on the same side as No 331, is set a little further back and has smaller, and the Council advises, secondary windows along this side boundary. No 9 is also set close to the boundary and has two obscure glazed side windows. The access runs the entire length of both Nos 5 and 9's gardens.
15. The noise impact assessment considered that the character and level of noise experienced would change little for the occupiers of No 331 and therefore the impact on No 331 would be less than on Nos 5 and 9. Given the location of No 331 and its close proximity to this relatively narrow access road, and the orientation of its windows, I do not agree: the introduction of vehicles along the access would have a significant impact on the occupiers of this property.
16. In addition even with the background noise level from Rayleigh Road, the introduction of vehicular movements for much of the day and evening on a daily basis would increase activity along the garden areas of Nos 5 and 9 and be in close proximity to the dwellings themselves. The assessment is now some two years old and was based on a number of assumptions including an unsubstantiated figure for the number of vehicles likely to use the access. The proposal could represent a very substantial number of vehicular movements with the associated noise and disturbance. Given this and my assessment at

the site visit, the occupiers of the three properties in closest proximity would be likely to suffer a significant reduction in the quality of their living conditions.

17. Coupled with this, given that the noise impact assessment recommended that after 2300 the existing means of access should be used and this could be controlled by an electronic barrier preventing the proposed use of the access after 2230, it is not clear to me how this might benefit the business as no information has been given about the number or time customers or staff leave the premises. In addition whilst I appreciate that attempts have been made to improve the existing access without success and the use of an alternative access route has been encouraged, it seems to me that these options have perhaps not been fully explored despite the constraints outlined.
18. The Council has also raised concern about headlights shining into a window(s) at No 8, a bungalow on the opposite side of Bellhouse Road. This property is some distance away and is not directly opposite the access point and its junction with Bellhouse Road. It is set at an angle to Bellhouse Road and given its proximity to that road's junction with Rayleigh Road where the effect might be the same from vehicles manoeuvring, the impact would not be significant as to justify withholding permission solely on this ground.
19. The decision notice also refers to a general loss of privacy and therefore I must address this issue too. Given that the access can already be used by pedestrians, it is unlikely that privacy would be actually be materially reduced. Boundary treatment is at a height that would prevent actual overlooking into gardens or windows and people in cars would be at a lower level than pedestrians. Whilst some larger delivery vehicles or similar may use the access this would be infrequent. However, there is little doubt that the more regular use of the access would encourage people into this area. Local residents raise concerns about security and crime and also point to inconsiderate behaviour from people using the access now and the possibility of the access being used as a rat run. These representations lend weight to my view that the change in the use of the access is likely to create if not an actual, at the very least, a perceived reduction in privacy and adds to my overall concerns.
20. In reaching a conclusion, I have carefully considered the issues. The appellant wishes to improve highway safety and the restaurant and bar contributes to the local economy and the proposal would enhance this heritage asset through the other associated works. On the other hand the Council is concerned about the impact on nearby residents from noise and disturbance and a loss of privacy. Based on the inadequacies of the evidence before me and my observations at the site visit, the increase in activity along the access and the associated noise and disturbance would constitute a significant effect on the quality of life of those potentially affected by the proposal in spite of the mitigation measures proposed. I conclude the living conditions of the occupiers of No 331 Rayleigh Road and Nos 5 and 9 Bellhouse Road would be materially harmed. The proposal would not therefore accord with the Framework or the objectives of CS Policies KP2 and CP4 or LP Policies C11, E5 or U2.
21. For the reasons given above and having had regard to all other matters raised, the appeal should be dismissed.

Ann Skippers

INSPECTOR