

Application Number 20/00795/FUL

Proposal Fencing off of land adjacent to Organ Inn Public House and change of use to associated Public House beer garden, including erection of covered shelter and canopy (part retrospective).

Site 'Organ Inn', 61 Acres Lane, Stalybridge, SK15 2JR

Applicant Mr Matthew Crompton

Recommendation Grant approval subject to conditions.

Reason for Report At the request of an objector to the proposed scheme.

1.0 APPLICATION DESCRIPTION

1.1 Planning permission (part retrospective) is sought for the fencing of an area of vacant land adjacent to the Organ Inn Public House with an associated change of use to an ancillary beer garden, including provision of a covered shelter and canopy structure.

1.2 The outdoor terrace would be situated immediately to the east of the Organ Inn PH, to the southwest of the junction of Acres Lane and Cecil Street. The perimeter of the beer garden adjacent to Acres Lane and Cecil Street is enclosed by an approximately 1800mm high timber fencing, with the area of land enclosed being approximately 115m². The proposal also includes the provision of a covered smoking shelter with a covered area of approximately 38.5m² immediately adjacent to the PH building and an additional canopy covering a further 31m², resulting in approximately 50-60% of the enclosed beer garden being covered.

2.0 SITE AND SURROUNDINGS

2.1 The application relates to the Organ Inn Public House (PH), a two-storey building located on the south side of Acres Lane, Stalybridge. The PH is constructed of white-painted brick and black window frames. There is a bus stop immediately adjacent to the PH on Acres Lane, with the beer garden situated to the east of the PH and accessed via a side door to the pub building. There is an area of undeveloped land immediately to the south of the PH associated with a building to the south, used as a place of worship. Baker Street is adjacent to the west and Cecil Street adjacent to the east.

2.2 The PH is located in an area that is predominantly characterised by terraced residential dwellings, with some light industry and similar uses to the southwest and west. The site is proximate but not part of Stalybridge town centre.

3.0 PLANNING HISTORY

3.1 No relevant planning history identified.

4.0 RELEVANT PLANNING POLICIES

4.1 Tameside Unitary Development Plan (UDP) (2004)

4.2 UDP Allocation: Droylsden Town Centre Boundary

4.3 **Part 1 Policies:**

- 1.3 Creating a Cleaner and Greener Environment
- 1.5 Following the Principles of Sustainable Development
- 1.12 Ensuring an Accessible, Safe and Healthy Environment

4.4 **Part 2 Policies:**

- S7 Food and Drink Establishments and Amusement Centres
- S9 Detailed Design of Retail and Leisure Developments
- C1 Townscape and Urban Form
- T1 High Improvement and Traffic Management
- T10 Parking

4.5 **Other Policies**

Ministry of Housing, Communities and Local Government: National Design Guide

4.6 It is not considered there are any local finance considerations that are material to the application.

4.7 **National Planning Policy Framework (NPPF)**

The NPPF sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise.

Paragraphs of particular relevance to this application include:

- Section 2 Achieving sustainable development
- Section 6 Building a strong, competitive economy
- Section 8 Promoting healthy and safe communities
- Section 9 Promoting sustainable transport
- Section 12 Achieving well-designed places

4.8 **Planning Practice Guidance (PPG)**

This is intended to complement the NPPF and to provide a single resource for planning guidance, whilst rationalising and streamlining the material. Almost all previous planning Circulars and advice notes have been cancelled. Specific reference will be made to the PPG or other national advice in the Analysis section of the report, where appropriate.

5.0 **PUBLICITY CARRIED OUT**

5.1 Neighbour notification letters were issued in accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and the Council's adopted Statement of Community Involvement.

6.0 **RESPONSES FROM CONSULTEES**

6.1 Local Highway Authority: No objection to the proposal.

6.2 Environmental Health: No objections to the proposal subject to conditions added to limit the time of day and week that deliveries can take place, hours of use of the beer garden and limits on the activities that can take place within the beer garden.

7.0 SUMMARY OF THIRD PARTY RESPONSES RECEIVED

7.1 3 letters of objection have been received in relation to the proposal. The comments received have been summarised in brief below:

- Noise generation unacceptable in the predominantly residential setting of the area; and
- Inappropriate behaviour of patrons of the PH and associated beer garden.

8.0 ANALYSIS

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise.

8.2 The current position is that the Development Plan consists of the policies and proposals maps of the Unitary Development Plan and the Greater Manchester Joint Waste Plan Development Document.

8.3 The National Planning Policy Framework (NPPF) is also an important consideration. The NPPF states that a presumption in favour of sustainable development should be at the heart of every application decision. For planning application decision taking this means:-

- Approving development proposals that accord with the development plan without delay; and,
- Where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless:-
 - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or,
 - Specific policies in the Framework indicate development should be restricted.

8.4 In accordance with the revised NPPF and the Tameside UDP, the main issues raised by the application relate to the following:

- Principle of the development;
- Impact of the development on the character and appearance of the surrounding area;
- Impact on amenity; and,
- Impact on highway safety.

The above matters, and other considerations, are considered in more detail below.

9.0 PRINCIPLE OF DEVELOPMENT

9.1 The site is situated on land immediately to the south of the Stalybridge town centre boundary, though does not form part of it. The proposal is associated with the established adjacent public house immediately to the west. It is noted that the hospitality industry has a major role in supporting the local economy. The proposals would complement the existing use and add to the overall vibrancy and vitality of the PH. Subject to other considerations the proposals are compatible with the land use allocation.

10.0 CHARACTER OF THE SURROUNDING AREA

10.1 Part 1 Policy 1.3 of the UDP describes that to enhance the appearance of the Borough for the benefit of existing residents and to help attract new investment, all developments must achieve high quality design which is sensitive to the character of the local area, particularly

in the relationship between buildings, between buildings and adjoining spaces, and in associated landscaping.

- 10.2 Policy C1 states that in considering proposals for built development, the Council will expect the distinct settlement patterns, open space features, topography, townscape and landscape character of specific areas of the Borough to be understood, and the nature of the surrounding fabric to be respected. The relationship between buildings and their setting should be given particular attention the design of any proposal for development. This is consistent with requirements of Policy S7 and Policy S9 insofar as the impact on the character of the area.
- 10.3 The development has changed the use of previously vacant land to an enclosed beer garden. The open land was not designated and was of low amenity value. As such, though loss of open space should be discouraged, the loss of this particular open space is considered to have overall limited impact on local amenity. It is noteworthy that the application site is located close to Cheetham Park.
- 10.4 The erection of timber boundary fencing has had limited overall impact on the character and appearance of the surrounding area, given the relatively dense form of surrounding development and enclosed streetscape.
- 10.5 Though somewhat out of keeping to the surrounding area and relatively significant, the proposed outdoor canopies/covered areas are not substantial structures and would continue to be subordinate to the public house itself. As such, though there will be some limited impact to the character and appearance of the surrounding street scene, the impact would not be so great so as to warrant refusal of the application.
- 10.6 In terms of design and appearance, the proposal is acceptable on balance and complies with UDP Policy C1 and the National Planning Policy Framework.

11.0 AMENITY

- 11.1 As part of its underlying drive to promote sustainable development, paragraph 127(f) of the revised NPPF states that a high standard of amenity should always be sought for all existing and future occupants of land and buildings. As above, Policy C1 of the UDP states that the relationship between buildings and their setting should be given particular attention in the design of any proposal for development and policies S7 and S9 allude to the need to not unduly impact upon residential or other sensitive uses.
- 11.2 The site is located close to Stalybridge town centre, though not part of it. There are residential dwellinghouses located along the south side of Acres Lane and east side of Cecil Street, which are proximate to the site of the beer garden and associated structures. There are further residential dwellinghouses opposite the PH and beer garden, on the north side of Acres Lane, which face the PH and beer garden. Residential uses are considered to conflict with the proposed beer garden use. Land uses to the south (place of worship) and to the southwest and west (light industrial/undeveloped land) are considered to be less sensitive to the form of development proposed.
- 11.3 In terms of consideration to amenity, insofar as potential noise and disturbance matters are concerned, consultation with Environmental Health has been carried out. Environmental Health raised concerns to the proposal given complaints received relating to excessive noise and some instances of antisocial behaviour associated with the use of the land as a beer garden. Upon further discussion and consideration with Environmental Health, it was agreed that there is adequate scope to minimise potential noise disturbance to neighbouring occupiers, by the application of reasonable and enforceable planning conditions. However, it was agreed that it would also be reasonable to grant a temporary planning permission to

enable a period in which the impact could be assessed and monitored, and to ensure that the conditions proposed would be adequate and enforceable to limit amenity impacts on neighbouring occupiers to an acceptable level. A condition attached to the recommendation means that it would expire on 31 December 2021.

- 11.4 As the application is part retrospective and the change of use has already occurred, it has been demonstrated that the use class of an outdoor beer garden proximate to residential dwellinghouses is causing some impact on amenity by way of noise generation and, whilst not in itself a planning matter, antisocial behaviour.
- 11.5 In consideration of the planning merits, it is considered that the change of use and development of a beer garden is potentially compatible with the surrounding uses in this particular location. However, it is also demonstrated that the use needs further control by implementation of conditions to limit the time of use and type of activity within the beer garden proposed, particularly when considering the proximity to residential dwellinghouses. As such, the proposal complies with UDP Policies 1.12, S7 and S9 and it is considered that potential amenity impacts can be controlled through the imposition of planning conditions.

12.0 HIGHWAY SAFETY

- 12.1 The scheme proposed does not affect any highway issues other than an increase in the proposed floor area of the business. The Local Highway Authority (LHA) are satisfied that the lack of parking is mitigated by the business being located in a highly sustainable area with excellent transport links nearby. In the view of the LHA, the development does not have an unacceptable impact on highway safety, or consider that the residual cumulative impacts on the road network would be severe. Officers have no reason to disagree as such the development is considered to be acceptable in relation to highway safety and compliant with the NPPF, in particular paragraph 109.

13.0 OTHER CONSIDERATIONS

- 13.1 In light of the COVID-19 pandemic, the Government and Local Planning Authorities are mindful of the impacts of COVID-19 and social distancing requirements necessary to support businesses, as outlined within the Planning Update Newsletter dated July 2020 and subsequent Government announcements following the re-opening of outdoor business on 12 April 2021.
- 13.2 The proposal provides flexibility to the use of the public house by allowing outdoor seating - enabling the business to maximise their capacity and prosper whilst adhering to social distancing guidelines. The current government guidelines allowing flexibility is a material consideration. It is considered, in this instance, that potential amenity impacts on neighbouring occupiers can be suitably mitigated through the application of appropriate planning conditions. As such, the wider benefits outweigh the potential limited impacts upon the amenity of neighbouring occupiers, particularly those residents in nearby dwellinghouses.

14.0 CONCLUSION

- 14.1 The proposed development is considered acceptable on balance. Although potential amenity impacts have been identified, it is considered that these impacts can be reduced to acceptable levels by using suitable planning conditions, recommended by Environmental Health. The proposal complies with Policies 1.12, S7 and S9 of Tameside's adopted Unitary Development Plan or Paragraph 180 of the National Planning Policy Framework.

RECOMMENDATION

Grant planning permission subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan, Proposed Block Plan and Proposed Site Plan (Drawing Number 429-03 dated 17 June 2020 and received by the Council 26 March 2021);
 - Proposed Site Plan with Annotations (Drawing Number 429-03 dated 17 June 2020 and received by the Council 26 March 2021); and,
 - Proposed Floor Plan and Roof Plan of Beer Garden Proposed (Drawing Number 429-05 dated 17 June 2020 and received by the Council 26 March 2021).

Reason: For the avoidance of doubt and to ensure a satisfactory standard of development in accordance with the policies contained within the adopted Tameside Unitary Development Plan and National Planning Policy Framework.

2. During demolition/construction, no work (including vehicle and plant movements, deliveries, loading and unloading) shall take place outside the hours of 07.30 and 18.00 Monday to Friday or 08.00 to 13.00 on Saturdays. No work shall take place on Sundays or Bank Holidays.

Reason: To protect the amenity of occupants of nearby properties/dwellinghouses in accordance with UDP Policies 1.12 and E6.

3. The beer garden hereby permitted shall not be used outside the hours of 0900 to 2100 hours.

Reason: To protect the amenities of occupants of nearby properties/dwellinghouses in accordance with UDP Policies 1.12 and E6.

4. No public address system, television set, amplified music or musical instruments or similar shall be relayed or played in the beer garden/outside area hereby permitted

Reason: To protect the amenities of occupants of nearby properties/dwellinghouses in accordance with UDP Policy 1.12.

5. The use of the external area to the side (northeast) of the existing building as a beer garden area is hereby approved for a limited time period only, expiring on 31 December 2021. After this date, the external drinking/eating area shall not be used for that purpose and shall not be accessible by customers at any time except for purposes of emergency evacuation of the building.

Reason: In order that the Local Authority may have the opportunity of reviewing the impact of the development on the amenity of occupants of other properties and in the interests of residential amenity having regard to Policies S4, S7 and E6 of the Tameside Unitary Development Plan.