

**THISTLEBERRY HOTEL, THISTLEBERRY AVENUE, NEWCATSLE-UNDER-LYME**

**STAR PUBS AND BARS**

**19/00358/FUL**

The application is for the installation of a new metal framed pergola across the front elevation of the building together with the provision of extended beer garden seating areas.

The building is located within the urban area of the Borough, as identified by the Local Development Proposal Framework Map.

The application has been called in to the Planning Committee for determination, by two Councillors, due to resident concerns about:

- Noise levels as there are residential properties close by.
- Lack of parking as the application proposal would generate more demand and would result in the reduction of parking spaces.

The application was deferred at the meeting of the Committee on the 16<sup>th</sup> July to enable the applicant to provide information required by the Highway Authority and for your officer to obtain and consider the comments in response to such information.

**The statutory 8 week period for the determination of this application expired on the 2<sup>nd</sup> August 2019 however the applicant has agreed to an extended determination date until the 8<sup>th</sup> November.**

**RECOMMENDATION**

**REFUSE for the following reason:**

**The proposed development will result in the loss of parking spaces, which would result in an increased likelihood of on street parking within the public highway to the detriment on the safety of highway users. The proposal would therefore be contrary to policy T16 of the Newcastle-under-Lyme Local Plan 2019 and the aims and objectives of the National Planning Policy Framework.**

**Reason for Recommendation**

At the request of the Highway Authority, additional information has been submitted in order to assess any potential implications that the development would have on parking and/or highway safety. The information, which includes a parking survey and swept path analysis, has demonstrated that should the development be implemented as proposed, there would be insufficient parking space within the site curtilage. This would result in an increased likelihood of vehicles having to park in adjacent residential streets resulting in an increased likelihood of highway safety implications to the detriment of highway users, which is considered to be contrary to the guidance of the National Planning Policy Framework.

**Statement as to how the Local Planning Authority has worked with the applicant in a positive and proactive manner in dealing with this application**

The applicant has been provided the opportunity to submit additional information to address the initial concerns of the highway authority; however the information provided has failed to overcome the objections to the scheme in relation to a lack of adequate parking facilities. As such the development is considered to represent an unsustainable form of development, contrary to the provisions of the National Planning Policy Framework.

**Key Issues**

Full planning permission is sought for the installation of a new metal framed pergola across the front elevation of the building together with the provision of extended beer garden seating areas. The building is located within the urban area of the Borough, as identified by the Local Development Proposal Framework Map.

The determination of the application should consider the following key issues;

- Is the design and the impact upon the character and appearance of the area acceptable?
- Would there be any adverse impact on residential amenity?
- Are there any implications for parking and highway safety?

### **Acceptable design and impact upon the character of the area and street scene**

Section 12 of the NPPF sets out policy which aims to achieve well-designed places. Paragraph 124 states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 127 goes on to detail that developments should be visually attractive and sympathetic to local character and history, including the surrounding built environment and landscape setting while not preventing or discouraging appropriate innovation or change.

Policy CSP1 of the adopted Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy (CSS) details that new development should be well designed to respect the character, identity and context of the area.

The application seeks permission for the installation of a new metal framed pergola across the front elevation of the building together with improvements to the existing and proposed beer garden areas which would include new fencing, timber box planters and timber posts to support decorative lighting together with the partial cladding of the south (side) elevation of the building.

The cladding proposed on the south (side) elevation of the building would cover an area of approximately 38 square meters. Whilst the materials would be a contrast to those used on the existing building, they are not considered to be harmful to its overall appearance, nor would they harm to character of the wider locality.

The proposed pergola would feature 8 metal posts spaced across the front elevation of the building to support a retractable lean-to roof structure. The pergola would have a maximum height of 3.6m. The scale and design of the pergola is considered to appear commensurate to the main building and suited to the buildings function as a public house without harming the appearance of the area.

Within the proposed new beer garden area to the south of the main building, 8 timber posts would be installed to a height of 2.6m with festoon style string lights spread between the posts. The introduction of these posts is considered to have minimal impact on the visual amenities of the area and the appearance of the main building. New timber box planters would also be installed along the southern boundary of the site, adjacent to Thistleberry Avenue, which would then continue along the frontage of the building. An area of new 1.8m high timber fencing and gate is also proposed to be installed on this elevation of the building, to the rear of the new beer garden area. Again these additions are not considered to be harmful to the appearance of the area.

The existing building is not considered to be of any particular architectural merit, and as such the alterations and improvements proposed could be considered to enhance the overall appearance of the building. Therefore in light of the above it is considered that the cumulative impact of the alterations proposed would be acceptable, and would not detract from the appearance of the building or the character of the wider area. As such the development is considered to be in accordance with Policy CSP1 of the CSS, as well as the provisions of the NPPF.

### **Would the development cause an unacceptable off of amenity to neighbouring properties?**

Paragraph 180 of the National Planning Policy Framework seeks to ensure that new development is appropriate for its location. It details that development should mitigate and reduce to a minimum

potential adverse impacts resulting from noise, and avoid noise giving rise to significant adverse impacts on health and quality of life.

The application site currently benefits from two external seating areas, one at the front of the building and one on the north side, adjacent to Keele Road. The application proposes to remove the seating on the north side of the building and instead increase the seating provision at the front of the building and create a new beer garden area on the south side, adjacent to Thistleberry Avenue.

The application is supported by a Noise Impact Assessment (NIA). The NIA includes an assessment of calculated noise levels for both the existing and proposed external seating area from outside the nearest dwellings. The report concludes that the proposed development would result in increased noise levels for the dwellings along Thistleberry Avenue and therefore there is the potential for some noise associated impacts as a result of the proposed expanded seating area. The report goes on to recommend a number of mitigation measures to minimise the harm to neighbouring properties.

The Environmental Health Department (EHD) has raised no objections to the application subject to a number of conditions. They note that the NIA submitted has demonstrated that some control measures are necessary to adequately address potential noise impacts in the later evening/night-time period. Also due to the proximity of the development to neighbouring residential properties it is recommended that no speakers are used within the external beer garden seating areas and that a time restriction is put in place which limits the hours that the external beer garden seating area can be used.

With regards to conditions, a noise management plan should be submitted to the local authority prior to the commencement of any development. This plan should identify all noise sources associated with the use of the external beer garden area and the mitigation measures that will be applied to prevent or minimise the impact of the noise on nearby residents. Further conditions would restrict the use of the external seating area to smoking only after 21:30 hours, with no beverages or food to be consumed within this area beyond this time and restrict the use of loud speak amplification systems within the area at all times.

The EHD also acknowledges that the installation of the bound gravel surface within the new external seating area could result in disturbance to neighbouring residents and as such a condition should be attached to any permission to restrict the hours of construction.

Objections have been received from nearby residential properties, stating that the proposed development would result in increased noise levels to the detriment of the occupants. Whilst the submitted NIA does accept that there would be an increase in noise levels, it is considered that appropriate mitigation measures can be secured through appropriately worded conditions to ensure that the development would not raise any significant impacts for the residential amenity of neighbouring properties.

Further objections have also queried the timing of the NIA, with reference to a complaint relating to loud music from the premises on the 29<sup>th</sup> June, a Saturday evening. The submitted Noise Impact Assessment (NIA) assessed both the existing noise levels from the site and an assessment on the potential increase as a result of the proposed beer garden extension. It measured noise levels during the weekday trading period of 16:00-23:00 hours. Whilst a weekend measurement was not included, the Environmental Health Officer has raised no objections to the contents of the NIA or its methodology and considers that mitigatory measures are sufficient in this instance to minimise the impact to residents.

The nearest residential properties to the proposed new beer garden area are No. 2 Thistleberry Avenue, sited approximately 12m from the proposed development, and No's 8 and 10 Thistleberry Avenue, sited approximately 11.5m from the proposed development. It is accepted that given the siting of the proposed new beer garden area adjacent to Thistleberry Avenue and the proximity of nearby residential properties that the proposal would result in some increase in noise levels experienced in this location, and this is something that has been demonstrated within the NIA.

However, it is considered that the use of appropriate mitigation measures and a noise management scheme as requested by the EHD, which would be secured via a condition before any development

commences, would ensure that the development would not have a severe impact on the residential amenity of neighbouring properties.

It should also be noted that this licensed premises will be subject to the requirements and provisions of the Licensing Act 2003 and the Environmental Protection Act 1990, amongst other forms of legislation covering statutory noise and licensing issues. These pieces of relevant legislation, in addition to the control measures imposed within planning conditions, would suitably address any issues in relation to breaches of licenses conditions and statutory nuisance from noise.

Therefore having considered the above matters, the proposal is unlikely to have a significant harmful impact to the residential amenity levels and quality of life of neighbouring properties subject to the conditions advised. As such the proposal is in accordance with the guidance and provisions of the NPPF.

### **Are there any implications for parking and highway safety.**

Whilst saved Policy T16 of the Local Plan stipulates that maximum parking standards are only applicable in relation to the gross floor area of a building meaning that the external seating area would not form part of the building gross floor area, consideration should still be given as to whether the proposal would have an adverse impact on parking and/or highway safety.

Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

There are currently four parking spaces situated forward of the main entrance to the pub, two disabled and two standard spaces. As the alterations would result in the external seating area to the front of the building increasing from 3m in depth to 5.1m, the proposal would result in the loss of these four spaces and these spaces would not be provided elsewhere on the site. This would leave the site with 18 parking spaces.

In their initial comments the Highway Authority stated that there is insufficient information to determine the application and as such requested the submission of an hourly car park survey over 7 days whilst the premises is open, a swept path analysis for vehicles to access and manoeuvre into the 5 parking spaces to the northern side of the building and clarification relating to servicing and deliveries.

The applicant has now submitted the requested information, however the Highway Authority maintains an objection to the scheme. They dispute the findings of the swept path analysis in relation to the five parking spaces adjacent to Keele Road noting that these spaces are severely restricted to access and manoeuvre, and also noted that at the time of considering the application, a seating table was sited within the parking area, highlighting further that these spaces are not in use or usable. Your officer agrees with the comments of the Highway Authority in respect of this issue.

Therefore with these 5 spaces being deemed unusable, and the proposal resulting in the loss of four parking spaces forward of the main building, this leaves the premises with 13 accessible parking spaces. Consideration should now be given to the results of the parking surveys, and whether these spaces would be sufficient to serve the business when open.

The parking surveys cover a 7 day period from the 29<sup>th</sup> July to the 4<sup>th</sup> August 2019. These results have shown that during the weekday evenings there were a number of occasions when more than 13 vehicles were parked. On Saturday evening between 16:00 and 23:00 there were 16-20 vehicles parked. On Sunday between the hours of 12:00 and 14:00 the survey recorded 20 parked vehicles and during the hours of 18:00 to 23:00 between 15 to 18 vehicles.

Therefore if the proposed development was implemented as shown, it is highly likely that a number of vehicles would have to park beyond the application site. Given the traffic restrictions in place immediately adjacent to the site in the form of double yellow lines, there is an increased likelihood of vehicles then having to park on residential streets and cul-de-sacs which may not only pose highway safety issues, but also implications in relation to noise and disturbance.

The development would therefore increase the likelihood of highway danger and due to the likelihood of vehicles being parked on busy adjacent residential streets and cul-de-sac, the proposal would be contrary to Policy T16 of the Local Plan and the provisions of the NPPF.

## APPENDIX

### Policies and Proposals in the approved Development Plan relevant to this decision:-

#### [Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy \(CSS\) 2006-2026](#)

Strategic Aim 16: To eliminate poor quality development;

Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy

Policy CSP1: Design Quality

#### [Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

Policy T16: Development, general parking requirements

### Other material considerations include:

[National Planning Policy Framework](#) (February 2019)

[Planning Practice Guidance](#) (March 2014, as updated)

[Supplementary Planning Guidance/Documents](#)

[Space Around Dwellings SPG](#) (SAD) (July 2004)

[Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document](#) (2010)

#### Relevant Planning History

NNB00527 – Licensed premises – Approved

NNB02158 - The erection of licensed premises, as described in your application dated 12th February, 1954 – Approved

16/00997/FUL – Installation of two new ramps – Approved

16/01083/ADV - Installation of 1no. set of illuminated individual letters, replacement swing sign, 1no. fascia sign and various poster cases – Approved

#### View of Consultees

The **Environmental Health Department** raise no objections subject to conditions restricting the hours of work, the use of the external seating area and the use of loud speaker amplification systems. A noise management scheme should also be provided prior to the commencement of development which should specify the provisions to be made for the control of noise emanating from the site.

Following the submission of additional information, the **Highway Authority** recommends refusal of the application as the development fails to make adequate provisions for vehicular parking within the site curtilage resulting in an increase in the likelihood of on street parking within the public highway to the detriment of the safety of highway users.

#### Representations

Five representations have been received to date objecting to the proposal. The representations raised the following matters;

- Increased traffic and parking along Thistleberry Avenue
- Impact on amenity of nearby properties
- Litter

- Increased noise over and above that of the existing functions of the Thistleberry Pub
- Alterations would jeopardise the current good relations between the pub and local residents
- Noise Impact Assessment irrelevant as impossible to predict until beer garden is set up
- Noise pollution and detrimental impact on the local environment
- Question the timing of the submitted noise report with reference to loud music from the application site on the 29<sup>th</sup> June at 11.30pm

Applicant/Agent's submission

The application is supported by a Design and Access Statement and a Noise Assessment. All of the application documents submitted for consideration can be viewed using the following link;

<https://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/19/00358/FUL>

Background Papers

Planning File  
Development Plan

Date report prepared

24<sup>th</sup> October 2019