

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

DATE 9 April 2008

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

08/0398/FUL

**The Merlin Public House, Marsh House Avenue, Billingham
Timber enclosed area and planters with flat roof canopy over and flat roof canopy over
entrance.**

Expiry Date 18 April 2008

SUMMARY

Planning permission is sought for the provision of an enclosed timber framed area and planters with flat roof canopy over and flat roof canopy over entrance The Merlin Public House.

The planning application has been publicised by means of individual letters, and 5no letters of objection have been received from local residents and 1no letter of objection from one of the Ward Councillors Councillor C Leckonby. There have been no objections from consultees subject to replacement planting and the appropriate colour staining of the timber structure.

The main planning considerations relate to the impact on the character of the area and street scene, impact on the amenity of the occupants of neighbouring properties, highway safety, and landscaping.

It is considered that overall the proposed development is acceptable and is accordingly recommended for approval with conditions.

RECOMMENDATION

It is recommended that planning application 08/0398/FUL be APPROVED subject to the following conditions:

- 01 *The development hereby approved shall be in accordance with the following approved plan(s); unless otherwise agreed in writing with the Local Planning Authority.***

<i>Plan Reference Number</i>	<i>Date on Plan</i>
<i>SBC0001</i>	<i>18 February 2008</i>
<i>0001/08/01</i>	<i>18 February 2008</i>
<i>0001/08/02</i>	<i>18 February 2008</i>
<i>0001/08/03</i>	<i>18 February 2008</i>
<i>0001/08/04</i>	<i>18 February 2008</i>

Reason: To define the consent.

- 02. The tree to be removed shall be replaced with a specimen or a type and species to be agreed with the Local Planning Authority, before the removal of the tree and which is to be planted within the first planting season following the removal of the tree. Should the replacement tree die, become damaged or diseased within five years it shall in turn be replaced within the first planting season following its demise with a species to be agreed in writing with the Local Planning Authority.**

Reason: In the interests of the visual amenities of the area.

- 03. The timber enclosure, decking and planters hereby permitted shall be finished in accordance with a colour scheme to be agreed in writing with the Local Planning Authority.**

Reason: To enable the Local Planning Authority to control details of the proposed development.

- 04. Any internal or external lighting shall be shielded and arranged so as not to shine directly towards any dwelling and prevent any light spillage beyond the boundary of the premises, details of which must be submitted to and approved in writing by the Local Planning Authority prior to installation.**

Reason: To prevent light pollution in the interests of the amenity of neighbouring properties.

The proposal has been considered against the policies below and it is considered that the scheme accords with these policies as the development is acceptable in visual terms, does not involve any significant loss of privacy and amenity for the residents of the neighbouring properties and has no adverse impact on access and highway safety, 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**

INFORMATIVES

The approval of this application does not confer any other necessary consent, nor does it mean it complies with the Smoke-free (Premises and Enforcement) Regulations 2006. You are advised to contact the Environmental Health Section of the Council to ascertain the legitimacy of the structure to be used as a smoking shelter and any effect this will have on the licence for the premises.

BACKGROUND

- 1. Planning permission was sought for the erection of an external seating area (07/2166/REV). The proposed seating area measured 6.95 metres x 8.6 metres and consisted of timber decking with timber balustrade around to house 8no tables and associated furniture. Access was to be provided via steps and a ramp.**
- 2. The application was refused as the applicant failed to demonstrate that the proposal would not lead to the reduction of the car parking provision for the public house through the loss of car parking spaces, and the proposed decking area, by virtue of its siting and proposed**

use, would have resulted in the congregation of patrons in one area resulting in an increase in noise generation and disturbance to local residential properties.

PROPOSAL

3. Planning permission is sought for the creation of an enclosed area and canopy to the north of The Merlin Public House and also for the provision of a canopy on the southern elevation.
4. This scheme is in response to the new smoking legislation which came into force on the 1 July 2007 banning smoking in enclosed public places and the proposed shelter will allow the external area to be used by smokers and patrons in adverse weather conditions.
5. The proposed enclosed area will measure 6.7 metres reducing to 5.1 metres in width x 8.5 metres long and will be defined by the erection of a 1.5 metre high close boarded fence with 500mm trellis on top. A fixed canopy is also proposed over part of the area to provide shelter from the elements. The canopy will measure 3.6 metres reducing to 2.5 metres in width x 5.5 long and the finishing materials will match the existing fascia.
6. The proposed canopy to the south will cover a side door and will measure 3 metres x 1.9 metres and will have a flat roof.

CONSULTATIONS

The following Consultations were notified and comments received are set out below:-

Urban Design

Highways Comments

7. Given that the timber decking is not to be situated across the existing car park or footpaths, I have no objection to this application on highway grounds.

Landscape & Visual Comments

8. I have visited the site and considered the submitted documents and would comment that the application is acceptable in principle on landscape and visual terms subject to the issues below being resolved to the acceptance of the LPA. However despite the above I must stress that I feel that an important opportunity has been lost to retain what appears to have been a healthy existing mature tree with reasonable amenity value in an area with limited trees. This could easily have been incorporated into the design by use of a feature tree seat and a partially suspended decking area as proposed. The tree has been carefully and deliberately ring barked in attempt to kill it. I would recommend the replacement tree provided is of a substantial size and TPO'd on planting, provision of fully detailed soft landscape proposals with maintenance arrangements, including fully detailed tree specification for replacement at semi mature size and approval of colour finish to fencing, planters and decking

Environmental Health Unit

9. I have some concerns about this development relating to noise and light pollution issues due to the close proximity of residential properties to the development. External use of these premises for drinking or smoking is currently unrestricted by either Planning or

Licensing requirements albeit there is no formal beer garden arrangement on site. I therefore do not object to this external drinking/smoking area providing that conditions are imposed to

1. Restrict customers from drinking outside the building in any other area than the external identified drinking smoking areas.
2. Adequate control measures are put in place to manage potential nuisance from the use of the external drinking smoking area.

I would therefore recommend that the following conditions be imposed should the development be approved. I am not aware of any application to vary the Premises licence conditions having been made as yet, so the proposed conditions are not yet imposed under either planning or licensing and need to be compatible with both.

- Food and drink shall not be consumed by customers outside the building except for in the external drinking/ smoking area.
- There shall be no music played outside the building or in the external drinking/smoking area.
- Glassware of any type shall not be allowed to leave or enter the premises building under the customers care. Customers using the external area shall not be permitted to take glassware outside.
- Appropriate management controls to reduce the likelihood of customers causing a noise disturbance to local residents when using the external drinking/ smoking area should be implemented. This should include fixing in a place where they can be seen and easily read by the public, notices requiring customers to use the seating/smoking area quietly and regular supervision by staff.
- Adequate screening shall be provided and maintained to protect residential properties from light intrusion and visual dis-amenity from the external drinking/smoking area but shall remain compliant with smoke free legislation requirements.
- Any external lighting provided shall be arranged so as not to shine directly towards any dwelling and shall be shielded to prevent light spillage beyond the boundary of the property.

Councillor C Leckonby

10. I have looked at the plans etc for the timber decking area and planters and have no objection to the application.

Updated Comments

11. When I sent in my last comments where I had no objection, this has now changed, as then I hadn't been contacted by any residents. Since then I have been contacted by the residents below who object to the application.
I therefore now object to the planning application in line with the residents.
- Mr and Mrs O. Smart, 32 Sherburn Ave
 - Mr and Mrs J Turnbull, 61 Sherburn Ave
 - Mr and Mrs K. Pitt, 63 Sherburn Ave
 - Mr and Mrs H Emerson, Bolam Drive

Resources Valuation Section

12. No comments made

Councillor M Smith

13. No comments made

Councillor H Aggio

14. I am in receipt of and having looked at the proposed Planning detail re the above for Timber decking area and planters with flat roof canopy over and flat roof canopy over entrance, and I have no objections for this to go ahead.

PUBLICITY

The planning application has been publicised by means of individual letters to neighbouring premises and five letters of objection have been received

Mr Brown, 18 Wallington Road' Billingham

15. I object to the application as this as the noise nuisance that we suffer will be worsened. We have no objection to people enjoying a drink and socialising outdoors but object to shouting and bad language.

Mr And Mrs Emmerson, 17 Bolam Grove' Billingham

16. Will affect residents due to noise in the evening
Children will hang around the car park to a greater extent than at present

Mr K Pitt, 63 Sherburn Avenue' Billingham

17. I object as the extension will increase the size of the area for the sale & consumption of alcohol & extend beyond its existing building line & there is already seating at the front of the premises.

Health & Safety Reasons: No supervision to prevent anti-social behaviour, non-compliance with the smoking legislation or underage drinking. There may be broken glass & the facility is close to a car park which is a danger to children.

Environmental Grounds: This will necessitate the removal of a landscaped area & tree detracting from the visual aesthetic environmental view of the premises for residents. The comments that the existing tree adjacent to the north wall of the public house has been carefully & deliberately ring barked in an attempt to kill it. shows a total lack respect of the local environment, planning laws & stewardship by those charged with the maintenance & upkeep of the premises & action should be taken to repair the damage to the tree or application made for removal. This highlights the lack of supervision of this area of the premises.

Local residents are constantly affected by noise pollution & the provision of an extended area will add to this noise pollution. The potential to add heating to this area to extend its use in the autumn would increase the carbon footprint of the building

Other Matters: There is a table fixed in the car park to the south of the building, which is extremely venerable to cars using the car park as it has no protection & encourages young children to play in the car park. The fire door adjacent to this table is constantly open where people come out of the bar to use the table.

I have no objection to an application for a canopy at the front of the premises to cover the seven tables at the front of the premise. These tables can be seen from the bar & are used by people who smoke. I do however consider there should be a policy with regards to plastic glasses being used outside.

Mr And Mrs Smart, 32 Sherburn Avenue' Billingham

18. I object to the proposal as I the proposal will only lead to problems in terms of noise and disturbance and it will only bring more people outside and the management of the pub will be unable to control the noise levels. I feel that this is backed up by the fact that the noise level of the pub already disturbs us on a regular basis.

I also think that the development will add to the problem that is already prevalent in the summer, and this is the problem of children being left unsupervised by patrons of the pub. I also think that this development will be only be deterrent to my families quality of life, and I will have to deal with more broken glasses around the immediate area around my house.

North Billingham Methodist Church c/o Mr J T Allan' 30 Driffield Way

19. Could be used a meeting place for youngsters causing disruption to church groups

PLANNING POLICY

20. The relevant development plan in this case is the adopted Stockton on Tees Local Plan. Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plans are: - *the Tees Valley Structure Plan (TVSP) and the Stockton on Tees Local Plan (STLP)*.
21. The following planning policies are considered to be relevant to the consideration of this application:-

Policy GP1

22. 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.

SITE AND SURROUNDINGS

23. The application site is a public house located on Marsh House Avenue, Billingham which is a flat roof building surrounded by a large car park.
24. Beyond the car park to the north of the site is an area of open space with residential dwellings beyond, to the rear (east) of the site are residential properties and opposite to the west are a Church and a newly constructed nursing home. To the south of the site is Billingham Campus School.

MATERIAL PLANNING CONSIDERATIONS

25. The main planning considerations of this application are the impacts on the character of the area and the building, impact on the amenity of the occupant and users of neighbouring premises of the surrounding properties, access and highway safety, and consideration of landscape and visual amenity.

DECKING AREA

Character of the Area

26. The application site is a small grassed area between the existing public house and the surrounding car park. There is no dominant character in the area, which consists of a plethora of buildings, uses materials and styles.
27. It is considered that the proposed development, by virtue of its size and positioning, would be visible when approaching the site from the north, however the provision of planters along the north and east elevation will soften the appearance of the structure.
28. It is considered that with the staining of the timber structure in an appropriate colour and the provision of planting that the proposal will not have an adverse effect on the character or appearance of the area.

Highway Safety

29. The proposed enclosed area will be sited alongside the existing car park, but can only be accessed via a lockable gate to the front.
30. The Head of Technical Services has no objections to the application given that the area is not to be situated across the existing car park or footpaths.
31. Objectors state that the car park is used for children to gather, however it is considered that this proposed scheme would not exacerbate this problem and any problems of this nature are outwith planning control and will be dealt with by community wardens or police.

Landscaping

32. The proposed scheme will be erected on a small-grassed area with a mature tree. The tree will be removed and replaced with a suitable specimen to be agreed.
33. The Head of Technical Services visited the site and commented that the application is acceptable in principle on landscape and visual terms subject to conditions relating to the provision of fully detailed soft landscape proposals with maintenance arrangements, including fully detailed tree specification for replacement at semi mature size and approval of colour finish to fencing, planters and decking
34. The Head of Technical Services also states that the tree has been carefully and deliberately ring barked in attempt to kill it, and objectors request that action should be taken to repair the damage to the tree or application made for its removal. The Head of Technical Services comments that tree could easily have been incorporated into the design by use of a feature tree seat and a partially suspended decking area as proposed. However this tree is not protected by a Tree Preservation Order and is terminally damaged. It is considered that removal of this tree is acceptable subject to a suitable replacement as detailed above.

Noise and Amenity of neighbours

35. The proposed development is located on the north elevation of the public house and objectors' state that the proposal will result in additional noise nuisance, possible anti-Social Behaviour, an additional drinking area and supervision problems.
36. This element of the proposal would be located on the elevation of the public houses, 40 metres from the nearest residential property on Bolam Grove.

37. This area is enclosed and accessed via a gate, which will be locked when not in use to prevent misuse and part of the area is covered to allow shelter from the elements. The front beer garden will remain for patrons to enjoy outdoor drinking/socialising
38. The previous application was refused, as it was considered that it lead to large numbers congregating in a large open area, which would have encouraged patrons to the area on sunny days.
39. In this case it is considered that the proposed shelter will not allow significant numbers of people to gather with the limited seating to be provided. It is likely that the scheme would help contain the noise and avoid the smoking patrons spilling out into the car park close to their properties.
40. The Environmental Health Manager has some concerns about this development relating to noise and light pollution issues due to the close proximity of residential properties, however acknowledges that the external use of these premises for drinking or smoking, has currently, limited restrictions in place by either Planning or Licensing requirements albeit there is no formal beer garden arrangement on site. Taking this into consideration no objections have been raised to this external drinking/smoking area providing that conditions are imposed to restrict customers from drinking outside the building in any part of the site to clearly defined controlled areas such as the proposed external drinking/smoking area and adequate control measures are put in place to manage potential nuisance from the use of these external drinking/smoking areas.
41. These conditions can be dealt with under Licensing and The Smoke-free (Premises and Enforcement) Regulations 2006, which are enforced by Environmental Health and although the Environmental Health Manager is not aware of any application having been made as yet, will be suggesting conditions to be placed on the licence to prevent food and drink being consumed by customers outside the building except for in the defined external drinking/ smoking areas. No music played outside the building or in the external drinking/smoking areas, No glassware allowed to leave or enter the premises building under the customers care and appropriate management controls to reduce the likelihood of customers causing a noise disturbance to local residents when using the external drinking/ smoking area should be implemented. Conditions were also suggested relating to lighting which has been added accordingly.
42. Taking the above licensing controls into account it is considered that the proposed enclosed area will result in less disturbance for residents as the variation of the licence will enable the local authority to place stricter controls on the outside areas and their use preventing patrons using the car park for drinking.
43. Overall it is considered that the proposed shelter would be unlikely to cause an increase in noise and disturbance as the hours of use and management of the proposed shelter can be controlled by the licensing section to avoid any adverse impacts from noise and disturbance to nearby residents and the development 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.

CANOPY

44. The proposed canopy is located to the side of the building and will not be a prominent feature on the existing building or look out of character in the area.

- 45 No adverse effects will be caused by the erection of the canopy as it will be screened from neighbouring properties from the existing building which should provide a buffer to any noise from this area.

Other Matters

Use of heating

46. One objector stated that if heating was added to this area to extend its use in the autumn would increase the carbon footprint of the building, this again is not a planning matter.

CONCLUSION

- 47 In conclusion it is considered that the proposed development would be unlikely to cause an increase in noise and disturbance or significant loss of privacy and amenity for the residents of the neighbouring properties, or have an adverse effect on highway safety and landscaping and the development is in keeping with the property and the street scene in terms of style, proportion and materials.

Corporate Director of Development and Neighbourhood Services
Contact Officer Mrs Elaine Atkinson Telephone No 01642 526062

Financial Implications.

None

Environmental Implications.

As Report.

Community Safety Implications.

Not Applicable.

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.

Adopted Stockton on Tees Local Plan (June 1997)

WARD AND WARD COUNCILLORS

Ward **Billingham North**
Ward Councillor **Councillor Colin Leckonby**

Ward **Billingham North**
Ward Councillor **Councillor Hilary Aggio**

Ward **Billingham North**
Ward Councillor **Councillor Apedaile**