

From: Crossgate Community Partnership <

Sent: 10 January 2023 16:25

To: Yvonne Raine

Cc: 'Crossgate Community Partnership'

C Hugill

Subject: [EXTERNAL]:Re: Re Notice of Hearing - Stack, 4-6 Silver Street, Durham

Good afternoon Yvonne and thanks for the email. I have attached two further documents, one for each of the Public Nuisance and Public Safety licensing objectives. If you would prefer these in an alternative format (i.e. MS Word) please let me know.

Best wishes

R

Noise

The comments made here relate to the licensing objective of the Prevention of Public Nuisance.

The Planning Statement for the associated planning application ref DM/22/03232/FPA includes the following section:

Does the proposal protect surrounding amenity?

5.23. In this regard, there are two factors which could potentially cause harm to amenity. One is whether the proposal, and in particular the live music and use of the roof-top area, and playing background music on the roof results in unacceptable noise impacts on residential areas.

5.24. To assess this consideration, a Noise Impact Assessment is supplied with the application which assesses the noise impacts of the proposal on potential sensitive receptors as the operating hours are proposed at 07:00-01:00 as agreed with the City of Durham Parish Council and the planning officers at Durham County Council.

5.25. The Assessment demonstrates that the proposed development meets required noise criteria at potential sensitive receptors. The proposal will also include low level background music at the roof terrace. Accordingly, the proposal meets the requirements of amenity considerations at Policy 31 of the Local Plan and the relevant part of Policy E4.

The Noise Impact Assessment was provided by Apex Acoustics Ltd and included in the documents for the associated planning application. The summary page is attached. The “potential sensitive receptors” mentioned at 5.24 above are identified in paragraph 2.4. They are respectively 37 to 38 Silver Street (above former Clinton cards) and the Beauty Spot, Saddlers Yard.

The Assessment relies on measurements made in June 2019 at 34 Saddler Street (Estate House), in connection with a different application. This is 3½ years ago and while it does avoid the period of the Covid lockdown there has been considerable change to the residential / retail mix since that time. In particular, there have been seven approvals to convert the upper floors of shops in Silver Street to flats (for details see the appendix).

The Assessment considers three sources of noise: entertainment noise breakout, patron noise on the roof terrace and background music also on the roof terrace. In answering the questions on the application form about the location of regulated entertainment, in every case where it is an option, *Both* has been ticked. This means that all these activities, including live music and the screening of live football matches, could take place on the roof terrace. Only patron noise and background music has been considered.

There is a fourth source which is not considered at all in the Assessment: noise from patrons exiting onto Silver Street at the end of the night’s entertainment.

We do not challenge the measures proposed to contain entertainment noise breakout providing, should a premises licence be granted, that these measures are conditioned.

There are other residential buildings closer to the roof terrace than the noise sensitive receptor at The Beauty Spot, Saddlers Yard, now with permission for a 4-bed HMO. These are 1-5 Moatside Mews and 1-6 Castle View, which is within 20 metres of the outside seating area on the roof terrace.

Also, notably, 7-8 Silver Street (above The Works) is separated from the development site only by the width of Moatside Lane. These upper floors were approved to be converted into two small HMOs in March 2021. The case file includes a report, also from Apex Acoustics Limited, which recommended sound insulation for the side to Moatside Lane where additional windows have now been fitted. We are surprised that Apex did not select this neighbouring property, which they must have known about, as a potential sensitive receptor. Its sound insulation has not been designed to meet the requirements of having the STACK rooftop terrace adjacent. Paragraph 5.35 of the report summarises as follows:

The internal maximum noise level has been calculated based on the 10th highest maximum noise level measured during the night-time, **which was caused by pedestrians.** *[our emphasis]* Based on the proposed façade sound insulation provision and the level and frequency of the measured maximum noise events, 45 dB L_{AFmax} is likely to be exceeded at most 10 times, and is therefore below the LOAEL described in paragraph 3.14.

The roof terrace is also within 60 metres of the student accommodation in the Norman Gallery of Durham Castle. The Assessment recommends that “speakers playing background music to the rooftop terrace should be placed on the façade of the gaming room, facing away from the Silver Street NSR”. This means that they will be facing Durham Castle. We note that the “background” speakers are assumed to have a volume of 88 dB. This is in fact quite loud.

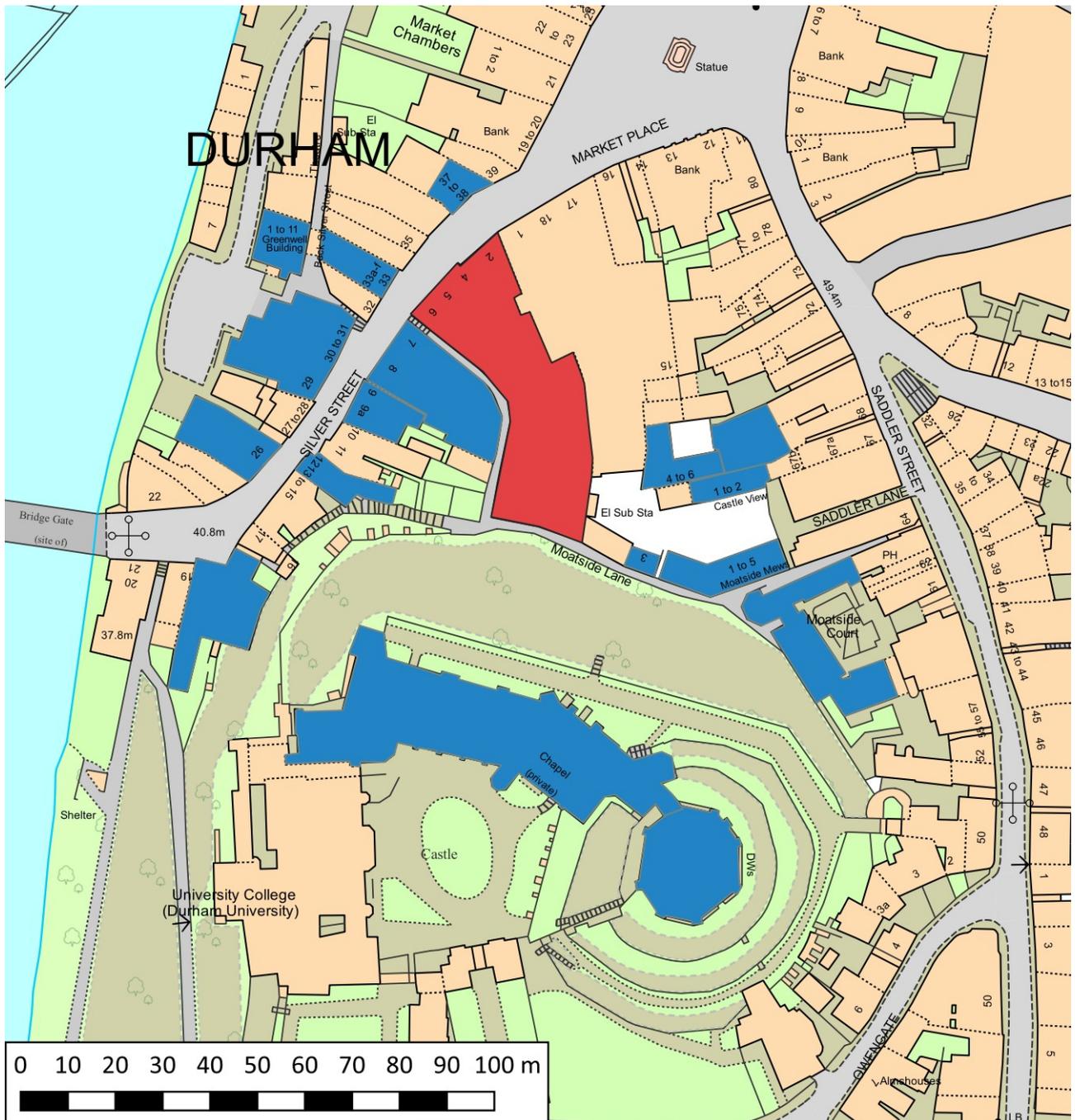
Given the proximity of residential properties on three sides, in our view the roof should not be used as a terrace for patrons.

We have been unable to discover from the documents how many people the proposal could hold, but from the floor area it is clearly over 1,000 and may approach 2,000. The licensing application seeks to stay open till midnight on Monday to Thursday, and 1am on Friday to Sunday. We note that STACK Seaburn is scheduling entertainment up till midnight at weekends¹. That number emerging on to Silver Street will create extra noise in the late evening and early hours, particularly where people are in attendance to view an event or entertainment and therefore that their departure from the premises is not staggered. STACK Seaburn is on the sea front with wide spaces around so emerging crowds can move away easily and any sound diffuses. Silver Street is a narrow canyon. Crowds cannot move as quickly and the sound reflects between the faces of the buildings. There are now seven residences on the upper floors of shops in Silver Street (see the appendix).

We conclude that this proposal has the potential to lead to unacceptable levels of noise in Silver Street. No mitigation has been identified to reduce to an acceptable level the impact on the amenity of local residents or their health.

¹ <https://stackseaburn.com/whats-on/>

Appendix 1 – neighbouring residential properties



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The map shows residential property (blue) in the vicinity of 4 - 6 Silver Street (red). Some are still under construction. Those approved in the past five years are

- 18 Silver Street (Former Top Shop / Top Man) DM/22/01421/PNC
- 29 & 30-31 Silver Street (was Superdry and Mountain Warehouse) DM/22/01316/FPA
- 12 Silver Street (was Moon Jewellery) DM/21/02228/LB and DM/21/02227/FPA
- 25-26 Silver Street (ex-Vodafone and Select) DM/21/01636/FPA
- 7-8 Silver Street (above The Works) DM/21/00104/FPA
- 9 and 9A Silver Street (next to The Works) DM/20/00911/FPA
- 33 Silver Street (former Post Office, now The Mint) DM/17/01555/FPA
- 37 to 38 Silver Street (above former Clinton cards) DM/21/02271/FPA

2 Summary

- 2.1 This report has been prepared in support of a planning application for the development of an entertainment venue at the former Marks & Spencer at 2-6 Silver Street, Durham.
- 2.2 The proposals include for a central entertainment plaza with stage, food and drink outlets, internal gaming area and rooftop outdoor seating area.
- 2.3 Noise sources considered in the assessment are entertainment noise associated with the central plaza, patron noise on the rooftop seating area, and background music at the rooftop seating area.
- 2.4 Noise sensitive receptors are identified as the future residential dwellings at Silver Street to the North of the development, and a 4-bed HMO to the east of the development, associated with planning applications DM/21/02271/FPA and DM/22/00139/FPA respectively.
- 2.5 Following discussion with the Local Authority Public Protection Officer, a noise criterion of NR 20 internally is proposed at the noise sensitive receptors.
- 2.6 Precise details of plant associated with the development are not known at this stage, and plant noise limits are proposed following the Local Authority Technical Advice Note on Noise.
- 2.7 Source noise levels have been estimated for patron noise following calculations of human speech levels from the relevant standard.
- 2.8 The client has provided desired entertainment noise levels in the plaza area.
- 2.9 Noise breakout calculations have been carried out based on proposed glazing performance, as described in the Summary Table.
- 2.10 Noise transmission and propagation is modelled with proprietary software, Cadna/A.
- 2.11 Based on the proposals in the Summary Table, the NR 20 criteria is achieved at the NSRs, without a need for further mitigation.

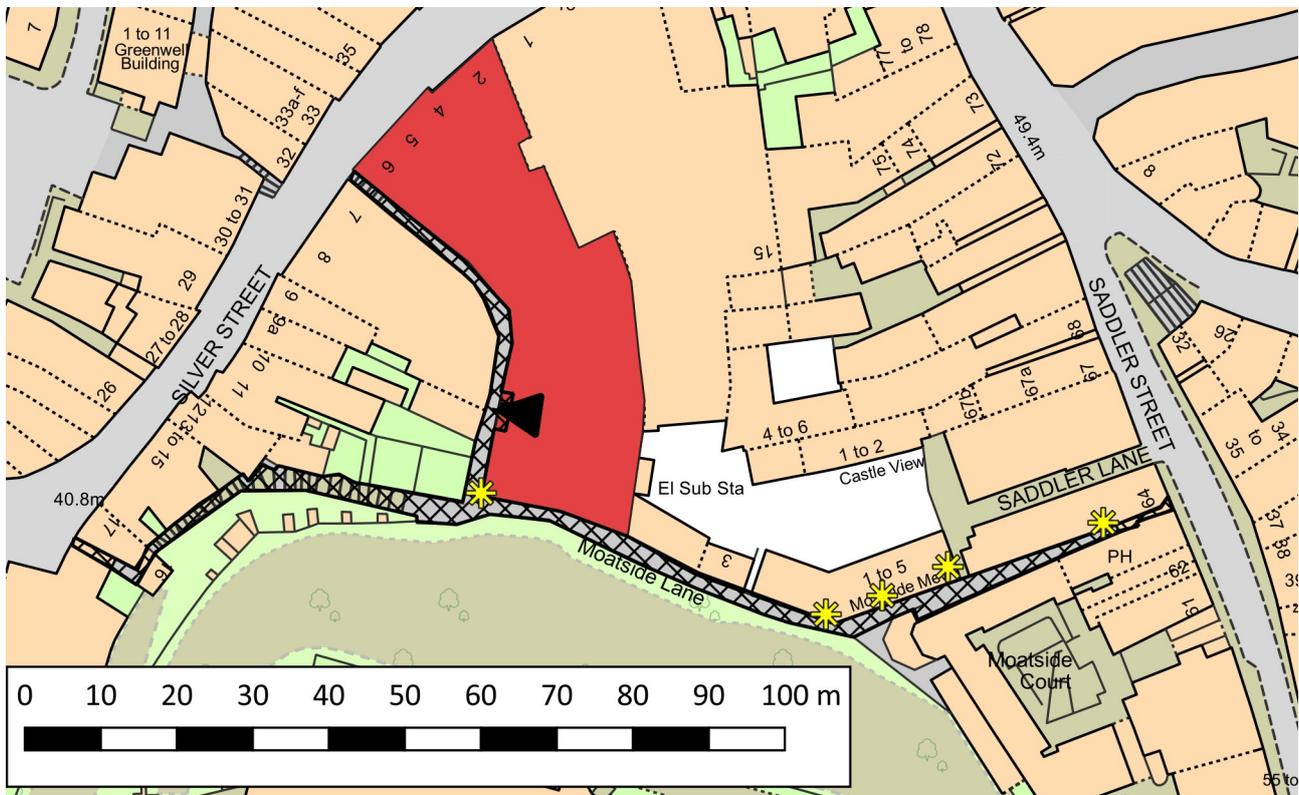
| Source | Requirement |
|---|---|
| Breakout noise through silver street façade glazing | Glazing should meet R' values given in Table 6, based on 8/16/12.8 double glazing |
| Breakout noise through roof lantern | Glazing should meet R' values given in Table 7, based on 6.4 mm single glazing |
| Patron noise on roof terrace | Calculated based on a 246 person capacity |
| Background music on roof terrace | Total sound power 88 dB L _{WA} from speakers |
| Fixed plant (daytime) | 57 dB L _s , cumulative limit of all plant assessed following BS 4142. |
| Fixed plant (night-time) | 37 dB L _s , cumulative limit of all plant assessed following BS 4142. |

Table 1: Proposed music noise levels, glazing specifications and plant noise limits

Safety

The comments made here relate to the licensing objective of Public Safety.

There are two adjacent fire escapes onto Moatside Lane, marked by an arrow in this plan:

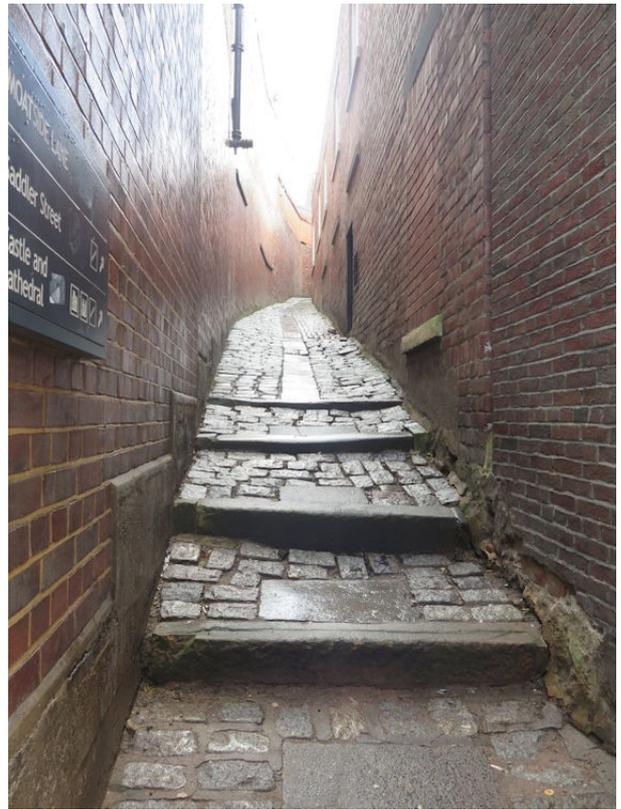


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This photograph shows two roller blinds where the exit will be. The plans accompanying this application show 150 people escaping via the narrower further door, and 410 via the nearer door. There is a note *Escape into narrow lanes to be reviewed by fire engineer.*

On exiting one may either turn left or right. It is possible to erect signage but in a panic few will see or take notice of it. With a press of people behind, this is a decision to be made quickly. Many or most visitors will not be familiar with Moatside Lane and its connecting paths which adds to the danger. The photo shows the right-hand route which leads to Silver Street, although due to the bend you cannot see it. This is the most direct route away from the exit.



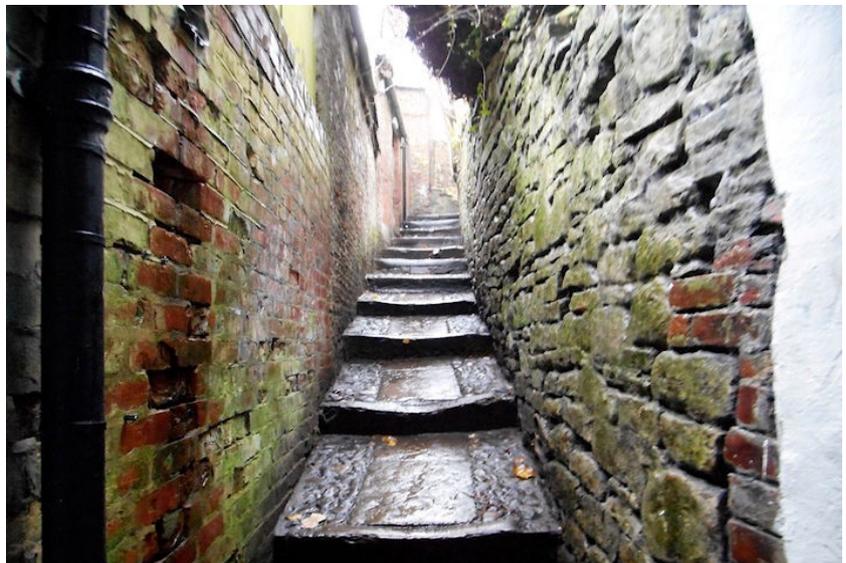


The width of Moatside Lane narrows to 118cm, on the corner. The photograph on the left shows one this being measured. You will note that only the centre of the path is level. On either side the cobbles slope towards the middle.

The plans provided with the planning application show that there is a fall of 7.61m over the 41m from the fire escape to Silver Street. There are steps near to Silver Street, as the photograph on the right shows. When we visited there was a lot of broken glass and also dog faeces. People escaping may not be sober. They may be wearing high heels. The path may be wet and slippery. Funnelling crowds into a confined space is a recipe for catastrophe, Anybody falling may well be crushed and serious injury or death could result.

If one turns left on leaving the building, then one immediately reaches a T-junction in the path (see the map at the head of this document).

Turning right here leads via a narrow path with steep steps (see photograph) and a corner down to the foot of Silver Street. This is not something to be attempted after dark due again to the risk of falling and being crushed.



Turning left at the T-junction takes one via the path at the foot of the Castle to a corner where the path continues to exit, via a very narrow gap, onto Saddler Street between Pizza Express and The Shakespeare public house. This is a safer route than the other two alternatives, but it does require the right choices to be made, twice. Even so, in an emergency, in the dark, with numbers potentially measured in the hundreds, it is not a route that should be relied on as a safe exit.

J Ashby has walked these paths after dark, and we shall be calling him as a witness. He says “I have now walked through Moatside Lane. None of the bulkhead lights are on – my walk was a bit worrying in the dark on wet cobbles on a steep slope with virtually invisible rising steps from Silver Street. Absolutely not safe for a large crowd evacuating Stack in an emergency.

“There are some lights - one above the door for number 68A just off Saddler Street that came on as I moved past and then went off again. Numbers 2 and 5 Moatside Lane have lights on above their doors that were on and stayed on. Then there is a weak light staying on about 3 metres off the ground on the wall as Moatside Lane turns a bend. Finally, there is a similar light at the junction of the three arms of Moatside Lane.” (These lights are marked on the plan with a yellow star: ✨)

There are of course other fire exits, into the service yard at the back and into Silver Street via the main entrances, but the principle of safe exit in an emergency is to have multiple routes in case an exit is blocked.