

DONCASTER METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE – 5th March 2019

Application 2

Application Number:	18/01984/FUL	Application Expiry Date:	Extended until 5 th March 2019
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Application Type:	Full application
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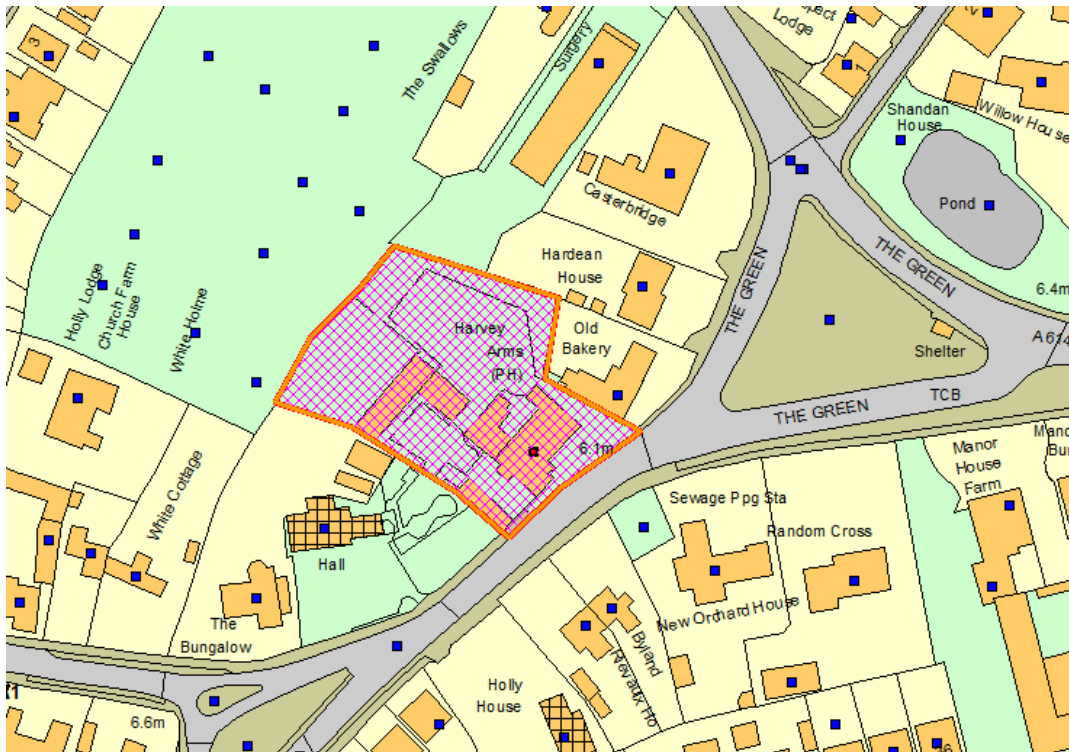
Proposal Description:	Erection of single storey aluminium framed marquee. (Retrospective).
At:	Harvey Arms, Old Bawtry Road, Finningley, DN9 3BY

For:	Mrs Sandra Kennedy - The Harvey Arms
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Third Party Reps:	17 representations	Parish:	Finningley Parish Council
		Ward:	Finningley

Author of Report	Dave Richards
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MAIN RECOMMENDATION:	Grant Temporary Planning Permission subject to conditions
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1.0 Reason for Report

1.1 This application is being presented to Members due to 15 objections being received, with two letters in support.

2.0 Proposal and Background

2.1 The application proposes the erection of a marquee to be used as function space associated with the Harvey Arms public house.

2.2 The application is described as 'retrospective,' however the marquee has since been disassembled and removed from the site.

2.3 The main considerations relate to the impact of the marquee on the living conditions of nearby residents in terms of noise and general disturbance.

2.4 My recommendation is that a temporary planning permission is granted for 1 year, subject to the recommendations of the noise impact assessment and conditions set out in the report.

3.0 Relevant Planning History

3.1 There is no recent relevant planning history. The lawful use at the site is that of a public house (A4 Use Class). The current use of the application site is that of a beer garden ancillary to this use.

3.2 Planning Permission 15/02091/FULM granted 14 houses to the north west of the site. Three of these properties share a boundary with the application site.

4.0 Representations

4.1 The application was advertised by means of written notification to neighbours nearby as well as displaying two public notices on Old Bawtry Road and St Oswalds Drive. The application has also been advertised in the local press and on the Council's website.

4.2 Two objections from ward members and fifteen letters of objection have been received from members of the public raising the following issues:

- Additional noise and disturbance.
- Visual impact on the Finningley Conservation Area.
- Dimensions to the marquee are incorrect and could be subject to change.
- Combustibility of the marquee.

4.3 Concerns have been raised regarding the behaviour of patrons of the pub, compliance with existing licensing requirements and an alleged boundary dispute. These issues are subject to separate legislation and are not material planning considerations.

4.4 Two letters of support have been received noting that:

- The marquee provides an additional event hire space which boosts the local economy.

- The Harvey Arms has always hosted parties and themed events in the beer garden.
- The marquee will provide a weatherproof event space and would reduce noise levels of events that already take place.
- The events will continue irrespective of the marquee.

5.0 Relevant Consultations

5.1 Environmental Health Officer:

No objections subject to the mitigation measures and operating restrictions set out in the noise impact assessment:

The Noise Impact Assessment makes reference to the noise levels set out in the Code of Practice for pop concerts which, in the absence of any more appropriate guidance, is the most appropriate in this case. The report begins by stating that the venue will not have any more than 10 events per year and that all of these events will be restricted to disco/recorded music only, with no live bands, and all will cease by 11pm. This is the basis on which a music noise limit is then recommended based, on the Code of Practice. The CoP states that where there are between 4 and 12 events per year the music noise level should not exceed the background noise level by more than 15 decibels at any time. Through a monitoring exercise carried out in December the background/baseline noise level has been determined to be LA90 35dB (set at 35dB based on a noise level exceeded for 90% of the measurement period (LA90) which is reasonable for this type of area. The permitted music noise level, in line with the guidance, is therefore 68dB for 15 minutes at 10 meters from the speaker. This corresponds to a level of 60dB at the boundary fence and 50dB at the nearest noise sensitive receptor (i.e. 15dB above the baseline level). So that this can be transposed into an enforceable condition that can be checked by the LPA and the applicant a condition will need to be included limiting the music noise level with reference to the boundary.

In order to achieve the stated noise limit the report also recommends a number of other measures that will be necessary. A key element is the location and orientation of the speakers together with the use of an acoustic screen to prevent noise spilling out in undesired directions. The report also recommends the installation of an electronic sound limiter to limit the noise output to those levels previously mentioned. With all of these measures in place, together with a limit on the number of events and the end time of 2300 hours we are in a position to support the application.

Below the Environmental Health Officer (EHO) has recommended a number of appropriate conditions, to be included should the application be approved:

- Only recorded amplified music is permitted within the approved development. Live music is not permitted at any time.
- The music noise level (MNL), when assessed at the prediction stage or measured during sound checks or events, shall not exceed 60dB(A) over any 15 minute period at 1 metre from the boundary of any noise sensitive premises.
- A noise limiting device shall be installed and used at all times during the playing of amplified music. The noise limiting device shall be set so that the noise limits stated in section 4.2 of the noise impact assessment, reference NIA/8253/19/8205/v3/Harvey Arms, submitted with the application are maintained at all times.

- The number of events shall be limited to no more than 10 in any calendar year.
- Amplified music shall only be permitted within the approved development between the hours of 12 noon and 2300 hours except for the purposes of sound testing.
- All other mitigation measures, stated in section 4.3 of the noise impact assessment, reference NIA/8253/19/8205/v3/Harvey Arms, submitted with the application, shall be implemented and maintained throughout the life of the development.

5.2 Conservation Officer:

The Harvey Arms is a large L shaped public house of painted brick with slate roof situated at the centre of the Finningley Conservation Area. To the west is an older brick and pantile barn and single storey cartshed with gable to the road and to the rear an L shape range of outbuildings with a single storey lateral range constructed of limestone with clay pantile roof. This grouping of buildings contributes to the character and appearance of the conservation area by virtue of their form, layout and materials which reflect the rural origins of the village. The adjacent village hall is grade 2 listed and the rustic character of the group (narrow span linear form) and its materials (brick/limestone/pantile roofs) also contributes to its setting. To the east there is a car park through which a modern development can be seen. Earlier in the year there was a large marquee erected to the rear of the single storey limestone barns (now dismantled) and this proposal is to seek permission to re-erect this marquee. The rear paddock between the limestone range and the new development is now enclosed by modern fencing and the surface mainly with concrete paviours.

The modern character and materials of the marquee, fencing and surfacing, is not in keeping with the historic character of the barns, however, it is directly behind the barns and not particularly visible from the main road. At the time of my site visit the marquee had been dismantled but from the dimensions the ridge is unlikely to be visible from the front. In addition, the previously open nature of the back of the site has been altered by the development in the field beyond such that the visual impact is limited to the immediate area. In my view, it would be difficult to define as 'less than substantial harm' to the character and appearance of the conservation area.

It also appears that the single storey barns which were previously in a poor state have been repaired and brought into use to serve the marquee. The condition of the barns has been the subject of previous discussions and their repair and reuse is welcomed as improving the appearance of the conservation area. Likewise, we would support the continued use of the main building as a public house which is the use for which it was designed and which contributes to the vitality of the village.

Other things being equal the location would have the least impact on the conservation area for these activities. From my visit, I would assess the substantive planning issue to be the impact of the proposal on the amenity of the dwellings immediately adjacent and principally one of noise impact so the proposal should be judged on this.

6.0 Relevant Policy and Strategic Context

6.1 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.

6.2 In the case of this application, the Development Plan consists of the Doncaster Core Strategy and Unitary Development Plan. The most relevant policies are Policies CS1 and CS15 of the Core Strategy and Policies ENV25 and PH12 of the UDP.

6.3 The NPPF, Policies CS1 and CS14 of the Core Strategy and Policy PH12 of the UDP recognises good design includes the need to protect the quality of living conditions and amenity for adjacent land uses.

6.4 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 puts a statutory duty on local planning authorities to pay special attention to preserving or enhancing the character or appearance of Conservation Areas. That duty is reflected in Policies CS1 and CS15 of the Core Strategy and Policy ENV25 of the UDP.

6.5 Other material considerations include the National Planning Policy Framework (NPPF) and the subsequent planning guidance; as well as the Council's supplementary planning guidance. Planning Permission 15/02091/FULM carries some significance, in that housing has been granted and constructed adjacent to the application site.

7.0 Planning Issues and Discussion

7.1 The main issues are the impact of the development on the living conditions of nearby residents in terms of noise and general disturbance. Another considerations include the visual impact on the Finningley Conservation Area and whether the siting of the marquee has any dominating impact.

Noise and disturbance

7.2 The marquee was erected and used in 2018 for a number of licensed events over the year, before being dismantled following the initiation of enforcement proceedings. The areas of land adjacent to the site are private residential gardens where occupants can reasonably expect to enjoy the relatively peaceful surroundings of a village location. Most of the events taken place within the marquee were at weekends during the warmer months of the year when neighbouring residents would normally expect to enjoy the relative quiet of their gardens, and have windows open in their houses. These events were likely to include the consumption of alcohol and boisterous behaviour in a building, which has poor insulation qualities.

7.3 In support of the application is that the lawful use of the site is that of a beer garden associated with a public house. As such, the current use is likely to include the consumption of alcohol and boisterous behaviour within the curtilage of the pub. The space could also be used as event space, or for live music, subject to compliance with statutory licensing and environmental health legislation. The marquee provides a positive economic function for a community facility which appears to be well used in the village.

7.4 A noise impact assessment was commissioned by the applicant to be considered with the planning application. The assessment concludes that the noise levels produced from the marquee during a licensed event can be manageable subject to a number of restrictions on operating restrictions to define and limit its use. These conditions include:

- No live music, only recorded amplified music allowed
- Any use shall cease at 11pm

- A noise-limiting device set to the requirements of the noise impact assessment
- A maximum of 10 events per calendar year

7.5 The Environmental Health Officer concludes that the noise impact assessment provides an objective assessment of the potential noise emitted from the use of the marquee and that the development can be made acceptable subject to a number of conditions being imposed.

7.6 The marquee will concentrate a collection of people in one space and an event is likely to include the use of amplified sound as part of the entertainment. However, in light of the recommendations within the noise impact assessment, informed by the conclusions of the Environmental Health Officer, I conclude that any additional noise and activity resulting from music levels can be managed effectively via condition.

7.7 Notwithstanding this recommendation, the conditions and limitations of the noise impact assessment should be tested for a temporary period before any permanent planning permission can be considered. The recommendation therefore is that temporary planning permission is granted for 12 months. This is in accordance with national guidance which recommends where a trial run is needed in order to assess the effect of the development on the area. There is no presumption that a temporary grant of planning of planning permission should be granted permanently.

7.8 Subject to the conditions imposed, the application safeguards the living conditions of the occupiers of nearby dwellings.

Other issues

7.9 In terms of the impact of the marquee on the character of the Finningley Conservation Area, the appearance is of a traditional style, fairly substantial in size and located within the confines of the beer garden and the outbuildings of the pub. Although it is a prominent feature from within the site, it is only partially visible from the adjoining residential properties. It is hardly noticeable from the street or other public vantage points, and does not have a material impact on the local townscape. Although objectors feel the appearance of the marquee detracts from the area, the marquee is not judged to have a lasting impact upon the character of the conservation area based on the temporary nature of this application.

7.10 Objections have been received in relation to the appearance of the marquee and its visual impact. It is noted that the physical dimensions to the marquee have been lessened for the purposes of applying for planning permission. The proposed dimensions to the marquee are 15m in length, 9m in depth with a ridge height of 3.35m. Based on these measurements, neighbouring occupants are likely to notice the upper portions of the marquee but the distance separation and relatively shallow roof pitch would mean that the appearance would not result in loss of light or visual amenity.

7.11 Local representations have noted alleged incidents of swearing, loud voices, the emptying of bottle banks at unsocial hours and unruly children. Comments have also been received relating to the fire proofing properties of the material to the marquee. However, these matters would be covered under separate legislation and cannot be considered as material planning considerations.

8.0 Summary and Conclusions

8.1 In conclusion, the marquee provides the ability to hold functions which enable a diversification for the public house in terms of income. This would comply with local planning policies which provides local employment and development which contributes to a rural economy. Balanced against this contribution is the impact of the use which, without restriction, has the potential to cause noise and disturbance. Based on the objective assessment of the noise impact assessment, it is considered that these impacts can be mitigated effectively through the use of planning conditions in accordance with national planning guidance. In order to provide a prudent assessment of this mitigation, a temporary planning permission is proposed to trial the development.

RECOMMENDATION: Temporary Planning Permission granted for 12 months subject to following conditions:

Conditions / Reasons

01. U0067329 The marquee hereby permitted shall be sited for a limited period being the period of 12 months from the date of this decision. At the end of this period, the marquee hereby permitted shall be removed from the site unless otherwise agreed in writing by the local planning authority.

REASON

The development hereby permitted is allowed on a temporary basis only in order to assess the impact of the proposal upon local amenity.

02. U0067330 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:

Amended site plan received 6th February 2019
Amended proposed plan (TBC)

REASON

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

03. U0067331 Only recorded amplified music is permitted within the approved development. Live music is not permitted at any time.

REASON

To comply with the submitted noise impact assessment and to protect neighbouring properties from unacceptable noise and disturbance in accordance with Policy CS1 of the Core Strategy and Policy PH12 of the UDP.

04. U0067332 The music noise level (MNL), when assessed at the prediction stage or measured during sound checks or events, shall not exceed 60dB(A) over any 15 minute period at 1 metre from the boundary of any noise sensitive premises.

REASON

To comply with the submitted noise impact assessment and to protect neighbouring properties from unacceptable noise and disturbance in accordance with Policy CS1 of the Core Strategy and Policy PH12 of the UDP.

05. U0067333 Prior to the first use of the marquee for each event, a noise limiting device shall be installed and used at all times during the playing of amplified music. The noise limiting device shall be set so that the noise limits stated in section 4.2 of the noise impact assessment, reference NIA/8253/19/8205/v3/Harvey Arms, submitted with the application are maintained at all times. A written record of the installation of the noise limiting device shall be made during each event to be made available for inspection by the local planning authority with seven days notice.

REASON

To comply with the submitted noise impact assessment and to protect neighbouring properties from unacceptable noise and disturbance in accordance with Policy CS1 of the Core Strategy and Policy PH12 of the UDP.

06. U0067334 The use of the marquee shall be limited to no more than 10 recognised events in any calendar year. A written record of each event shall be made available for inspection by the local planning authority with seven days notice.

REASON

To comply with the submitted noise impact assessment and to protect neighbouring properties from unacceptable noise and disturbance in accordance with Policy CS1 of the Core Strategy and Policy PH12 of the UDP.

07. U0067335 The use of amplified music shall only be permitted between the hours of 12 noon and 2300 hours.

REASON

To comply with the submitted noise impact assessment and to protect neighbouring properties from unacceptable noise and disturbance in accordance with Policy CS1 of the Core Strategy and Policy PH12 of the UDP.

08. U0067336 The mitigation measures stated in section 4.3 of the noise impact assessment, reference NIA/8253/19/8205/v3/Harvey Arms, submitted with the application, shall be implemented and maintained throughout the life of the development for each event. A written record or photographic evidence of each mitigation measure shall be made available for inspection by the local planning authority with seven days notice.

REASON

To comply with the submitted noise impact assessment and to protect neighbouring properties from unacceptable noise and disturbance in accordance with Policy CS1 of the Core Strategy and Policy PH12 of the UDP.

Justification

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

In dealing with the application, the Local Planning Authority has worked with the applicant to find solutions to the following issues that arose whilst dealing with the planning application:

Clarification on plans

Submission of additional information relating to noise and disturbance

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