

Agenda Item:	5.1
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Site:	6A High Street, Tutbury, Staffordshire, DE13 9LP
Proposal:	<p>Application 1 (Detailed Planning Application) Change of use from Café (Class E) to a Drinking Establishment (Sui Generis) with staff facilities at first floor level, and installation of air conditioning unit on the north-west elevation</p> <p>Application 2 (Listed Building Consent) Listed Building Consent for alterations to include the repainting of woodwork and cills on front elevation, installation of air conditioning unit on north west elevation, formation of ground floor wc, formation of an opening in cellar for python pipe to barb, cooling to cellar and a non-illuminated sign to front elevation to facilitate the change of use from café (Class E) to Drinking Establishment including staff facilities at first floor level</p>

Report of Head of Service (Section 151 Officer)

[Hyperlink to Application Details](#)

Application Nos.	(1) P/2021/01011 and (2) P/2021/01017
Planning Officer:	Lisa Bird
Type of Application:	(1) Detailed Planning Application (P/2021/01011) (2) Listed Building Consent (P/2021/01017)
Impact on Heritage Assets under S66(1) and S72	The proposal would preserve the special architectural and historic significance of the property as a listed building and the special character and appearance of the conservation area within which it sits, achieving the 'desirable' objectives described in sections 16, 66(1) and 73 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
Applicant:	Mrs K Langridge
Ward:	Tutbury and Outwoods
Ward Member (s):	Councillor S P Gaskin Councillor R Lock
Date Registered:	20 August 2021
Date Expires:	23 rd December 2021 – An extension of time has been agreed with the applicant.
Reason for being on Agenda	Significant public interest
Officer Recommendation	Approve , both the detailed planning application and listed building consent application subject to conditions

1. Executive Summary

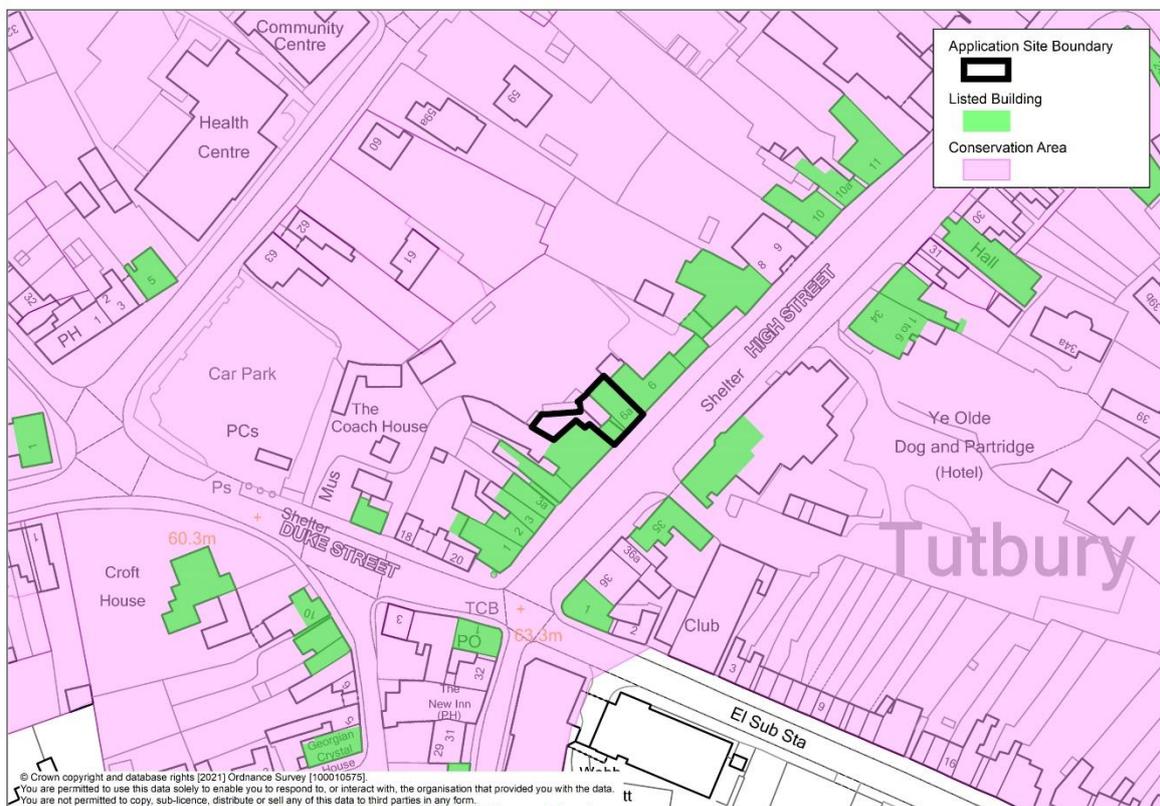
- 1.1 Members are advised that the schemes the subject of this report comprise two separate applications; one being a detailed planning application (ref: P/2021/01011) and other one being a listed building consent application (ref: P/2021/01017); which together relate to a commercial property located on the north-western side of High Street in the Parish of Tutbury. The applications are therefore reported here together as they relate to both the change of use itself and the works required to change the use of the building.
- 1.2 The application site is located on Tutbury High Street which is identified in the Local Plan as a Rural Centre within a Tier 1 Strategic Village. The application building is Grade II Listed, situated adjacent to other listed buildings and within the Tutbury Conservation Area. The High Street is made up of a mix of commercial and residential uses. The site is located within the Settlement Boundary and is within Flood Zone 1.
- 1.3 The application submissions are respectively a detailed planning application for the change of use of the application building from a café (Class E) to a drinking establishment (Sui Generis), and a listed building consent application for various works to facilitate the change of use including the repainting of woodwork and cills on the front elevation, installation of an air conditioning unit, formation of a pipework opening in the cellar, and a non-illuminated sign to the front elevation.
- 1.4 The application site does not benefit from any off-street parking, with parking being available on the High Street and the nearby public car park on Duke Street.
- 1.5 Tutbury Parish Council have objected to the proposals on the grounds of noise and disturbance, detrimental impact to the Conservation Area and lack of parking provision.
- 1.6 There have been representations received from 28 No. local residents/interested parties over the duration of the application process. Five of the response are in objection to the proposals, raising similar concerns to those of the Parish Council and these are summarised and addressed in this report. The remaining 23 responses were in support of the application, however, 4 of these did not provide any contact details.
- 1.7 In overarching development plan terms, with the site being situated in a Settlement Boundary, identified as a Rural Centre within a Tier 1 Strategic Village (under Policies SP1, SP2 and SP20 of the Local Plan) the development proposals are acceptable in principle in sustainable location terms.
- 1.8 The scheme is considered to preserve the special architectural and historical significance of the host listed building, the setting of the surrounding listed building and the special significance of the conservation area. It is also considered that the scheme would not adversely affect existing visual amenities.
- 1.9 In terms of residential amenities, conditions are recommended particularly in relation to a Noise Management Plan, subject to which there is considered to

be no significant adverse impact on neighbouring properties in terms of noise and disturbance.

- 1.10 The County Highway Authority raise no objections in principle on grounds of highway safety.
- 1.11 In light of the above conclusions on the planning merits of the cases, therefore, the applications are recommended for **approval** subject to the necessary conditions.

Members are advised that the above is a brief summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.

Map of the site(s)



2. The site description

The application site, No. 6A High Street, comprises a two storey mid-terraced building situated on the north-western side of High Street in the village of Tutbury. The application building is Grade II listed in conjunction with No. 6 High Street, as they formerly formed one building, and is located within the Tutbury Conservation Area. There are a number of other listed buildings situated on High Street, the majority of which are situated immediately adjacent to and opposite the application site. Numbers 1-7 High Street are all Grade II listed, No. 1 Burton Street and no. 35 High Street are Grade II listed and the Dog and Partridge is Grade II* listed.

2.1 The listing description for the application property is as follows:

Nos. 6 and 6A (formerly listed as No. 6) High Street – Grade 2 – Late C18 town house. Red brick with tile roof and end brick stacks. Of 3 and 2 storeys. No. 6 has 5 sash windows single (glazing bars) and No. 6A a modern sash window at first storey. God Venetian type doorway to No. 6 with cornice on consoles, radial fanlights and 6-fielded-panelled door. Façade has stone plinth, sill band at first storey and moulded eaves cornice. No. 6A, which is an extension to No. 6, is slightly recessed with carriage entrance to left of modern shop fronts.

2.2 The properties along High Street all sit adjacent to the public highway. There is an existing dropped kerb outside the application site leading to an unused gated access, beyond which is a garden area which wraps around the rear of No. 5 High Street.

2.3 The High Street is made up of a mix of uses including retail, residential, public houses, cafes, beauty salons, post office and hairdressers. Immediately adjacent to the application site is a residential dwelling to the north-eastern boundary, and a retail shop to the south-western boundary above which is a flat. To the rear of the site is the garden area associated with No. 6 High Street.

2.4 The buildings along High Street are made up of a variety of styles and heights. The residential dwelling at No. 6 is three storeys in height, whilst the adjoining shop is two storeys in height. The property is constructed from red brick with plain clay roof tiles and has painted timber windows and doors.

2.5 Very few of the properties on High Street benefit from off street parking. There is public parking available along the High Street which is limited to a two hour stay and parking within the East Staffordshire Car Park on Duke Street. The parking available on High Street is available immediately outside the application site and runs the full length of High Street on the north-western side. The public car park to Duke Street is approximately a 145 metre walk away.

2.6 The site is situated within Flood Zone 1 which is at the lowest risk of flooding and is within the settlement boundary for Tutbury as defined in the Local Plan.

2.7 The site is situated within the Settlement Boundary as defined under Policy SP2 in the Local Plan and Tutbury is a Tier 1 Strategic Village. The High Street is identified as a Rural Centre under Policy SP20 of the Local Plan.

3. Relevant Planning History

3.1 Application ref: **LB/22845/014**: In April 2006 a listed building consent application was approved for internal alterations including blocking up of existing openings and formation of new openings.

3.2 Application ref: **P2015/01144**: In October 2015 a change of use application was approved for the change of use from A1 use to a mixed use of retail, café and ceramics. This included a condition relating to opening hours, allowing the use of the premises from 09.00 until 22.00 Monday to Saturday.

3.3 Application ref: **P/2015/01176**: Listed building consent was approved in November 2015 for alterations to the building to include the removal of ceiling

in kitchen, insertion of new treads and risers on the staircase, repair and re-paint windows and doors, remove bricked up wall to expose chimney breast and serving hatch, installation of sinks and toilets, removal of partitions, restoration of the fireplace at first floor to facilities change of use from A1 use to a mixed use of retail café and ceramics studio

- 3.4 Application ref: **P/2016/00842**: Listed building consent was approved in August 2016 for the installation of fire doors and to upgrade the existing building fabric to provide compliance with fire regulations.

4. The Proposal(s)

Detailed Planning Application

- 4.1 This application is a detached planning application for the change of use from Café (Class E) to a Drinking Establishment (Sui Generis), with staff facilities at first floor level and installation of an air conditioning unit on the north-west elevation.
- 4.2 Negotiations have taken place during the course of the application and the description was amended from 'licensed gin bar' to 'drinking establishment' to clarify that other beverages are proposed to be sold at the premises. Following discussions with the Environmental Health Team, the first floor toilets are now proposed for customer use and therefore the retention of the use at first floor was not considered appropriate and the scheme has been amended to include secure staff facilities at first floor level.
- 4.3 The proposal would result in the room to the front of the premises being used as the main lounge area, with the bar and food preparation area to the rear. The internal layout is proposed to be reconfigured within the rear bar area to include a disabled toilet. There is an existing customer toilet facility within the rear courtyard, which along with the undercroft is proposed to contain an outdoor seating area. To the first floor the bathroom is proposed to be used as a customer toilet facility, with the bedroom becoming a secured office and the kitchen and lounge area becoming a secured staff room.
- 4.4 There is no parking provision allocated to the premises, with businesses parking along High Street and the nearby public car park on Duke Street.

Listed Building Consent

- 4.5 The application for listed building consent is required to make changes to the building to facilitate the change of use from Café (Class E) to Drinking Establishment (Sui Generis). The proposed alterations include the repainting of woodwork and cills on the front elevation, installation of air conditioning unit on the north west elevation, formation of a ground floor wc, formation of an opening in the cellar for the python pipe to the bar, cooling to the cellar and a non-illuminated sign to the front elevation.
- 4.6 As per the detailed application the scheme was amended during the application in relation to the description and the use of the rooms at first floor level, the illumination to the signage has also been removed during the course of the application. The opening for the cellar pipework was also added during the course of the application.

Supporting Documentation

- 4.7 The documents listed below were provided as part of the final application submissions; with those originally submitted having been revised/updated and supplemented - and others superseded - during the application process reflecting the amendments to the scheme and the need to respond to the requirements of statutory consultees and officers of the Local Planning Authority.
- 4.8 The applicant has provided a copy of their Noise Management Plan in respect of the proposal during the course of the application in response to the comments of the Environmental Health Team.

List of supporting documentation

Detailed Application (Final Document List)

- Site Location Plan and Block Plan
- Existing and Proposed Floor Plans including Site Layout
- Existing and Proposed Elevations
- Cellar Cooler Specifications
- Design, Access and Heritage Statement
- Noise Management Plan

Listed Building Consent (Final Document List)

- Site Location Plan and Block Plan
- Existing and Proposed Floor Plans including Site Layout
- Proposed Floor Plan showing position of Python Pipe opening
- Existing and Proposed Elevations
- Design, Access and Heritage Statement

- 4.9 The relevant findings of the reports are dealt with in section 8 onwards below.

5. Consultation responses and representations

- 5.1 A summary of the consultation responses is set out below:

Statutory and non statutory consultee		Response
5.2	Tutbury Parish Council	<p>The Parish Council have objected to the proposal, the objections are summarised as follows:</p> <ul style="list-style-type: none"> • Noise from the air conditioning unit and chiller • No kitchen shown on the floor plans • Proposal would be detrimental to the character of the Conservation Area • Limited parking for available for residents and no provision made for users of the proposed premises. <p>Comments were also provided in relation to the lack of fire escapes, the alcohol licence being obtained prior to planning permission, a pavement licence for seating and</p>

		no designated smoking area. (It is pointed out that these are not material planning considerations and would be dealt with under separate legislation.
5.3	SCC Highways	No Objections. The site is in the centre of Tutbury and there are commercial uses in the vicinity, all of which rely on on-street parking or parking in the car park to the north of the site. The existing café use would have generated some parking demand as would the proposal.
5.4	Staffordshire Police Architectural Liaison Officer	No Objections.

Internal Consultees		Response
5.5	Conservation Officer	<p>No objections, commenting that :-</p> <p>There are no concerns about the proposed signage, the existing café isn't regularly open after dark but a Gin Bar probably will be so the justification for illumination and the quantity/design is accepted and is appropriate to the building and the area, the level of signage is not disproportionate and reflects the previous extent of signage.</p> <p>The external changes involve installing a chiller units above the connecting pedestrian access to the rear area and this is considered to be a discrete and non-sensitive location. Internal changes consist mostly of furniture and counter fitting with the only main change being the creation of partitions at the rear ground floor to provide a customer DDA compliant toilet. This would not affect any notable architectural features and is in one of the later parts of the building where it has been extended to the rear. The window which the partition would cut across is itself a modern casement with top hung opening lights, this is not considered to be a feature of architectural or historic significance and the wall line would fall along a mullion allowing this existing window to be retained. Ultimately the partition could be removed subsequently without lasting impact if necessary.</p> <p>The proposed works do not appear to impact or require alteration to the fireplaces within the building, which are perhaps the most noteworthy internal feature, although the brick fireplace at the front of the property appears a 20th century replacement of limited contribution to significance.</p> <p>It is concluded that the proposals facilitate a new use whilst preserving the special architectural and historic significance of the property as a listed building, preserve</p>

		<p>the setting of the adjoining listed buildings and the special character and appearance of the conservation area within which it sits, achieving the ‘desirable’ objectives described in sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.</p> <p>In response to the addition of the pipework opening:</p> <p>In relation to the python pipe opening proposed the old iron vent grill has a hole within it perhaps to route services in the past. The small opening required below is acceptable.</p>
5.6	Environmental Health	No objections subject to a condition in respect of the submission of a Noise Management Plan. Informatives are also recommended in respect of Sanitary and Food Guidelines.

6. Neighbour responses

6.1 The applications have been subject to advertisement on site and in the local press, along with consultations with local residents.

6.2 Representations were received from 28 No. local residents/interested parties during the course of the application process, 23 of these were in support of the application (although 4 did not provide contact details) and 5 were objecting to the proposals. The relevant issues raised are summarised in the table below:

Neighbour responses	
Principle of Development	<p>Objections:</p> <ul style="list-style-type: none"> • Use is not suitable for the location with domestic properties nearby. • No marketing evidence has been provided as required by SP21 to prove that the café use is no longer viable. <p>In support:</p> <ul style="list-style-type: none"> • It will provide variety on an existing High Street which is made up of many beauty salons and barbers • Regeneration and development should be welcomed to resist the decline of the High Street • Proposal will have a positive impact on other local businesses due to increased footfall
Heritage/Visual Amenity Impacts	<p>Objections:</p> <ul style="list-style-type: none"> • Potential noise insulation not considered in heritage terms • No technical drawings provided of the chiller/air conditioning unit • The special significance of the building is not identified • Detrimental impact on Conservation Area

	<p>In support:</p> <ul style="list-style-type: none"> An empty unit would be brought back into use
Residential Amenities	<p>Objections:</p> <ul style="list-style-type: none"> Noise and disturbance to neighbouring residential properties and no noise assessment has been provided No opening hours have been provided within the planning application Existing day to day activities at the premises are audible to the neighbouring property Impact in relation to alcohol related anti-social behaviour The proposal would have a detrimental impact on the health and wellbeing of neighbouring residents <p>In support:</p> <ul style="list-style-type: none"> Noise levels can be controlled and the premises will have to adhere to strict compliance requirements
Highway Safety	<p>Objections:</p> <ul style="list-style-type: none"> Lack of parking provision available and no reference within the submission to parking at the site. <p>In support:</p> <ul style="list-style-type: none"> Customers of the premises would not be driving to the premises given its nature as a drinking establishment, most customers would walk from within the village.
Other Matters	<p>Objections:</p> <ul style="list-style-type: none"> There are six licenced drinking establishments in the village and another one is not needed. <p>Support:</p> <ul style="list-style-type: none"> The proposal would provide jobs Historically the village had over twenty bars and pubs, there are now six, therefore the proposal will have a positive impact on the economy The proposal will provide an additional choice to customers who use the High Street and includes entertainment which other venues do not provide.

7. Policy Framework

National Policy

- National Planning Policy Framework

- National Planning Policy Guidance

Local Plan

- Principle 1: Presumption in Favour of Sustainable Development
- SP1: East Staffordshire Approach to Sustainable Development
- SP2: Settlement Hierarchy
- SP20: Town and Local Centres Hierarchy
- SP21: Managing Town and Local Centres
- SP24: High Quality Design
- SP25: Historic Environment
- SP35: Accessibility and Sustainable Transport
- DP1: Design of New Development
- DP5: Protecting the Historic Environment: All Heritage Assets, Listed Buildings, Conservation Areas and Archaeology
- DP7: Pollution and Contamination

Supplementary Planning Documents and other guidance

- Car Parking Standards SPD
- East Staffordshire Design Guide SPD
- Tutbury Conservation Area Appraisal

8. Assessment

8.1 It is considered that the key issues relevant to the determination of this application are as follows:-

- Principle of the Development
- Heritage Asset
- Visual Amenities impacts
- Residential Amenity impacts
- Highway Safety Matters
- Conclusion (including The *Planning Balance*)

9. Principle of Development

Relevant Policies

9.1 The NPPF states that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development. Paragraph 11 of the NPPF states that for decision-taking this means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Local Plan

- 9.2 The Council has adopted a positive approach in seeking to meet objectively assessed development needs of the Borough. The policies in the plan provide a clear framework to guide sustainable growth and the management of change, thereby following the Government's presumption in favour of sustainable development.
- 9.3 Strategic Policy 1 sets out the East Staffordshire Approach to Sustainable Development. Principles listed in the policy include social, environmental and economic considerations to be taken into account in all decision making where relevant. The principles are:
- located on, or with good links to, the strategic highway network, and should not result in vehicles harming residential amenity, causing highway safety issues or harming the character of open countryside;
 - it is convenient and safe to walk, cycle and travel by public transport between (and for larger sites, around) the site and existing homes, workplaces, shops, education, health, recreation, leisure, and community facilities and between any new on-site provision;
 - retains, enhances, expands and connects existing green infrastructure assets into networks within the site and within the wider landscape;
 - re-uses existing buildings where this is practicable and desirable in terms of the contribution the buildings make to their setting
 - integrated with the character of the landscape and townscape, provides for archaeological investigation where this is appropriate and conserves and enhances buildings of heritage importance, setting and historic landscape character;
 - designed to protect the amenity of the occupiers of residential properties nearby, and any future occupiers of the development through good design and landscaping;
 - high quality design which incorporates energy efficient considerations and renewable energy technologies;
 - developed without incurring unacceptable flood risk or drainage problems and uses Sustainable Drainage Systems (SUDS) where appropriate;
 - does not harm biodiversity, but rather enhances it wherever possible, including increasing tree-cover, especially as part of the National Forest;
 - creates well designed and located publicly accessible open space;
 - would demonstrably help to support the viability of local facilities, businesses and the local community or where new development attracts new businesses and facilities to an area this does not harm the viability of existing local facilities or businesses;
 - would contribute towards the creation of sustainable communities through the provision of a mix of housing types and tenures;
 - uses locally sourced, sustainable or recycled construction materials (including wood products from the National Forest where this is appropriate), sustainable waste management practices and minimises construction waste;

- safeguards the long term capability of best and most versatile agricultural land (Grade 1, 2 and 3a in the Agricultural Land Classification) as a resource for the future; and
 - would result in the removal of contamination and other environmental problems associated with the site.
- 9.4 Strategic Policy 2 sets out a development strategy directing growth to the most sustainable places. Burton upon Trent and Uttoxeter are identified as the main settlements, with Tutbury identified as a Tier 1 Strategic Village.
- 9.5 Strategic Policy SP20 sets out a hierarchy for towns and local centres, Tutbury is identified within this hierarchy as a Rural Centre due to its status as a Tier 1 Strategic Village which offers a basic level of shopping and service function for the village and immediate rural hinterland.
- 9.6 Strategic Policy SP21 relates to managing town and local centres. Retail and other uses (including leisure, entertainment, cultural and tourist uses as well as other mixed-uses) that would support the vitality and viability of the centres will be granted provided they:
- are of a scale and nature that is appropriate to the size and function of the centre,
 - would not lead to unsustainable trip generation from outside the catchment, and
 - would not undermine the role or function of other centres within the retail hierarchy.

SP21 goes out to provide criteria in relation to safeguarding retail provision, this states that development leading to the loss of uses within Class A of the Use Classes Order in centres will only be permitted if:

- the facility has been sufficiently and realistically marketed over a 6 month period;
- that the current use is demonstrably no longer viable; and
- the change of use would not harm vitality and viability of the local centre.

Assessment

Detailed Planning Application

- 9.7 The application site is identified (in Local Plan Policies SP2 and SP20) as a Rural Centre within a Tier 1 Strategic Village as such the change of use from a café to a drinking establishment would provide a service function as required in Policy SP20 in an appropriate location for service users, i.e. within a Rural Centre.
- 9.8 Policy SP21 refers to Class A uses, which have now been superseded with the 2020 amendment to the Use Classes Order. It is noted that a café falls within the current Class E use and a drinking establishment is within a Sui Generis use, however, as the policy was written in relation to the previous use classes it is important that these are considered. Prior to September 2020 the café use would have been within Class A3 and the drinking establishment would have been within Class A4. The proposal would therefore not result in the loss of a

Class A use and is considered to comply with Policies SP20 and SP21 of the Local Plan.

- 9.9 The objections being raised are acknowledged, however, the residential property adjoining the site and others scattered along the High Street are situated within a Rural Centre where commercial development is directed and expected.
- 9.10 Accordingly, it is considered that the submissions in principle are in line with the provisions of Policies SP1, SP2, SP20 and SP21 of the Local Plan. It is of course necessary for any scheme to also meet the detailed and technical requirements of salient development plan policies and these issues are dealt with in the remaining sections of this report.

Listed Building Consent Application

- 9.11 The principle issues in the determination of the listed building consent application are the impacts on the historic environment, which are discussed in Section 10 immediately below.

10. Heritage Asset Impacts

Relevant Policies

- 10.1 Section 16 of the National Planning Policy Framework states that proposals should not pose significant harm to any heritage asset and should aim to preserve or enhance the asset by way of sensitive and appropriate design.
- 10.2 Paragraph 189 of the National Planning Policy Framework states that Local Planning Authorities should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.
- 10.3 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Again, as for the Section 72 duty referred to above, case law has established that this means that considerable importance and weight has to be given to that statutory duty when balancing the proposal against other material considerations.
- 10.4 Policy SP25 of the Local Plan indicates amongst other things that development proposals should protect, conserve and enhance heritage assets and their settings, taking account of their significance, as well as the distinctive character of the Borough's townscapes and landscapes. Such heritage assets may consist of undesignated and designated assets including conservation areas, listed buildings, scheduled monuments, archaeological sites, registered parks and gardens and historic landscapes which contribute to the Borough's historic environment and local distinctiveness.
- 10.5 Detailed Policy 5 of the Local Plan goes into more detail regarding Historic Assets, Listed Buildings, Conservation Areas and Archaeology and states that

development which protects the character of listed buildings and conservation areas will be permitted.

Assessment

Detailed Planning Application

- 10.6 The proposal relates to the change of use of the premises with the only external alteration being the installation of an air conditioning unit to the rear (north-west) elevation. The unit would be situated above the pedestrian access to the rear of the property facing into the rear garden area.
- 10.7 The ESBC Conservation Officer has confirmed that the positioning of the air conditioning unit is in a discrete and non-sensitive location which would preserve the special architectural and historic significance of the property as a listed building, the setting of the adjoining listed buildings and the special character and appearance of the conservation area within which it sits. Therefore the proposal is considered to achieve the 'desirable' objectives described in sections 16, 66(1) and 72 of the Planning (Listed Building and Conservation Areas Act) 1990.
- 10.8 It is therefore considered that the proposal will have no significant impact on the significance of the listed building, the setting of the nearby listed building or the character and appearance of the Conservation Area in accordance with Local Plan Policies SP25 and DP5 and the NPPF.

Listed Building Consent Application

- 10.9 In terms of the works proposed to the listed building itself, which comprise the repainting of woodwork and cills, the installation of an air conditioning unit, the formation of an opening in the cellar for the python pipe to the bar, formation of a ground floor wc, cooling to the cellar and the display of an advertisement, it is considered that the proposed works would have no significant impact on the listed fabric of the building.
- 10.10 Repainting of the woodwork and cills constitutes necessary maintenance of the property, the colour of this can be secured via condition. The air conditioning unit to the rear elevation is considered to be discretely and sensitively located. The formation of an opening in the cellar would result in a small hole being made less than 10cm in diameter to feed a pipe to the main bar, this would run through an existing hold in an iron vent grill. The formation of a ground floor wc would necessitate partition walls to be installed, these could be removed easily in future with no lasting impact to the listed building. The cooling unit would be situated within the cellar area and no works are required to accommodate this. The advertisement to the front elevation would replace an existing sign and the illumination originally proposed has been removed from the application; whilst the size of the sign is indicated no details of the sign has been provided, this can be secured via condition.
- 10.11 The ESBC Conservation Officer has concluded that the proposals are considered to preserve the special architectural and historic significance of the property as a listed building and therefore achieve the 'desirable' objectives described in sections 16, 66 and 72 of the Planning (Listed Building and Conservation Areas Act) 1990. Furthermore the proposal would see an

existing empty listed building being brought back into use and ensure its long term maintenance.

- 10.12 It is therefore considered that the proposal will have no significant impact on the significance of the listed building in accordance with Local Plan Policies SP25 and DP5 and the NPPF.

11. Visual Impacts

Relevant Policies

- 11.1 Policy SP24 of the East Staffordshire Local Plan states that development proposals must contribute positively to the area in which they are proposed and reinforce character and identity through local distinctiveness. Policy DP1 expands upon this aim with specific reference to the design of new development. The Local Plan Policies are supplemented by the East Staffordshire Design Guide and the NPPF.
- 11.2 The proposals would result in the installation of an air conditioning unit to the rear of the property, the repainting of woodwork and cills to the front of the property and the installation of a non-illuminated sign to the front of the property.
- 11.3 The air conditioning unit would be sited to the rear of the property and as such would not be visible from public vantage points. This is therefore considered to have no significant impact on the visual amenities of the area.
- 11.4 The repainting of woodwork and cills would comprise acceptable maintenance of the property and the colour of the painting work can be secured via condition.
- 11.5 The proposed sign to the front elevation would replace a sign of a similar shape and size, with the proposed sign being situated in the same position. Details of the contents of the sign can be secured via condition. Nearby commercial properties exhibit non-illuminated signage and therefore the small sign proposed is considered to be in keeping with the character of the area.
- 11.6 It is considered that the proposed external alterations would not have any significant impact on the visual amenities of the area and would be in keeping with the character of the High Street.

12. Residential Amenities Impacts

Relevant Policies

- 12.1 East Staffordshire Local Plan Policy SP1 lists principles in determining whether proposals constitute sustainable development. One principle is that proposals are designed to protect the amenity of the occupiers of residential properties nearby, and any future occupiers of the development through good design and landscaping.
- 12.2 The National Planning Policy Framework and Policy DP1 of the Local Plan seek to ensure new development will not have an adverse impact on the amenities of new or existing residents by way of loss of light, overlooking or overbearing. The National Planning Policy Framework indicates (in paragraph

130) that developments should have due regard to the future amenities of residents.

- 12.3 Policy DP7 of the Local Plan identifies that development will only be granted permission where they will not give rise to or be likely to suffer from, land instability and/or unacceptable levels of pollution in respect of noise or light, or contamination of ground, air or water.

Assessment

Detailed Planning Application

- 12.4 The application site is situated immediately adjacent to a residential dwelling at No. 6 High Street and a flat above No. 5 High Street. There are also residential properties to the rear of the application site, beyond the garden area of No. 6 High Street, and other residential properties scattered along the High Street.
- 12.5 The external works proposed to the building are not considered to result in any significant adverse impact to these neighbouring dwellings. The use of the premises as a drinking establishment has resulted in concerns being raised by local residents in terms of noise and disturbance.
- 12.6 The application building formerly formed part of the adjoining property at No. 6 High Street. As such there are internal features that can be viewed from within both properties, such as the spiral staircase.
- 12.7 The proposed lounge area would be situated adjacent to an internal brick wall shared with No. 6 High Street, and forming the wall of a dining room. The staircase within the application building also shares a wall with No. 6 High Street, as does the rear bar area. The staircase and bar area adjoins the living room of No. 6 High Street. At first floor level the staircase adjoins the first floor hall/landing of No. 6 High Street.
- 12.8 The site and the adjoining neighbouring property at 6 High Street have been visited by the Case Officer and the Environmental Health Team to assess noise implications for the neighbouring property. During the visit one Officer walked up and down the staircase, with and without carpet treads, and talked loudly in close proximity to the shared wall. It was apparent during the visit that whilst footfall on the staircase was audible, talking was not. In light of this, the Environmental Health Team have raised no objections in relation to noise and disturbance subject to a condition in respect of the future compliance with the Noise Management Plan which was submitted – and agreed with the ESBC Environmental Health Team - during the course of the application. Given that the audible footfall on the staircase was dampened during the course of the visit with the use of carpet treads, a condition is also recommended in relation to the laying of carpet with underlay on the stairs.
- 12.9 The proposal also includes the use of the outdoor garden space as a seating area for customers. This area is directly beneath rear facing windows of the flat above No. 5 High Street, and in close proximity to a first floor side facing window at no. 6 High Street. The Environmental Health Team have raised no concerns in relation to noise and disturbance subject to the abovementioned Noise Management Plan condition.

- 12.10 The agreed Noise Management Plan restricts the use of amplified music to a live acoustic event once a month ceasing at 18:00 hours. Subtle indoor and outdoor music is proposed with the volume being kept to a minimum and speakers positioned away from neighbouring properties. The courtyard area is also to be closed to customers after 22:00 hours. This can be controlled by the Environmental Health Team under separate legislation.
- 12.11 Given that the approved café use was granted opening hours from 09.00 until 22.00 Monday to Saturday, and whilst unlicensed customers were able to bring their own alcoholic beverages, it is considered that the use of the premises as a drinking establishment, with a closing time of 23.00 hours would be acceptable and would not result in any significant noise and disturbance over and above the permitted use. The opening hours can be secured via condition and does not override the need for the applicant to seek a separate licence under other legislation.
- 12.12 In terms of food preparation, the comments submitted are acknowledged. The applicant has confirmed that any food prepared on the premises would in the main be cold food, and where warm food is proposed this would simply be heated, no cooking or frying would occur on the premises. The chillers are to be located within the cellar area, and the Environmental Health Team have raised no concerns in respect of noise to these units. There is therefore considered to be no significant adverse impact on neighbouring properties from this activity.
- 12.13 The proposal is therefore considered to be acceptable subject to conditions and in compliance with Local Plan Policies SP1, DP1 and DP7 of the Local Plan, and the National Planning Policy Framework.

Listed Building Consent Application

- 12.14 The listed building consent application primarily deals with the impacts of the proposal on the listed building itself. Therefore it is not necessary to discuss the impact on residential amenity in respect of this application.
- 12.15 The ESBC Conservation Officer has confirmed that the carpeting of the stairs does not require listed building consent.

13. Highway Safety Matters

Relevant Policies

- 13.1 The NPPF in section 4 sets out the role transport policies play in facilitating sustainable development which contributes to wider sustainability and health objectives. Decisions should consider ensure development proposals have taken the opportunities for sustainable transport modes, ensure safe and suitable access to the site can be achieved for all people and improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 13.2 Policies SP1 and SP35 of the Local Plan aim to ensure development is located on sites with good links to the highway network, development is convenient and

safe to walk, cycle and travel by public transport. Developments should not result in vehicles harming residential amenity, causing highway safety issues or harming the character of the open countryside. For those developments likely to have an impact on the wider highway infrastructure, proposals should be accompanied by a transport assessment clearly setting out how the likely impacts of the development will be addressed.

- 13.3 The Council's Parking Standards SPD sets out standards for different uses including space size, accessibility and the quantity of car parking spaces required for different uses.

Assessment

- 13.4 The application site benefits from no off-street parking, similarly many of the commercial and residential properties on the High Street benefit from no off-street parking and customers and residents therefore park on the High Street or the public car park on Duke Street.
- 13.5 SCC Highway Authority have raised no objections to the proposal confirming that other commercial uses in the vicinity all rely on on-street parking or parking within the public car park on Duke Street.
- 13.6 The site is sustainably located within the Rural Centre of Tutbury village. The location of the High Street within the centre of the village allows for customers to walk to the application site, and public transport options are available with bust stops being present at the north-eastern end of High Street, Duke Street and Burton Street, providing an hourly bus service within walking distance of the application site.
- 13.7 The proposed use as a drinking establishment is not considered to result in any significant increase in vehicle movements to and from the application site over and above the permitted use as a café.
- 13.8 Accordingly, in terms of Policies SP1 and SP35 of the Local Plan the scheme is considered to be acceptable in relation to highway safety.

Listed Building Consent Application

- 13.9 The listed building consent application primarily deals with the impacts of the proposal on the listed building itself. Therefore it is not necessary to discuss the impact on highway safety in respect of this application.

14. Conclusions

- 14.1 The proposal is considered to be situated in a sustainable location, within the Rural Centre of a Tier 1 Strategic Village. The proposal would provide a service function for residents of Tutbury. Therefore the proposal is considered to be acceptable in principle.
- 14.2 In relation to the heritage implications of the scheme(s) the proposal is considered to preserve the special architectural and historic significance of the property as a listed building, the setting of the adjoining and nearby listed buildings and the special character and appearance of the conservation area within which it sits, achieving the 'desirable' objectives described in sections

16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 14.3 The proposal would have no significant adverse impact in terms of the visual amenities of the area, with the only external alterations visible from public vantage points being minor in nature and in keeping with the character of Tutbury High Street.
- 14.4 The main concerns raised in respect of residential amenities of nearby properties is noise and disturbance. The Environmental Health Team have raised no objections to the proposal in terms of noise and disturbance subject to the submission of a Noise Management Plan. Given the permitted use of the premises as a café and the permitted opening hours, it is considered that the proposal would not result in any significant impact on residential amenity subject to the conditions stipulated in Section 12 above.
- 14.5 The highway impact of the proposal has been assessed by Staffordshire County Council (Highways) and no objections have been raised due to the sustainably location of the application site.
- 14.6 Having regard to the Planning Balance, therefore, the proposed scheme(s) is therefore considered to be in line with the overall aims of the policies in the East Staffordshire Local Plan, the associated supplementary planning documents and the National Planning Policy Framework.

15. RECOMMEDATION(S)

Application 1 (Detailed Planning Application)

Grant planning permission subject to the following conditions

Condition 1- Time Limit – 3 Yr Standard

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Condition 2 – Approved Plans

The development hereby permitted shall be carried out in accordance with the following approved plans and documents subject to compliance with other conditions of this permission:

Drawing No.s:

E001, 1:1250 Location Plan and 1:500 Block Plan dated as received on 26th July 2021

E002, 1:50 Existing Floor Plans dated as received on 26th July 2021

E003, 1:50 Existing South East Elevation dated as received on 26th July 2021

P002, 1:50 Proposed Floor Plans dated as received on 26th July 2021

P003, 1:50 Proposed South East and north West Elevations dated as received on 6th December 2021

JCC2 Cellar and Product Cooler Technical Manual, J& E Hall International, dated as received on 19th August 2021

Noise Management Plan dated as received on 3rd December 2021

Reason: For the avoidance of doubt to ensure the development will not adversely affect the appearance of the locality, including listed buildings and the Tutbury Conservation Area, the amenities of neighbouring properties, or the safe and efficient use of the adjoining highway in accordance with East Staffordshire Local Plan Policies SP1, SP2, SP20, SP21, SP24, SP25, SP35, DP1, DP5 and DP7, the East Staffordshire Design Guide, and the National Planning Policy Framework.

Condition 3 – Noise Management Plan

The approved Noise Management Plan (as listed at Condition 2 above) shall be implemented upon the first bringing into use of the premises as a drinking establishment. The premises shall be operated in line with the approved Noise Management Plan at all times during the life of the development unless any changes are first agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenity of the occupiers of existing surrounding and nearby dwellings in accordance with East Staffordshire Local Plan Policies SP1 and DP7 and the National Planning Policy Framework.

Condition 4 – Carpeting of Staircase

Prior to the first bringing into use of the development hereby granted permission all steps, treads and risers on the staircase shall be carpeted including the provision of underlay. The carpet and underlay shall be retained in situ for the lifetime of the development.

Reason: In the interests of the amenity of the occupiers of existing surrounding and nearby dwellings in accordance with East Staffordshire Local Plan Policies SP1 and DP7 and the National Planning Policy Framework.

Condition 5 - Hours of Opening (Commercial Use)

The use hereby permitted shall not be open to customers outside the following times 08:00 until 23:00 Monday to Saturday and 10:00 until 22:00 Sundays and Bank Holidays.

Reason: To protect the amenities of occupiers of adjoining properties and the locality in general in accordance with the National Planning Policy Framework and East Staffordshire Local Plan Policies SP1 and DP7.

Informatives

1. Engagement

During the course of consideration of this proposal the Local Planning Authority has negotiated with the applicant to ensure the development complies with relevant development plan policies and material planning considerations including the National Planning Policy Framework. It is therefore considered that the Local Planning Authority has worked proactively with the applicant to secure a development that improves the economic, social and environmental conditions of the area in accordance with the requirements of paragraph 38 of the National Planning Policy Framework.

2. Architectural Liaison Officer

Your attention is drawn to the attached comments of the Architectural Liaison Officer, although it also pointed out that any works suggested would not override any need to secure planning permission for any development.

3. Sanitary guidelines for new premises

Provision of Sanitary Accommodation in premises – Staffordshire Standard

Number of Customers	Male Provision (Staffs Standard)	Female Provision (Staffs Standard)
Over 100	BS6465 2006 applies	
51 - 100	1 WC + 1 urinal + 1 WHB Separate provision for staff.	2 WC + 2 WHB Separate provision for staff
26 – 50	1 WC + 1 WHB Can be used by staff and customers.	1 WC + 1 WHB Can be used by staff and customers.
25 or less	Shared use of 1 WC + 1 WHB Can be used by staff and customers	

As you are unlikely to regularly have over 50 customers during the winter months discussions have been had around the toilet provision and it was agreed that the upstairs toilets (x2) will be used for the ladies and the external toilet will be used for gentlemen. This toilet may also be used by customers who are unable to access the first floor. Should the number of customers start to exceed 50 then you would need to provide additional facilities as detailed above.

4. Food Informative

Food Registration

The business will need to be registered with the Environmental Health Team 28 days prior to trading. The business can register through the following

link: <https://register.food.gov/new/east-staffordshire>. If the applicant has any queries please direct them to the Environmental Health Team on 01283 508 578 or EHSupport@eaststaffsbc.gov.uk.

Kitchen Layout

The layout, design, construction and size of the kitchen must comply with Chapters I and II of Annex II to Regulation (EC) 852/2004, including the provision of a separate washbasin for cleaning hands, and adequate ventilation as detailed below. For further details the applicant should contact Environmental Health.

Grease Traps

Provision should be made to include the installation of one or more grease traps or oil interceptors within the drainage system to prevent waste from entering directly or indirectly into a public sewer.

Ventilation

The kitchen must be provided with suitable and sufficient means of natural or mechanical ventilation to all cooking equipment other than microwave ovens, in order to comply with Chapters I and II of Annex II to Regulation (EC) 852/2004. The ventilation system used must be easy to clean.

Wash-Hand Basins

There should be the provision of a separate washbasin for cleaning hands as required by Chapter 1 of Annex II to Regulation (EC) 852/2004.

In addition, following the Food Standards Agency's guidance on E.coli, wash-hand basins in commercial kitchens where raw and ready to eat foods are handled should be provided with non-hand operated taps such as sensor, elbow or foot operated taps as they reduce the risk of cross-contamination.

5. Associated Application

You are reminded to also comply with the conditions of Listed Building Consent application ref: P/2021/01017.

Application 2 – Listed Building Consent

Grant listed building consent subject to the following conditions

Condition 1 - Time Limit - Std for Listed Building Consent/Conservation Area

The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: To conform with Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Condition 2 – Approved Plans/Documents Listed Buildings

The works hereby granted consent shall be carried out in accordance with the following approved plans subject to compliance with other conditions of this consent:

E001, 1:1250 Location Plan and 1:500 Block Plan dated as received on 26th July 2021

E002, 1:50 Existing Floor Plans dated as received on 26th July 2021

E003, 1:50 Existing South East Elevation dated as received on 26th July 2021

P002, 1:50 Proposed Floor Plans dated as received on 26th July 2021

P002, 1:50 Proposed Floor Plans detailing position of Python pipe opening dated as received on 2nd November 2021.

P003, 1:50 Proposed South East and north West Elevations dated as received on 6th December 2021

Reason: For the avoidance of doubt to ensure the works will not adversely affect the appearance and character of this listed building in accordance with East Staffordshire Local Plan Policies SP25 and DP5 and the National Planning Policy Framework.

Condition 3 – Details of Paint, Fixings and Signage

No works shall take place until precise details of the colour of the paint to be applied to woodwork and cills on the front elevation, precise details signage and the way in which the signage and air conditioning unit will be affixed to the listed building, including details of the fixing to be used, have been submitted to and approved in writing by the Local Planning Authority and the development shall only be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the listed building and its surroundings in accordance with East Staffordshire Local Plan Policies SP25 and DP5, the East Staffordshire Design Guide and the National Planning Policy Framework.

Condition 4 - Alterations to Match Existing

All works of alteration and making good of the existing fabric of the building shall be carried out in materials to match the existing building.

Reason: To safeguard the character and appearance of the listed building in accordance with East Staffordshire Local Plan Policy DP5 and the National Planning Policy Framework.

Informatives:**1 Engagement**

During the course of consideration of this proposal the Local Planning Authority has negotiated with the applicant to ensure the development complies with relevant development plan policies and material planning considerations including the National Planning Policy Framework. It is therefore considered that the Local Planning Authority has worked proactively with the applicant to secure a development that improves the economic, social and environmental conditions of the area in accordance with the requirements of paragraph 38 of the National Planning Policy Framework.

2. Pre-commencement Conditions

The conditions identified below require details to be approved before commencement of the development.

Condition No. 3

This means that a development may not be lawful until the particular requirements of these conditions have been met.

The requests for confirmation of compliance with planning conditions requires a payment of a fee to the Local Planning Authority. The fee chargeable by the authority is £116 per request. The fee must be paid when the request is made. Any number of conditions can be included for each request. Payment can be made by cheque or card only. Please telephone 01283 508606.

Although the Local Planning Authority will endeavour to discharge all conditions within 21 days of receipt of your written request, legislation allows the Local Planning Authority a period of 8 weeks, and therefore this timescale should be borne in mind when programming development.

16. Background papers

16.1 The following papers were used in the preparation of this report:

- Papers on Planning Application file ref: P/2015/01144
- Papers on Planning Application file ref: P/2021/01011
- Papers on Planning Application file ref: P/2021/01017
- The Local and National Planning Policies and Supplementary Planning Documents outlined in the report above

17. Human Rights Act 1998

17.1 There may be implications under Article 8 and Article 1 of the First Protocol regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. However, these potential issues are in this case amply covered by consideration of the environmental impact of the application under the policies of the development plan and other relevant policy guidance.

18. Crime and Disorder Implications

18.1 It is considered that the proposal does not raise any crime and disorder implications.

19. Equalities Act 2010

19.1 Due regard, where relevant, has been had to the East Staffordshire Borough Council's equality duty as contained within the Equalities Act 2010.

For further information contact: Lisa Bird

Telephone Number: 01283 508746

Email: dcsupport@eaststaffsbc.gov.uk