

**DELEGATED**

**AGENDA NO.**

**PLANNING COMMITTEE  
27<sup>th</sup> June 2007**

**REPORT OF CORPORATE DIRECTOR  
OF DEVELOPMENT AND  
NEIGHBOURHOOD SERVICES.**

**07/0815/FUL**

**The Roundel, Mitchell Avenue, Thornaby  
Construction of new paved seating area with 'jumbrellas'.**

**Expiry date: 14<sup>th</sup> May 2007**

**Summary:**

The application site is a public house known as the 'The Roundel' Mitchell Avenue, Thornaby, located in predominantly a residential area with properties to the South and East at Stainsby Gate, Thornaby, to the West along Mitchell Avenue and the main highway of Acklam Road to the North. To the rear of the premises, there is a large car park area.

The application description has been subsequently revised and should only include the erection of 3no. 'Jumbrellas', as the proposed paved seating area, has been removed from this application by the applicant, due to concerns raised by the case officer and neighbouring residents.

To the front area of the public house, which faces onto Mitchell Avenue, there is an existing seating area. The proposed 'Jumbrella's will be erected within this location, which is considered to not have a significant increase or unacceptable impact on the amenity of existing residents, in terms of noise and disturbance and it is considered that the proposed developments are of a scale, design and proportion that complement the existing property.

Five letters of objection and one petition with 33 signatures to the initial scheme have been received and one letter of objection has been received with respect to the revised scheme.

The application is considered to accord with policies GP1 of the Stockton on Tees Local Plan and it is recommended that the proposal be approved.

**RECOMMENDATION**

***It is recommended that the application (07/0815/FUL) be approved subject to the following conditions:***

- 01. The development hereby approved shall be carried out in accordance with the following approved plan(s): - unless otherwise agreed in writing with the Local Planning Authority.  
Drawing Number(s): -SBC0001, DRWG NO.1061/02B**

**Reason: To define the consent**

- 02. Details of all external finishing materials shall be agreed with the Local Planning Authority before the development is commenced.**

**Reason: To reserve the rights of the Local Planning Authority with regard to these matters.**

- 03. Details of all external lighting of the structure hereby permitted shall be submitted to and agreed in writing with the Local Planning Authority before such lighting is erected. Before the use commences, such lighting shall be shielded and aligned to avoid the spread of light in accordance with a scheme to be submitted to and agreed in writing with the Local Planning Authority and thereafter such lighting shall be maintained to the same specification and adjusted, when necessary, to the satisfaction of the Local Planning Authority.**

**Reason: To avoid light pollution in the interests of the visual amenities of the area.**

- 04. No music shall be played within or transmitted from the structure hereby permitted.**

**Reason: In the interests of the occupiers of adjoining and nearby premises.**

**The Proposal has been considered against the policies below and it is considered that the scheme accords with these policies and the proposal is in keeping with the property and the street scene in terms of style, proportion and materials and does not involve any significant loss of privacy and amenity for the residents of the neighbouring properties and there are no other material considerations which indicate a decision should be otherwise.**

**Adopted Stockton on Tees Local Plan (June 1997)  
GP1 General Principles**

## **BACKGROUND**

1. The application site previously had 2no. planning permission applications refused for a beer garden within applications 91/1660/P and 97/1798/P. These were with respects to the proposals being sited to the front open area and a revised location, similar to the current submission. Both applications were dealt by

planning committee members and refused on the grounds of highway safety and noise and disturbance.

## THE PROPOSAL

2. The application proposes the erection of 3no. 'Jumbrellas' within the existing curtilage and seating area, located on the North West point of the public house. One of the proposed 'Jumbrellas' will be incorporated for the use of a smoking area to meet the requirements for the new smoking legislation, which comes in to force on the 1<sup>st</sup> July 2007.

## PUBLICITY

3. The neighbours have been notified individually. The initial neighbour consultation period expired on the 23<sup>rd</sup> April 2007. Six letters of representation relating to the proposed development were received from neighbouring residents. The second neighbour consultation period with respects to the revised plans, expired on the 21<sup>st</sup> May 2007 and received one letter of objection.

The comments made can be summarised as follows: -

Mr John Darbyshire, No.7 Stainsby Gate, Thornaby

4. Summarised:  
Objects to proposal on grounds that previous applications for tables and drinking outside were refused and the reasons being still valid; increase disturbance from customers; increase in noise from music, car doors, taxi horns; my bedroom overlooks the car park area and object on grounds of increase in noise and disturbance.

Kathleen McCabe, No.1 Stainsby Gate, Thornaby

5. Summarised:  
Objects to proposal on grounds that the proposal is to attract customers to drink and smoke, which will increase noise, music and strong lighting. Have had previous anti-social behaviour from customers at my property and the proposal will impact on the elderly people, whom live opposite the public house for a continual 24 hours.

Roland Hillary by Email

6. Summarised:  
Objects to proposal on grounds that, he resides a distance of 100 metres of the public house and a proposed seating area has been refused on two previous occasions and have concerns regarding children being in close proximity to two major road. Therefore ask the planning application to be refused.

Mr & Mrs Jones, No.6 Stainsby Gate, Thornaby

7. Summarised:

Objects to proposal on grounds that the proposal is a beer garden and two previous applications have been refused in the past on the grounds of noise and disturbance. Concerns regarding using the area after 10.30pm, if permission is granted and will increase noise and disturbance issues.

Dr. Graham L.Cain, No.3 Stainsby Gate, Thornaby

8. Initial consultation:

Summarised:

Objects to proposal on grounds that the proposal is a beer garden and two previous applications have been refused in the past on the grounds of noise and disturbance; close to pensioners bungalow on Mitchell Avenue; previous complaints on noise and rowdiness; concerns of music being played within the area; highway safety concerns with respects children and close proximity to the highways; public safety issues, as glasses have been found within the grassed area and front gardens of nearby properties; the application is invalid because no notices have been advertised within the premises and only a few residents have been notified.

Second Consultation:

Summarised:

Objects to the application again and would like to see the removal of the smoking area at the South West Corner of the site; applicant advised at licensing committee that this smoking area would be removed; the smoking area will increase noise and disturbance issues to nearby properties along Mitchell Avenue till closing time.

## **CONSULTATIONS**

9. **Environmental Health**

Further to your recent memorandum regarding the amended/superseding plans for the above, I would alter my comments to no objection and recommending only one condition.

1. Food and/or drink shall not be consumed in the external seating/ smoking area after 22:30. There shall be no music played in the external seating/smoking area, and no use of flood lighting likely to cause a nuisance to local residential properties.

10. **Urban Design - Engineers**

I have no adverse comment to make regarding this application.

11. **Councillors**

No comments received

## **PLANNING POLICY CONSIDERATIONS**

12. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. In this case the relevant Development Plan is the Stockton on Tees Local Plan (STLP).
13. The following planning policies are considered to be relevant to the consideration of this application:

### **Adopted Stockton-on-Tees Local Plan**

#### Policy GP1

Proposals for development will be assessed in relation to the policies of the Cleveland Structure Plan and the following criteria as appropriate:

- (i) The external appearance of the development and its relationship with the surrounding area;
- (ii) The effect on the amenities of the occupiers of nearby properties;
- (iii) The provision of satisfactory access and parking arrangements;
- (iv) The contribution of existing trees and landscape features;
- (v) The need for a high standard of landscaping;
- (vi) The desire to reduce opportunities for crime;
- (vii) The intention to make development as accessible as possible to everyone;
- (viii) The quality, character and sensitivity of existing landscapes and buildings;
- (ix) The effect upon wildlife habitats;
- (x) The effect upon the public rights of way network.

### **MATERIAL PLANNING CONSIDERATIONS**

14. The main planning consideration in respect of this proposal is the impact on the amenity of the occupants of neighbouring properties and the impact on the street scene and visual amenity with the proposed development.

#### Street Scene

15. The area the subject of the application is sited fronting onto Mitchell Avenue a distance of 15.0 metres (approx.) from the highway with Mitchell Avenue and 45.0 metres (approx.) away from the nearest bungalow at No.2 Mitchell Avenue, on an orientation away from the nearby residential properties at No. 5 & 6 Stainsby Gate, which are located a distance of 32.0 metres (approx.) away. There is a row of mature trees, sited along the highway of Acklam Road and Mitchell Avenue.
16. It is considered, that the designs of the structures are light and punctuated and are of an appropriate design that matches the existing premises. This coupled with its scale, location being sited away from the highway of Mitchell Avenue/Acklam Road and by the imposition of a planning condition controlling finishing materials of the structures, it is considered that there will not be an adverse impact on the street scene.

### Amenity

17. Given that the development is to be sited within the same floor space as the existing seating area, and the use is in accordance with the lawful use of the site, it is not considered that this small outdoor seating area would have an unacceptable impact on the amenity of existing and future occupiers of neighbouring properties, in terms of noise and disturbance as this is not a material planning consideration.
18. Notwithstanding the planning use situation, the Environmental Health manager takes the view that the proposal would not give rise to unacceptable impacts of noise and disturbance.
19. Furthermore, restrictions have been placed upon a Licensing application, that no food or drink shall be consumed within the external seating area after 22.30pm, therefore, addressing the concerns of the neighbouring properties.

### Highway Safety

20. The Head of Technical Services has commented that he has no adverse comments to make regarding this application. Therefore, the development raises no highway safety concerns.

### Other issues

21. The planning history of the site indicates that there have been two previously refused applications for the creation of a Beer Garden 91/1660/Pand 97/1798/P, which were determined by the Planning Committee on the grounds of highway safety and noise and disturbance impacts. However since that time Planning Law has been clarified and the creation of a Beer Garden within the curtilage of Public House does not require planning permission
22. With regard to this application there are no objections by the statutory consultees to the previously raised concerns about highway or noise and disturbance impacts. Consequently, there is no evidence from these consultees to warrant refusal of the application on highway safety and noise and disturbance issues as raised by the objectors.
23. The issues raised about anti-social behaviour from customers of the public house towards neighbouring properties, are matters that are dealt with by other statutory bodies such as the Police and the Licencing division. Therefore, cannot be taken into consideration in determining this application.
24. With respects to the proposed smoking area, the revised position, is considered to be acceptable, due to the distance from the properties along Mitchell Avenue and there being a main highway dividing the area; therefore the potential for noise intrusion and nuisance to these properties, will be further reduced as background vehicle noise will be more prominent. On this basis, there are no grounds for refusal for this part of the proposal, as requested by one of the objectors.
25. In relation to the questioning of the validity of the application and its publicity, neighbour consultation was carried out and requisite notice was served on

adjoining owners or occupiers and the requirement for a site notice for this type of development would not be required, therefore the application is valid.

## **CONCLUSION**

26. It is considered that having regard to all material planning considerations that the structures subject to the imposition of the conditions proposed would not have an adverse impact on the amenity of neighbouring occupiers by virtue of noise and disturbance, the design and scale is appropriate to the building, would not detract from the quality of the street scene and would have no impact on highway safety. The proposed development would therefore accord with policy GP1 of the Adopted Stockton on Tees Local Plan and is considered acceptable.

### **Corporate Director of Development & Neighbourhood Services**

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### **Financial Implications**

As report.

### **Environmental Implications**

As Report

### **Community Safety Implications**

N/A

### **Human Rights Implications**

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

### **Background Papers**

Stockton-on-Tees Local Plan

Planning Applications 91/1660/P & 97/1798/P.

### **Ward**

Stainsby Hill

### **Ward Councillors**

Councillor Eileen Craggs

Councillor Sylvia Walmsley