

Application	4
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Application Number:	23/01702/COU
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Application Type:	Planning FULL (Minor)
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Proposal Description:	Change of use of ground floor from vacant bar/public house (Sui Generis) to off licence (Class E)
At:	Former Hexthorpe Star Bar, 2 Langer Street, Hexthorpe, DN4 0EX

For:	Mr Thiru Makeetharan
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Third Party Reps:	14 objections	Parish:	N/A
		Ward:	Hexby and Balby North

Author of Report:	Susie Boyce
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SUMMARY

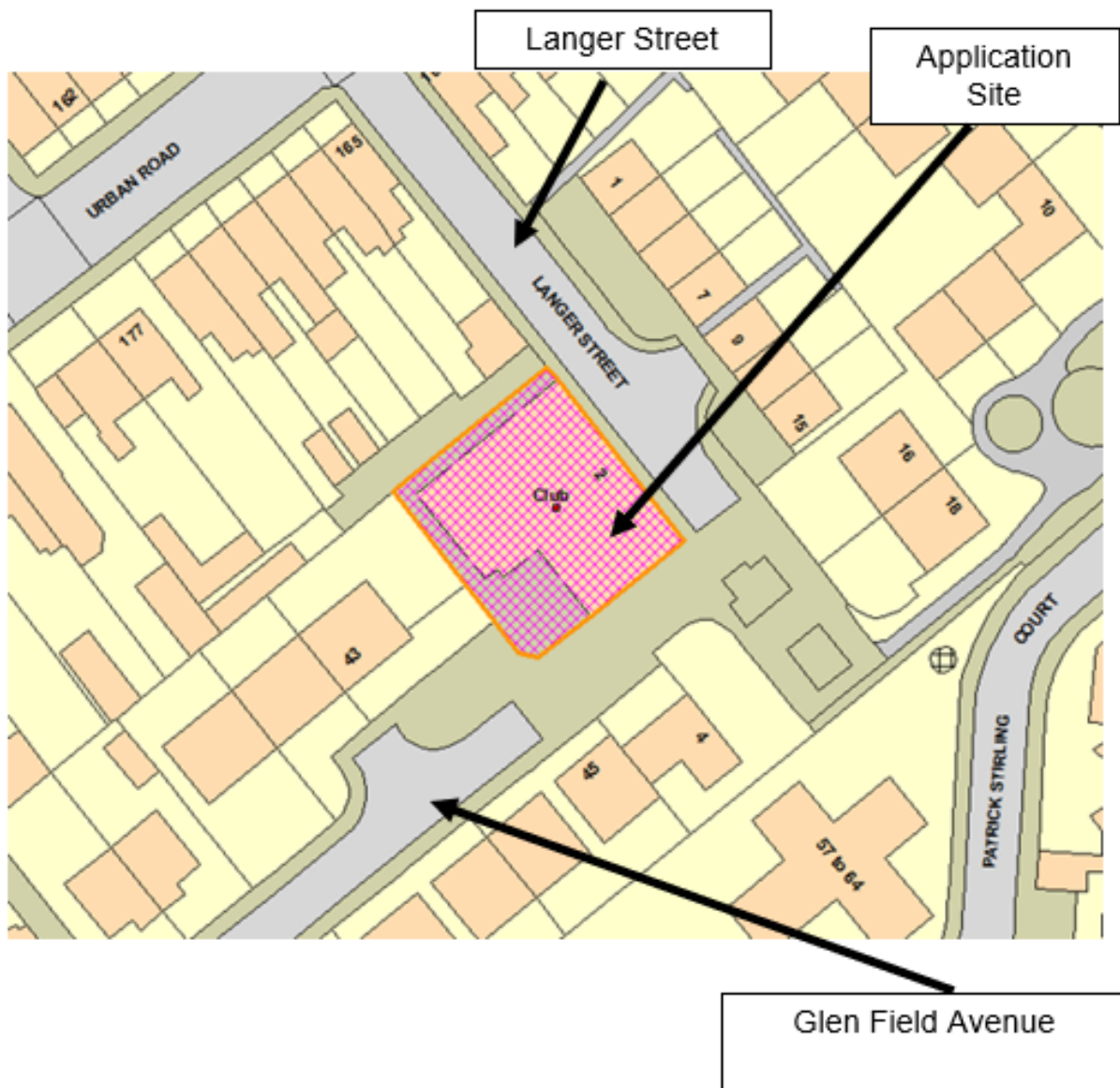
The application seeks full planning permission for a proposed change of use at the ground floor from a bar/drinking establishment (Sui Generis use) to an off-licence (shop) (Class E use). No external alterations are proposed as part of the change of use.

The application site comprises a two-storey detached building with residential flats at the first floor and a small yard to the rear. The ground floor comprises some 340m² floor space, formally occupied by the Hexthorpe Star Bar. The site lies in a residential area and has frontages at the ends of both Langer Street and Glen Fields Avenue, two cul-de-sacs which have a pedestrian link adjoining the application site.

Additional information has been sought during the planning application process to clarify delivery arrangements and proposed opening hours.

This report demonstrates that the development would not cause an undue level of harm to the amenity of neighbouring properties, the highway network or the wider character of the area, subject to suitably worded conditions.

RECOMMENDATION: GRANT full planning permission subject to conditions



1.0 Reason for Report

- 1.1 The application is being presented to Members due to the high level of public interest in the application.

2.0 Proposal and Background

- 2.1 This application seeks full planning permission for the change of use of the ground floor at 2 Langer Street from a drinking establishment (Sui Generis Use) to an Off Licence (Class E Use). No external alterations are proposed.
- 2.2 The Off Licence is to have a shop floorspace of approximately 150m², with the remainder to be used as storage, staff toilets and amenity area.
- 2.3 Proposed opening hours are 08:00 to 21:00.

- 2.4 Bin storage will be accommodated in the existing yard to the rear and collected from Glen Field Avenue.
- 2.5 Deliveries will be to the rear via Glen Field Avenue, between 10-11am Monday and Friday. The vehicle type is to be a small van, Ford Transit or similar.

3.0 Site Description

- 3.1 The application site comprises a two-storey detached building with 3 residential flats at the first floor and a small yard to the rear. This incorporates bin storage areas for both the ground floor commercial use and first floor residential uses, as well as 3 parking spaces for the flats. The ground floor comprises some 340m² of vacant floor space, formally occupied by the Hexthorpe Star Bar.
- 3.2 The site lies in a residential area and has frontages at the ends of both Langer Street and Glen Fields Avenue, two cul-de-sacs whose connecting highway link has been closed with bollards adjacent to the application site.
- 3.3 The public house is understood to historically have had an associated car park at Langer Street, although this has long since been developed for housing (now Nos. 1-15 Langer Street).

4.0 Relevant Planning History

- 4.1 Planning history for the application site as follows:

Application Reference	Proposal	Decision
18/00446/FUL	Partial change of use of first floor to create two flats with associated alterations.	Granted 11 th April 2018
13/01293/FUL	Change of use from existing first floor public house (Class A4) to form two self-contained residential apartments (Class C3) including operational and associated external works.	Granted 8 th August 2013
12/03134/FUL	Change of use of first floor of existing Public House (Use Class A4) to form 2 Houses in Multiple Occupation (Use Class C4) including operational works.	Refused 12 th February 2013

5.0 Relevant Planning Policy

5.1 Site Allocation

- 5.2 The site falls within a Residential Policy Area on the adopted Local Plan Policies Map (2021).

5.3 The site falls within Flood Zone 1 according to the Environment Agency Flood Maps for Planning (Rivers and Sea), an area at the lowest risk of flooding.

5.4 Local Plan

5.5 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires proposals to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for Doncaster consists of the Doncaster Local Plan (adopted 23 September 2021). The following Local Plan policies are relevant in this case:

- Policy 1 : Spatial Strategy and Settlement Hierarchy (Strategic Policy)
- Policy 10 : Residential Policy Areas
- Policy 13 : Promoting sustainable transport in new developments
- Policy 22 : Locating Town Centre Uses (Strategic Policy)
- Policy 41 : Character and Local Distinctiveness (Strategic Policy)
- Policy 42 : Good Urban Design (Strategic Policy)
- Policy 46 : Design of Non-Residential, Commercial and Employment Developments
- Policy 47 : Safe and Secure Places
- Policy 49 : Advertisements and signage
- Policy 51 : Protection of Education, Community and Leisure Facilities

5.6 National Planning Policy Framework (NPPF 2023)

5.7 The National Planning Policy Framework 2023 (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. Planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions and the relevant sections are outlined below:

- Section 2 - Achieving sustainable development
- Section 4 - Decision making
- Section 7 - Ensuring the vitality of town centres
- Section 8 - Promoting healthy and safe communities
- Section 9 - Promoting sustainable transport
- Section 12 - Achieving well-designed places
- Annex 1 - Implementation
- Annex 2 - Glossary

5.8 Other material planning considerations and guidance

5.9 The following Supplementary Planning Documents (SPDs) have been adopted and can therefore be treated as a material consideration in decision-making.

- Biodiversity Net Gain SPD (adopted September 2022);
- Flood Risk SPD (adopted August 2023);
- Local Labour Agreements SPD (adopted August 2023);
- Loss of Community Facilities and Open Space SPD (adopted August 2023);
and
- Technical and Developer Requirements SPD (adopted August 2023).

5.10 Doncaster Council's previous suite of adopted SPDs have been formally revoked in line with Regulation 15 of the Town and Country Planning (Local Planning) (England) Regulations 2012, following the adoption of the Local Plan. The SPDs refer to superseded development plan policies, and some provide guidance which is not in accordance with the new Local Plan. The Transitional Developer Guidance (August 2023) provides guidance on certain elements, including design, during the interim period, whilst new SPDs to support the adopted Local Plan are progressed and adopted. The Transitional Developer Guidance, Carr Lodge Design Code and the South Yorkshire Residential Design Guide (SYRDG), should be treated as informal guidance only as they are not formally adopted SPDs. These documents can be treated as material considerations in decision-making, but with only limited weight.

5.11 The National Design Guide (2019) is a material consideration and sets out ten characteristics of well-designed places based on planning policy expectations. A written ministerial statement states that local planning authorities should take it into account when taking decisions.

6.0 Representations

6.1 This application has been advertised in accordance with Article 15 of the Town and Country Planning Development Management Procedure (England) Order 2015 by means of council website and neighbour notification letters.

6.2 Sixteen representations (objections) were received from 14 members of the public as part of the consultation process. The representations raise the following concerns (in summary):

- Highways and Parking:
 - The location at the bottom of a small dead end street is unsuitable for a medium size retail outlet as the increase in traffic would create road hazards: every vehicle that uses the shop then has to do a multi point turn. In many cases this would involve encroaching on residents open plan driveways.
 - Road safety: the junction of Langer Street and Urban road is already hazardous because of road design (narrow entrance) and parked vehicles creating poor visibility. The substantial increase in traffic can only exacerbate this problem.

- Insufficient parking, Langer Street is already a busy street for cars that already reside on the street. The pub used to have a car park which has now been built on with 7 houses, the new shop will need parking but none are proposed. Another application for a shop on Urban Road was refused because of lack of parking, why is it ok for this one.
- No information on deliveries. Other residential properties require access to their driveways with work vans and trucks, potential deliveries may cause an obstruction.
- Need for the proposal:
 - There is already a shop around the corner on a main busy road that serves the needs of the local community, as well as several alternative shops further down Urban Road.
- Residential amenity:
 - Loss of privacy to residents of 15 Langer Street as the main entrance to the shop will be opposite their home.
 - Noise disturbance from deliveries early in the morning may cause significant disruption to residents.
 - Although the previous use was a bar, this was rarely open, its patrons were elderly and it never caused any issues early in the morning or very late at night. Patrons didn't drive so parking wasn't an issue.
- Impact on character of the area:
 - Multiple unresolved issues with the residents of the flats above 2 Langer Street including broken windows and glass on the street. How will the landlord manage the shop if he can't manage the flats. The proposed off-licence may increase anti-social behaviour as it sells alcohol.
 - Surrounding area is poorly lit, this will increase existing antisocial behaviour and noise problems if people sit and drink outside. The bollards blocking traffic between Langer Street and Glen Field Avenue mean police cars can't pursue them.
- Other:
 - Queries whether the operator can use the same licence for a pub and a shop

7.0 Relevant Consultations

7.1 CDC Local Plans (Community Facilities) Officer – No objection

The last use of the premises was as a 'Public House (i.e., a community facility), therefore Local Plan Policy 51: Protection of Education, Community and Leisure Facilities is relevant. The new use as a 'local shop' is also classified as a Community Facility under the National Planning Policy Framework (NPPF). Therefore, I can support this application.

7.2 CDC Local Plans (Retail and Town Centre) Officer – comments provided.

Policy 22 does allow for small shops and services to be located outside the town, district and local centre boundaries if there is a locational need or meets the criteria as set out in Policy 22 Part 3. Small shops are defined as units having a gross floor

space areas of 300m² or less. Small scale shops such as newsagents, convenience stores would be encouraged in appropriate locations where they meet a local need. These types of services would serve a local population and not be reliant on large car parks or big lorry deliveries which would impact on the amenity of the residents.

7.3 Essentially the proposed use is a main town centre use and should be located in a town centre environment, these are the most sustainable locations for shops and services. However, given this is a change of use and not new development, it could be argued that there is a local need for a convenience store which would meet the criteria of a small shop to serve the local community. Although there are no details of this in the submission, therefore if you do agree then the main issues would be the impacts on the residential amenity; traffic, noise, fumes, smells or unsightliness should be your main consideration. If you don't agree then I think the details should include a planning statement regarding need and impacts.

7.4 **CDC Highway Officer** – No objection.

No external alterations are proposed, therefore comments are restricted to Local Plan Policy Appendix 6 and the Parking requirements between the two types of development. The parking requirements for a Public House are more than they are for an off licence, therefore on the basis that the pub could re-open without the need for planning permission, then I am content to support the application without the need for either Conditions or Informatives.

7.5 Updated comments to respond to neighbour objection points:

Langer Street has no parking restrictions on it and also has a turning head. Site photos indicate this is now used for parking by a Motorhome. Glen Field Avenue also has a turning head and again has no parking restrictions. If this is now to be an off-licence i.e. retail, then people using the facility will either be locals or if they are using their car it will more than likely be a stop of less than 5 minutes - so the potential removal of a designated car park doesn't affect anything.

7.6 With relation to deliveries more information on what vehicle will be used to deliver to the premises would be helpful. It is assumed it would be more of a transit van rather than a dray waggon which pubs use. There does look to be parking at the side of the development from Glen field Avenue entrance, which appears approximately 7.75m wide x over 5m long. This could accommodate parking or turnaround of a delivery vehicle, although there looks to be the same amount of room on the highway. The Motorhome parked at Langer Street is longer than a transit which demonstrates that the turning manoeuvre is possible at Langer Street for this type of vehicle.

7.7 **South Yorkshire Police** – No objection

Advice provided to ensure the physical protection elements of the development are up to current minimum standards.

7.8 **CDC Waste and Recycling Officer** – No objection.

7.9 **CDC Area Manager** – No comments received.

7.10 **CDC Licensing** – No comments received.

8.0 Assessment

Principle of development

8.1 The principle of the development rests on two factors, the loss of a public house and the introduction of a new retail unit in an out-of-centre location.

8.2 The ground floor premises was formerly occupied by the Hexthorpe Star Bar, a Public House (Sui Generis). Where a development proposal may involve the loss of a Community Facility, Local Plan Policy 51 requires that this be justified. However, Public Houses and local shops are both considered a 'Community Facility' by the NPPF (Paragraph 93(a)) and therefore the proposal does not lead to any such loss for these purposes and is acceptable in this respect.

8.3 In terms of the principle of the proposed retail use, Local Plan Policy 1 contains the Settlement Hierarchy of the Borough. Doncaster Main Urban Area is to be the main focus for various types of development in the Borough, including retail which will be directed towards Doncaster Town Centre, with defined 'District' and 'Local' Centres serving more day-to-day needs. As a retail use (Class E), the proposed off license would also be considered a 'Main Town Centre Use' and therefore its out of centre location must be assessed against the requirements of Policy 22.

8.4 The proposed shop floorspace falls below the threshold requirement for a retail impact assessment required by Part 2 of LP22. Part 3 identifies several types of retail provision that will be supported in principle within out of centre locations. This includes (c) small scale shops which would complement the function and role of the local community where they serve a local need. Small scale shops are those with a retail floorspace of 300m² or less. With a retail floorspace of 150m², the proposed off-licence would fit this definition as a small shop which serves local residents. In terms of local need, there is currently just one other convenience store/off license in the vicinity, (Dhaliwals, 151 Urban Road), therefore there appears capacity for an additional shop to serve local need without harming the vitality of local centres. The Council's Local Plans (Town Centre and Retail) Officer has not raised any objections to the proposals in this respect.

8.5 Local Plan Policy 10 permits non-residential uses of an appropriate scale in residential policy areas provided they would not cause unacceptable loss of residential amenity through, for example, excessive traffic, noise, fumes, smells or unsightliness.

- 8.6 In light of the above, the proposed change of use is considered acceptable in principle, subject to an assessment of site-specific impacts as detailed in the following sections.

Highways

- 8.7 Local Plan Policies 13, 42 and 46 requires, amongst other criteria, that site layouts function correctly and development should not result in unacceptable impacts on highway safety.
- 8.8 Policy 13 (A) (4) requires developments to provide appropriate levels of parking provision in accordance with the standards contained within Appendix 6 of the LP. For non-food retail, this is 1 space per 30m² for all development below 1000m². This would result in a requirement for 11 parking spaces for the proposed off-licence.
- 8.9 There have been a significant number of objections from local residents relating to the potential impact of vehicles visiting the proposed off-licence to Langer Street, including both customer and delivery vehicles. Langer Street is a cul-de-sac with a turning head (which is already experiencing obstruction issues caused by residents parking their own vehicles within the turning head). The highway has no parking restrictions although is relatively narrow near its junction with Urban Road.
- 8.10 No off-street parking is to be provided for the proposed retail use; existing parking spaces to the rear are associated with the upper floor residential flats. Deliveries are to be to the rear from Glen Field Avenue, via a small van (Ford Transit or similar). Delivery hours are stated to be between 10:00-11:00 on Mondays and Fridays.
- 8.11 The Council's Development Management Highway officer has been consulted on the application and has raised no objection to the proposals. This is on the basis that whilst the ground floor premises is currently vacant, its current lawful use is as a Public House, and as such it could be returned to an active use without the need for any planning permission. The parking requirement for a public house (1 space per 4m² gross floor area for customers, 1 space per 3 non-residential staff on duty at the busiest time) is higher than that of non-food retail and, as such, a change of use to a retail unit would in fact represent a betterment as it would require less parking. The fact that it is also an off licence serving the local community is material, as customers will primarily be local and likely to walk to the shop rather than drive.
- 8.12 There are no parking restrictions at Langer Street which would preclude any customers who do choose to drive to the shop from parking there. Notwithstanding current poor parking practices evident at Langer Street in terms of residents parking large vehicles in the turning head, there is adequate space for customer vehicles to park and manoeuvre. Given the nature of the retail unit as an off licence, customer vehicles are unlikely to be parked for long periods of time. Objections have primarily related to concerns over parking impact to Langer Street, but is worth noting that the

site is also served by Glen Field Avenue to the rear which is wider and less constrained in terms of parking demand.

- 8.13 In terms of deliveries, the applicant has confirmed that these would be to the rear from Glen Field Avenue, and therefore larger delivery vehicles would not cause obstruction to Langer Street. There is sufficient space to the rear of the property for delivery vehicles to stop for loading and unloading without causing obstruction to Glen Field Avenue. Delivery hours are to be restricted to 10:00-11:00 on Mondays and Fridays, i.e. outside of school hours or periods when there would be heightened demand for parking/manoeuvring space on local residential streets. The proposed delivery arrangements would therefore not cause adverse harm to local parking pressure or highway safety, and are acceptable. Delivery hours will be secured via condition.
- 8.14 The historic loss of the affiliated car park to the public house is noted, however this would be the case whether the premises remained as a public house or as an off license, and the application proposal must be assessed on the merits of the current context.
- 8.15 In light of the above, there is no demonstrable harm that would be caused by the development to parking or highway safety that would justify refusal of the application on highway grounds. It complies with policies 13, 42 and 46 of the Local Plan and is acceptable in this respect.

Impact on Neighbouring Amenity

- 8.16 Local Plan policies 10, 42 and 46 require that non-residential and commercial uses have no unacceptable negative impact to the amenity of neighbouring users. The site lies within a residential area and is surrounded by residential properties on all sides.
- 8.17 Objections have been received from local residents on the grounds of neighbouring amenity relating to noise from customers leaving the premises, increase in anti-social behaviour, parking impacts, loss of privacy, and noise disturbance from deliveries early in the morning.
- 8.18 Parking impacts have been addressed in the Parking section of this assessment. Further information has been sought in respect of delivery hours, which will be 10:00-11:00 Mondays and Fridays. A condition can be attached to any decision notice to secure these hours, to avoid deliveries at anti-social times of the day and any corresponding amenity impacts to local residents.
- 8.19 Opening hours will be 08:00 to 21:00. These hours are acceptable as they would not result in customers leaving the Off Licence late at night or lead to adverse noise disturbance at anti-social times of the day.

- 8.20 It is also worth noting that there are no opening hours or delivery times restrictions on the existing lawful Public House use, which is more likely to lead to noise disturbance to local residents from patrons leaving the premises. Furthermore, there is not considered likely to be any material increase in anti-social behaviour that arises from an off license as opposed to a public house, given both premises involve the sale of alcohol. The South Yorkshire Police Liaison Officer has been consulted on the application proposals and has raised no objections in this respect.
- 8.21 The proposal involves no external alterations and is not considered likely to lead to any loss of privacy arising from customers entering and exiting the shop opposite existing residential properties.
- 8.22 A licensing application has recently been granted for the sale of alcohol at the premises.
- 8.23 In light of the above, the proposed change of use to an Off Licence is not considered likely to lead to any materially harmful impacts to neighbouring residential amenity that would warrant refusal of the application on these grounds. The proposal meets the requirements of policies 10, 42 and 46 and is acceptable in this respect.

Character of the Area

- 8.24 Paragraph 130 of the NPPF states planning decisions should, amongst other things, ensure developments will function well and add to the overall quality of the area, are visually attractive and optimise the potential of the site and are sympathetic to local character.
- 8.25 Local Plan Policies 41(a), 42(b) and 46 all seek for development to be sympathetic to the character of the area and to integrate well with the immediate and surrounding environment.
- 8.26 No external alterations are proposed as part of the development proposal, therefore there will be no impact in this respect. Conversely, the return to active use of a long-term vacant premises, which is in a poor state of repair, would represent a material benefit to the local area both in terms of ensuring ongoing maintenance and also increasing footfall, which improves natural surveillance and thereby deterring anti-social behaviour.

Other Matters

- 8.27 Local Plan Policy 49 relates to advertisements and signage. It is anticipated that signage is likely to be required for the proposed Off License although none is shown on the proposed elevations drawings. Any signage that is not permitted development will require separate advertisement consent - an informative will be attached to any decision notice to draw this to the developer's attention.

9.0 PLANNING BALANCE & CONCLUSION

- 9.1 Due to the reasons outlined above, the proposed Change of Use to an Off Licence is considered acceptable in principle as it will not result in the loss of a Community Facility as defined by the NPPF, nor harm the vitality or viability of any town, district or local centres through the creation of a new retail unit in an out of centre location. Instead, it will introduce a new small-scale shop which serves the local community.
- 9.2 No material harm has been identified arising from the proposal to highway safety or parking, neighbouring amenity or the character of the area. Conversely, many of these factors are likely to be materially improved over the potential impacts should the current lawful use of the premises as a public house be returned, particularly in terms of noise disturbance and anti-social behaviour. As such, the proposed change of use away from a public house would present a material benefit in these respects.
- 9.3 Matters raised by local residents have been carefully considered and further details/amendments sought where needed, including in respect to delivery arrangements and opening hours.
- 9.4 In conclusion, the application proposal is considered to comply with all the relevant local and national planning policies, including Policies 1, 10, 13, 22, 23, 41, 42, 46, 47, 49 and 51 of the Doncaster Local Plan, as well as Sections 2, 7, 8, 9 and 12 of the NPPF, and may therefore be supported.

10.0 RECOMMENDATION

10.1 That the application be APPROVED, subject to the following conditions:

Conditions / Reasons

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

REASON

Condition required to be imposed by Section 91(as amended) of the Town and Country Planning Act 1990.

2. The development hereby permitted must be carried out and completed entirely in accordance with the terms of this permission and the details shown on the approved plans listed below:

- Location Plan, received 21/08/2023
- Site Plan, received 21/08/2023
- Proposed plans, drawing no. A102, received 21/08/2023

REASON

To ensure that the development is carried out in accordance with the application as approved.

3. The hours of opening shall be limited to:
Monday to Sunday 08:00 to 21:00, including Bank Holidays
REASON
To ensure that the development does not prejudice the local amenity.
4. Deliveries to the Off Licence hereby approved shall be loaded/unloaded from the rear at Glen Field Avenue only, and not outside the hours of 10:00 to 11:00.
REASON
To protect the amenity of local residents and to reduce highway impacts from the development.

Informative(s)

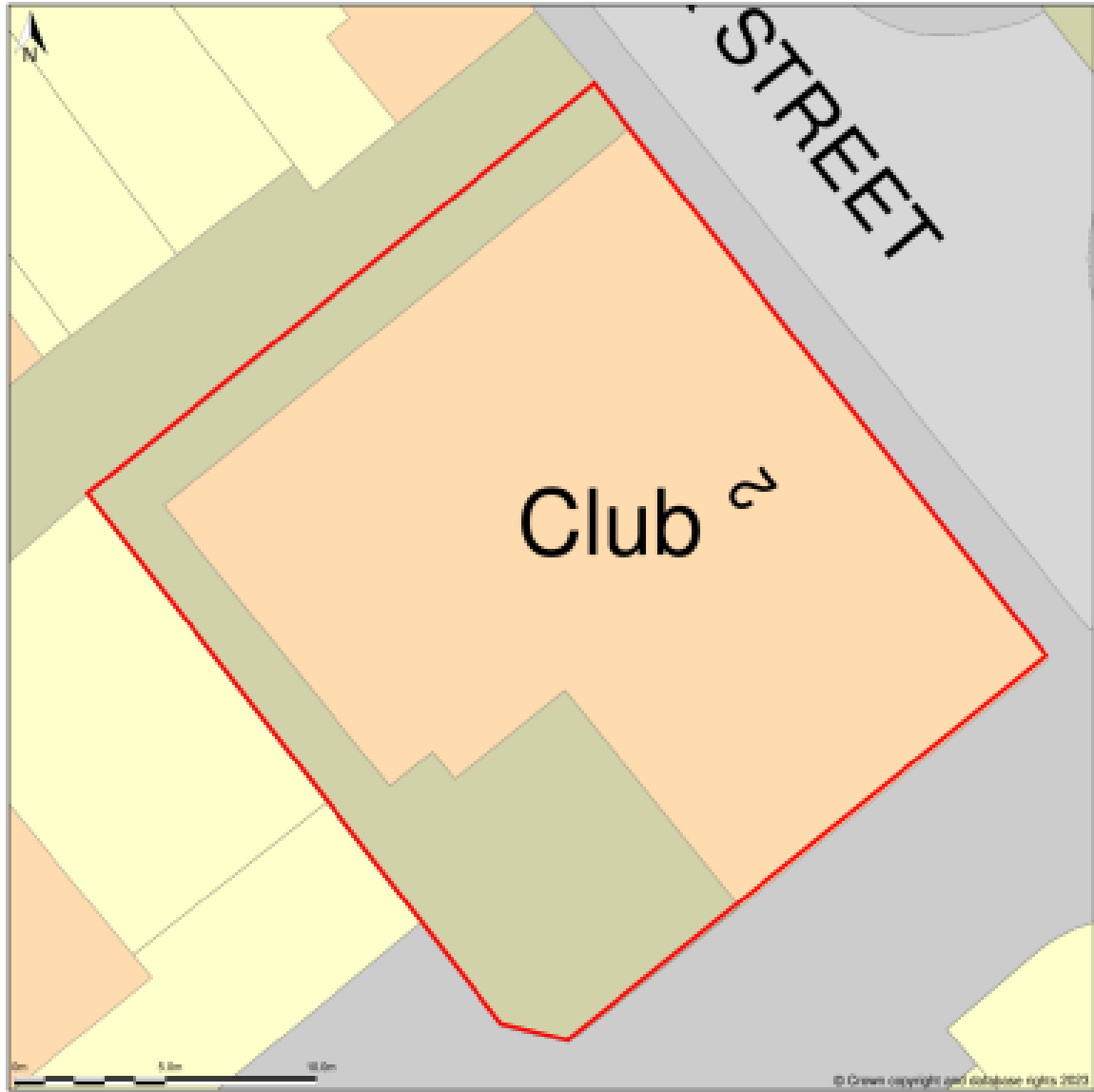
1. Advertisement/Signage
The permission hereby granted shall not relate to the display of any advertisement for which express consent is required. Separate consent under the Town & Country Planning (Control of Advertisements) Regulations 2007 (as amended) is required.

STATEMENT OF COMPLIANCE WITH ARTICLE 35 OF THE TOWN AND COUNTRY DEVELOPMENT MANAGEMENT PROCEDURE ORDER 2015

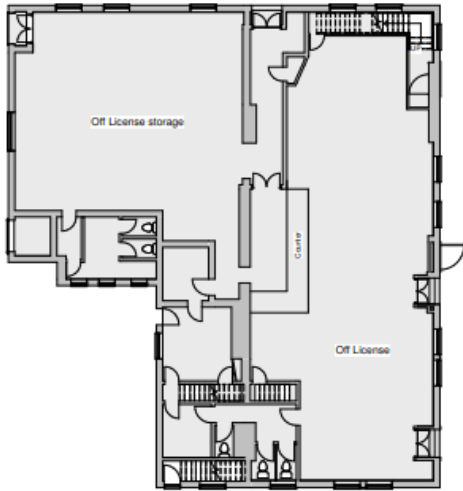
The applicant has provided additional information in respect of delivery arrangements and opening hours upon request of the Case Officer and in response to objections raised by local residents.

The above objections, consideration and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence

APPENDIX 1 – Site Plan



APPENDIX 2 – Proposed Floor Layout and Elevations



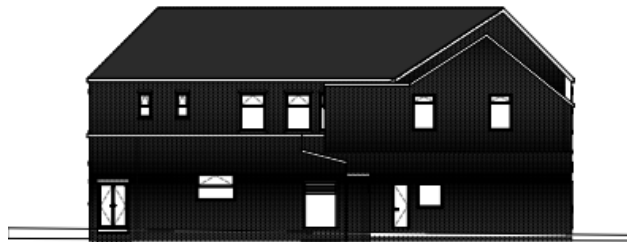
Proposed Ground Floor
1 : 100

Proposed Roof Plan
1 : 100



Proposed North-East
1 : 100

Proposed North-West
1 : 100



Proposed South-West
1 : 100

Proposed South-East
1 : 100

APPENDIX 3 – Site Photos (19th September 2023)



Photo 1: Application Site: Elevation at Langer Street



Photo 2 – Application Site: Elevation at Glen Field Avenue



Photo 3 – Application Site: rear yard, including parking area (for flats above) and access for deliveries



Photo 4 –Parking in the turning head at Langer Street