

Black Diamond, Reading

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BIDWELLS

PLANNING SUPPORT STATEMENT

**CHANGE OF USE FROM A BAR (CLASS A4)
TO ENTERTAINMENT VENUE (CLASS D2)**

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1.0 Introduction

- 1.1 This Planning Statement has been prepared on behalf of Black Diamond ("The Applicant") in support of a Planning Application to Reading Borough Council seeking a change of use from a Bar (Class A4) to Entertainment Venue (Class D2), at 108 Friars Street, Reading, RG1 1EP.
- 1.2 The main purposes of this Planning Statement are to:
- describe the proposed development, the site and surrounding area;
 - set out the planning policy context for the site and its development;
 - describe the details of consultations undertaken; and
 - describe the main planning issues affecting the development of the site and how they have been addressed through the application proposals
- 1.3 The Statement seeks to draw together the assessments and documentation which have informed the preparation of the application and have been submitted with the application in order to assist the Local Planning Authority to determine the application.
- 1.4 The statement is arranged in nine sections as follows;
1. Introduction
 2. Site Description
 3. Planning History
 4. Proposed Development
 5. Planning Policy
 6. Licensing Controls
 7. Planning Considerations
 8. Conclusion
 9. Design and Access Statement

Appendix 1.0 - Premises License (issued 02/11/2016)

Appendix 2.0 - License for Sex Establishment (issued 01/05/2018)

2.0 Site Description

- 2.1.1 The site is located within the Central Core of Reading Town Centre. It is situated within a Primary Shopping Area and along an existing active frontage as defined within the Proposals Maps (adopted October 2012).
- 2.2 The application site, 108 Friar Street, is located within a predominantly commercial area, with retail premises and public houses, restaurants and night-clubs located along Friar Street and the nearby West Street. The rear of Clas Ohlson is located immediately to the south of the premises.
- 2.3 There is student accommodation located above ground floor level on the corner of Friar Street and Greyfriars Street which is c.50metres north west. Some of the premises on West Street may contain residential flats at first floor level however these are separated by considerable built form. The premises is located close to The Hope Tap public house, Pop World/Sub 89 night-club and Lola Lo cocktail bar.
- 2.4 The wider local area contains a variety of building styles and heights.
- 2.5 The application site is located within a highly accessible urban location, where transport options are very good.

3.0 Planning History

- 3.1 A review of the Reading Borough Council's planning website reveals the following applications which are considered materially relevant to this proposal.

APPLICATION NUMBER	DESCRIPTION	DECISION
130752	Change of use from A3 to A4	Permitted 11/10/2013
141460	New shopfront and creation of smoking area at first floor level to rear of premises	Permitted 05/01/2015
161830	Replacement internally illuminated fascia and projecting sign	Permitted 23/11/2016

4.0 Proposed Development

- 4.1 The application site currently enjoys an authorised Class A4 (bar) use. This application seeks consent for a change of use from Class A4 to Class D2, resulting in the provision of a Sex Entertainment Venue (SEV).
- 4.2 The proposed use intends to operate between the opening hours of 11:00 to 03:00 hrs, Monday through to Sunday inclusive.
- 4.3 The accompanying Syntegra Consultants acoustics report assesses the existing ambient noise environment within which the application site is located and the likely noise implications of the proposed operation of the proposed use.
- 4.4 It is important to bear in mind that in addition to the planning system, the detailed operation of the venue is controlled by licensing legislation, as outlined in more detail below and there is no reasonable requirement for the planning system to replicate these controls.

5.0 Planning Policy

National Planning Policy Framework 2018 (NPPF)

- 5.1 The revised National Planning Policy Framework (NPPF) was published on 24th July 2018, replacing the previous published 2012 framework. The NPPF provides an overarching framework for the production of local policy documents and the consideration of development proposals.
- 5.2 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise (paragraph 47).
- 5.3 The policies in the NPPF 2018 are material considerations which should be taken into account in dealing with applications from the day of its production (paragraph 212).

Sustainable Development

- 5.4 The National Planning Policy Framework (NPPF) states that it is a material consideration in planning decisions (paragraph 2) and that the purpose of the planning system is to contribute to the achievement of sustainable development (paragraph 7).
- 5.5 Sustainable development is at the heart of the NPPF. There is no specific definition of sustainable development in the NPPF but the Ministerial Foreword to the NPPF states that it is about positive growth – making economic, environmental and social progress for this and future generations.

Building a strong, competitive economy

- 5.6 Paragraph 80 confirms that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

Decision Making

- 5.7 Local planning authorities should approach decision-taking in a positive and creative way. They should use the full range of planning tools available and work proactively with applicants to secure development that will improve economic, social and environmental conditions of the area. Decision makers at every level should seek to approve applications for sustainable development where possible (paragraph 38).
- 5.8 Decisions on applications should be made as quickly as possible and within statutory timescales unless a longer period has been agreed by the applicants in writing (paragraph 47).
- 5.9 Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions (paragraph 54).
- 5.10 Conditions that are required to be discharged before development comments should be avoided, unless there is a clear justification and the applicants writing consent is first obtained (paragraph 55).

National Planning Practice Guidance (NPPG)

- 5.11 On 6 March 2014 the Department for Communities and Local Government launched its National Planning Practice Guidance (NPPG) web-based resource, as a companion to the NPPF, replacing a large number of foregoing Circulars and other supplementary guidance. The following sections of the NPPG have been assessed in relation to this application:

- Noise
 - Local Planning Authorities decision taking should take account of the acoustic environment and in doing so consider;
 - Whether or not a significant adverse effect is occurring or likely to occur
 - Whether or not an adverse effect is occurring or likely to occur; and
 - Whether or not a good standard of amenity can be achieved.

- Vitality of Town Centres
 - Local Planning Authorities should plan positively, to support town centres to generate local employment and promote beneficial competition within town centres.

The Development Plan

5.12 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that development be determined in accordance with the Development Plan unless material considerations indicate otherwise. In Reading Borough, the adopted Development Plan consists of;

- Core Strategy – (altered) January 2015
- Reading Central Area Action Plan – January 2009
- Site and Detailed Policies – (altered) January 2015
- Proposals map – October 2012

The policies considered to be of relevance to the Application proposals are listed below and an assessment of the Application proposals against the requirements of these policies, and other material considerations, is contained at section 7 of this Statement.

Reading Core Strategy – January 2015

- Policy CS4 - Accessibility and the Intensity of Development
- Policy CS5 - Inclusive Access
- Policy CS6 - Settlement Boundary

Reading Central Area Action Plan – January 2009

- Policy RC1 - Development in the Station/River Major Opportunity Area
- Policy RC5 - Design in the Centre (p38)
- Policy RC7 - Leisure, Culture and Tourism in the Centre
- Policy RC10 - Active Frontages (p45)

Site and Detailed Policies – January 2015

- Policy DM14- Impact of Main Town Centre Uses (p48)
- Policy DM15- Protection of leisure facilities and public houses (p49)

5.13 The Application proposals have taken full account of the above national planning policy guidance, local planning policies and guidance and further analysis is provided in Section 7 of this statement.

6.0 Licensing Controls

- 6.1 Since 2000, Central Government has advocated a more relaxed licensing regime in order to encourage flexibility to licensed operators, more freedom of choice and a means of addressing and reducing the impact of binge drinking. The Government White Paper 'Time for Reform: proposals for the modernization of our licensing laws' (April 2000) sets out formal proposals for modernizing and integrating the alcohol, public entertainment and associated late night leisure licensing systems in England and Wales in order to encourage a strategy for 24-hour living in Town Centres.
- 6.2 The White Paper was followed by The Licensing Bill, introduced in Parliament in November 2002. On 10 July 2003, the Bill received Royal Assent, becoming the Licensing Act 2003. This was followed by Guidance from the Secretary of State for the Department of Culture, Media & Sport (DCMS) under Section 182 of the 2003 Act. The Guidance amplifies the meaning of the Act and is a statutory document to which licensing authorities must have regard when considering both their licensing policies and individual applications for new licences. There are four fundamental licensing objectives underpinning everything within the Act:
- i) The prevention of crime and disorder;
 - ii) Public safety;
 - iii) The prevention of public nuisance; and
 - iv) The protection of children from harm.
- 6.3 The Secretary of State for DCMS also produced an explanatory letter to accompany the Guidance. The letter explains that the 2003 Act "provides a genuine opportunity for the local development of our rich culture of live music, dancing and the arts. These, and other forms of entertainment, provide a diversity of activities for local people and visitors, help invigorate the leisure and night time economy and provide pursuits for young people that are not based around drinking".
- 6.4 In accordance with the Licensing Act 2003, Local authorities have a statutory duty to publish a licensing policy dealing with how they will promote the licensing objectives in their area. In producing this they must consult widely with other statutory authorities, the Police, the Fire Authority and the local community.
- 6.5 Reading Borough Council (as Licensing Authority) has published and adopted a statutory Licensing Policy. The Council's policy confirms the four licensing objectives as the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.
- 6.6 The premises enjoys the benefit of an extant premises license under reference, LMV000242; this was issued on the 2nd November 2016. The license permits the opening hours of the premises between the hours of 11:00 – 04:00hrs daily. Notwithstanding the hours permitted by the premises

license this planning application requests a terminal hour of 03:00 daily. A copy of this license can be found within appendix 1.0.

- 6.7 The premises additionally enjoys the benefit of an extant license for a sex establishment venue (SEV) under reference, 107427; this was issued on the 1st May 2018. This license grants the use as described between the hours of 21:00 and 03:00 Monday through to Sunday. A copy of this license can be found within appendix 2.0.
- 6.8 Both the Licensing Act 2003 and the Council's own Licensing Policy are material considerations in the determination of planning applications. There is no reason to consider that these controls cannot be effective at the application site. These controls offer comfort to local residents, businesses and the local planning authority.

7.0 Planning Considerations

Appropriateness of Use for the Town Centre

- 7.1.1 The site is located within the Central Core of Reading Town Centre and within a Primary Shopping Area along an existing active frontage as defined within the Proposals Maps (adopted October 2012).
- 7.2 Policy RC1 of the Reading Central Area Action Plan (RCAA) notes that active leisure uses such as that proposed here are appropriate along Friar Street.
- 7.3 Policy RC5 (d) of the RCAA requires developments to contribute to the diversity of the central area and be capable of easy adaptation over time to meet changing circumstances. There is only one SEV situated within Reading at present and it is considered that the provision of Black Diamond would serve to meet the diversification requirements of the Town's Central Core and encourage healthy competition as promoted by the Town Centre Vitality section of the National Policy Guidance.
- 7.4 Policy RC7 of the RCAA identifies the Central Area as the prime focus for major leisure, cultural and non-regionally significant tourism development. It states that, 'leisure uses that would attract a wide range of people into the centre will be encouraged'. It also states that innovative solutions to leisure provision will be encouraged'. Policy RC7 seeks development that contributes towards the 18 hour economy (para 8.17) and actively encourages such uses which include a diversity of evening and night-time uses to cater for 'all' sections of Reading's community and to offer alternatives to just drinking. It is considered that Black Diamond would contribute towards bringing a healthy balance to the leisure sector currently provided within Reading Town Centre.
- 7.5 Policy DM14 of the Sites and Details Policies Document (SDPD) reinforces that 'main town centre uses' include leisure and should be located in centres accordingly. It notes that leisure facilities

are critical for maintaining a high quality of life for residents and that Reading Town Centre seeks to offer a broad range of facilities. Emphasis must be placed on the requirement of providing a 'broad' range of facilities within the Town Centre. It is considered that the provision of Black Diamond will contribute to the widening offer as requested by Policy DM14.

- 7.6 Policy DM15 of the Sites and Detailed Policies Document (SDPD) seeks to protect leisure and confirms that development within sustainable locations such as the Town Centre is wholly appropriate and should be supported.

Materiality of Use

- 7.7 Within the second limb of section 55 of the 1990 Town and Country Planning Act it is noted that 'the making of any *material change* in the use of any buildings or other land' constitutes development. It is important to note that the actual use of a building or land cannot therefore in itself constitute development; it is only if a *material change* is made in the use of a building or land that development occurs.
- 7.8 The manner in which the application site is proposed to operate is, materially speaking similar, albeit with less contentious impacts than those associated with a Bar. The movement of patrons and their demographic is not dissimilar to that of the extant use although a benefit will arise from the frequenting of small groups and individuals as opposed to large groups that are typically associated with a Bar. Patrons are expected to enter and egress the proposed use with gentility when compared to an often rowdy group that might exit a Bar. Once inside the premises, the only measurable difference will be that patrons benefit from visual stimulation whilst consuming drinks and to a lesser extent, food. Effects upon the character of the area and upon neighbouring amenity and Town Centre by virtue of noise, number of patrons, deliveries of stock and refuse collection are all considered to be materially downsized when compared to the extant Bar (Class A4).
- 7.9 It can be concluded after taking all the various effects as a whole, that as a matter of fact and degree, this application will produce a measurably beneficial situation in planning terms than what currently exists under the use of the site as a Bar. It is not considered that the proposed use will necessitate a change in planning impacts of such magnitude as to cause a material change in the definable character of the use of the land. It is acknowledged that according to the Land Use Gazetteer an SEV is considered to fall within Use Class D2, it is however vitally important to consider the 'before' and 'after' situation when determining whether an actual change of use has occurred. It is proposed that in actual fact, because of the similarities in the way the site will be used, albeit with reduced impacts upon the surrounding amenity and Town Centre, that there will be no material difference in the use of the site. Consequently, it is for this reason that the change of use element proposed by this application seeks only to align itself with the extant premise license and maintain tidy paperwork rather than acknowledge a materially different environment will result.

Hours of Operation

- 7.10 The extant Class A4 (bar) use was permitted by planning permission 130752 and included a condition limiting the opening hours. The condition reads;
- The Class A4 drinking establishment use hereby permitted shall not be open to customers other than between the hours of 09:00 and 00:00 (midnight) Mondays to Sundays. Reason – To maintain the character and amenities of the town centre.
- 7.11 This application seeks consent for the proposed use to benefit from opening hours in line with those currently permitted by the extant premises and SEV license; 11:00 to 03:00hrs daily.
- 7.12 The extant planning permission stated that the restricted opening hours were to maintain the character and amenities of the town centre. It is important to note that Friar Street plays host to multiple premises that open until the early hours of the morning including such local venues as;
- McDonalds (no.128/129 Friar Street) - 24hrs opening
 - The Comedy Loft (no.110-117 Friar Street) - until 04:00hrs
 - Sub 89 (no.110 – 117 Friar Street) - until 04:00hrs
 - Lola Lo (no.127 Friar Street) - until 04:00hrs
- 7.13 These neighbouring venues along Friar Street demonstrate that the character and amenities of the Town Centre consist of late night (early morning) operations and that a proposed opening time that terminates at 03:00hrs daily cannot be considered unusual for Friar Street. Matters relating to potential noise impacts are detailed later in this statement, however it is considered that the proposed use maintains the character of the area and does not harm town centre amenities.

Licensing Background

- 7.14 As detailed in section 6.0 above, the premises currently benefits from extant premises and SEV licenses that allow operating hours of 11:00 to 03:00hrs daily. The Council has an adopted sex establishment policy for SEV's which is used to judge all applications.
- 7.15 Section 8.2 of the license policy outlines the criteria upon which each license application will be assessed against. These include;
- Crime and disorder
 - Cumulative impact of license premises in the area, including hours of operation
 - The character of the locality in which the premises is situated
 - Public safety
 - Prevention of public nuisance

- 7.16 Section 9.1 confirms that licenses will only be granted in predominately commercial areas and details that Reading Town Centre enjoys a 'varied night time economy, entertainment area' and that 'SEV's would be appropriate in this area'.
- 7.17 Paragraph 18.1 specifically recognises that licensing applications and planning applications should be operated separately to avoid duplication and inefficiency but recognises the important relationship between the two.
- 7.18 Police Constable Simon Wheeler of the Thames Valley Police force noted during the license application that there were very few issues of crime and disorder in this area and that there was no reason to believe an SEV would add to his concern.
- 7.19 It is therefore considered that the proposed development satisfies any concerns that may arise in association with the criteria outlined at paragraph 7.5 above and should be considered an appropriate and acceptable use for this area of the town centre.

Noise

- 7.20 This application is accompanied by a professionally prepared Noise Impact Assessment (NIA), provided by Syntegra Consulting, issued in August 2018 (Ref: 18-4510). The NIA sought to assess the impact of the proposed use by considering what impacts might arise from the granting of opening hours that terminated at 03:00hrs daily. The report assessed through on-site noise measurements the impact of the use of the proposed opening hours extension on existing noise sensitive receptors. These included potential residential units on West Street.
- 7.21 So as to provide a robust and measurable NIA, the authors liaised with Ross Jarvis, Environmental Health Officer at Reading Borough Council via telephone on Friday 3rd August 2018. As per paragraph 3.1 of the NIA, Mr Jarvis confirmed that noise on Friar Street would not be an expected issue as music levels from the proposed use should be relatively low compared to neighbouring uses. What was considered important to measure was the impact of noise from people using the first floor rear smoking area against the possible 1st floor flats on West Street shown in figure 2.1 of the NIA.
- 7.22 To address the query of Mr Jarvis, a detailed measurement study has been undertaken by Syntegra Consulting between Friday 3rd and Monday 6th August in order to characterise the existing noise climate. This identified that the noise climate affecting the nearest noise sensitive receptors was dominated by distant road traffic noise and town-centre activity noises (pedestrians, music, plant noise and delivery noise).
- 7.23 The NIA assumed a worst case scenario where some 50 people might be talking at any one time which resulted in a predicted noise level of 33dB at the nearest noise sensitive receptor against an existing ambient noise level of 52dB. Table 6.1 of the NIA shows that activity noise levels should

be significantly below the existing noise levels at the first floor windows of the possible 1st floor flats on West Street. This concludes that the use of the rear smoking area would not result in any adverse impacts on the amenity of nearby residents should the application site enjoy later opening hours until 03:00hrs. On the grounds of noise, the application for later opening hours should be acceptable.

7.24 Notwithstanding the above, for reasons of robustness and proper venue management, a series of noise management measures (Dispersal Policy) will be adopted to ensure the safe and quiet operation of the venue. These are outlined in chapter 7 of the NIA however the most salient details are;

- At least one pair of doors leading from the main entrance on Friar Street through the reception area into the main ground floor room should remain closed where possible.
- Throughout the evening patrons will be given any assistance via security staff to find places for food and taxis on leaving the venue
- The security staff will ensure that there is no alcohol leaving the premises at any time and also to ensure no re-entries occur once admissions desk closes at 02:00hrs.

7.25 The three principal tests outlined within the Planning Practice Guidance and stated at para 5.12 of this statement are considered to be appropriately satisfied in all regards.

8.0 Conclusion

- 8.1 This application seeks consent for a change of use from Class A4 to Class D2, resulting in the provision of a Sex Entertainment Venue (SEV). The proposed use intends to operate between the opening hours of 11:00 to 03:00 hours, Monday through to Sunday inclusive.
- 8.2 The premises benefits from an extant premises and SEV license that authorise the use during the requested hours; 11:00 until 03:00hrs daily. Both the Licensing Act 2003 and the Council's own Licensing Policy are material considerations in the determination of planning applications. There is no reason to consider that the controls enforceable under Licensing cannot be effective at the application site. These controls should offer comfort to local residents, businesses and the local planning authority.
- 8.3 The site is situated within the Town Centre and benefits from supporting adopted policy that encourages a diversification of the Town's leisure offering which contributes towards the provision of an 18 hour economy.
- 8.4 Section 9.1 of the Council's SEV licensing criteria confirms that Reading Town Centre enjoys a 'varied night time economy, entertainment area' and that 'SEVs would be appropriate in this area'.
- 8.5 The submitted Syntegra Consulting Noise Impact Assessment that accompanies this application concludes that there will not be any adverse harm upon nearby residential receptors.
- 8.6 Paragraph 80 of the NPPF 2018 states that significant weight should be placed on the need to support economic growth and productivity. The proposed development will contribute to the local economy through local employment and bolster the high quality and broad leisure offering within this highly sustainable Town Centre location.
- 8.7 It is therefore considered that in line with para 38 of the NPPF, the LPA should approach their decision in a positive way thereby fostering the delivery of sustainable and beneficial development. We welcome a proactive working relationship with Reading Borough Council in order to secure a positive outcome for this economically, socially and environmentally beneficial development.

