

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

15th August 2018

**REPORT OF DIRECTOR,
ECONOMIC GROWTH AND DEVELOPMENT**

18/0244/COU

The Keys, 65 High Street, Yarm

Proposed change of use of the rear landscaped garden area to a beer garden (A4)

Expiry Date 6 July 2018

SUMMARY

The application seeks change of use of an existing landscaped garden area owned by the keys and located to the rear of the existing terrace area to be brought into use by the Keys as an outdoor seating area for eating and drinking.

There are 10 letters of objection to the proposal.

The Head of Environment Health raises no issues in regards to the impacts on residential amenity and noise providing appropriate controlling conditions are put in place in respect of operating hours and numbers of patrons using the garden area.

The application is therefore recommend for approval with appropriate conditions for the reasons set out in the officers report.

RECOMMENDATION

That planning application 18/0244/COU be approved subject to the following conditions and informative below;

- Approved Plans;**
01 **The development hereby approved shall be in accordance with the following approved plan(s);**

Plan Reference Number	Date on Plan
1557/002	2 February 2018
1557/001C	2 February 2018

Reason: To define the consent.

- Customer numbers;**
02. **The cumulative number of customers using any of the outdoor areas associated with the Keys at any one time shall not exceed 62 patrons.**

Reason: In the interest of the amenities of neighbouring residential properties in respect of noise and nuisance.

Hours of use:

03. **The A4 beer garden area hereby approved shall not be open for use or occupied by customers outside of the hours of 10.00hrs and 21.00 hours 7 days a week.**

Reason: To ensure a satisfactory form of development in respect of amenity and noise to neighbouring residential properties

INFORMATIVE OF REASON FOR PLANNING APPROVAL

Informative: Working Practices

The Local Planning Authority has worked in a positive and proactive manner and sought solutions to problems arising in dealing with the planning application by gaining additional information required to assess the scheme and by the identification and imposition of appropriate planning conditions.

BACKGROUND

1. The application site has an extensive planning history associated with its use. These include various alterations and extensions (ref; 06/3333/FUL; 12/0755/FUL; 14/1361/FUL; 14/1362/LBC; 15/1916/REV; and, 16/0500/FUL).
2. Specific applications relevant to the piece of land proposed for change of use include:

- 03/1695/P Conservation area consent for demolition of cottage (Wingrove Cottage to the rear of the Cross Keys 65-67 High Street Yarm) Approved with conditions 21st October 2003

This application placed the following condition on the remaining land:

The vacant land resulting from the demolition of the structure shall not be used in connection with the adjacent public house. Rather than the land shall be landscaped in accordance with a scheme to be submitted to and approved in writing before the demolition takes place and thereafter implemented to the satisfaction of the Local Planning Authority within the first planting season following the demolition of the structure.

- 06/2450/COU Retrospective application for change of use of a section of residential garden to beer garden and relocation of fence- Appeal Allowed 24th May 2007
- 16/2147/CPE Application for certificate of lawfulness for the existing change of use of land to a beer garden (A4 use class). Refused on the 7th November 2016 for the following reason:

On the balance of probabilities, the evidence submitted does not satisfy the Local Planning Authority that the area of land as indicated on the submitted plan (ref SBC0001), has been used as a beer garden for a continuous 10-year period.

3. Adjoining the site number 6 High Church Wynd has recently been subject to two relevant planning applications. Application number 14/ 1579/COU for Change of use of part of garden of No 6 High Church Wynd to provide a children's play area in association with the Keys, High

Street, Yarm was refused on the 3rd of September. A revised application was submitted and approved at appeal application number 15/2008/REV.

4. A separate planning application which has been submitted for a proposed single storey extension, conversion of the garage into a habitable room and extension to the existing first floor external terrace (demolition of the existing conservatory) at the property is still under consideration (14/1450/FUL)

SITE AND SURROUNDINGS

5. The application site is the Keys Public House, 63-65 High Street Yarm. The property is a three storey, grade II listed building with later extensions to the rear. The application site lies within the Yarm Conservation Area within the Yarm District Centre which is a mix of commercial and residential properties.
6. The area proposed for change of use is an area of ornamental garden formed through the demolition of a previous cottage, Wingrove Cottage which was located to the rear (west) of the Keys site.
7. Directly to the rear of the pub, adjoining the garden area is an outdoor seating terrace/beer garden which includes a large seating pergola. This terrace area is currently separated from the ornamental garden by a 1m high timber fence.
8. Danby Wynd is located to the south and the more recent residential development at the end of the Old Market, Arkright House adjoins the garden on the south west boundary. To the east is the High Street and adjoining commercial units.

PROPOSAL

9. The application seeks planning permission for change of use of the existing garden area to be used as a beer garden in association with the public house, The Keys. The area proposed for change of use is an area of ornamental garden formed through the demolition of the previous cottage, Wingrove Cottage. Although in the ownership of the Keys, this area of garden has a condition attached as part of this previous planning approval (03/1695/P) that it shall remain as ornamental garden and not as an additional area for the public house.
10. A change of use is therefore required to use this area in association with the commercial operation of the Keys. The garden area measures approximately 26m in length and is 7m wide.
11. It is landscaped and bounded by high boundary walls to the north and south elevations, where it abuts Danby Wynd and the garden area of 6 High Church Wynd with a 2,5m high timber fence to the west where the garden adjoins the car park of the Orchard. It is laid out with areas of paving with mature planting and ornamental trees.

CONSULTATIONS

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

Yarm Town Council

At last night's meeting of Yarm Town Council it was decided that an objection to this proposal should be notified.

The proposals would have a serious impact on the quality of life of residents in the area. High Church Wynd is residential along its length and the potential impact of a Beer Garden would be a huge burden for residents to bear, particularly in relation to noise and loss of privacy.

Joint Amenity Societies

Thank you for notifying the SPAB of the above application. Having reviewed the documentation available on your Council's website I advise that the Society does not wish to comment on this occasion. Please note however that this response should not be taken to imply support for, or objection to, the proposals.

Tees Archaeology

Thank you for the consultation on this application. I have checked the HER and can confirm that the proposed development should not have a significant impact on any known heritage assets.

Cleveland Police - no comments received

Environmental Health Unit

Comments

Following the submission of the Noise Report dated 10th May 2018 I have no objection to the application providing the following are adhered to at all times:

- The garden is not used outside the hours of 10:00- 21:00 on any day.
- The maximum number of patrons in the whole outdoor area does not exceed 62 at any one time.

Both of these controls are to be managed at all times by staff and management of the premises.

PUBLICITY

13. Neighbours were notified and 9 letter of objection were received: Objections were received from the following addresses:

- 1) Luke Harding ,10 High Church Wynd Yarm
- 2) Ken Twiss , 1 The Orchard High Church Wynd
- 3) Mr James Walker , 8 The Orchard High Church Wynd
- 4) Mr Nick Sutton, 6 The Orchard High Church Wynd
- 5) Mrs Gabrielle Snape 2 The Orchard High Church Wynd
- 6) Mr Tom Moffat , 1 High Church Wynd Yarm
- 7) Mr Paul Ketteringham , 26 Oughton Close Yarm
- 8) Margaret Whaler 2 Telford House The Old Market
- 9) Mr Craig Harrison , 23 Kirklevington Grange Yarm

Concerns relate to:

- Noise and disturbance, impact on peaceful enjoyment of homes as a result of the proposal
- a direct noise nuisance on the properties to the rear and all sides around the proposed area of The Keys.
- Unauthorised use of the area in the past
- Loss of privacy, overlooking of windows and balcony area

- The area of land in question is surrounded on all sides by large brick faces, of buildings (other people's houses) which create a courtyard effect, and harsh acoustic trap with any noise created slapping off the hard surfaces.
- Existing negative impact of the business on adjacent homes from noise particularly in the summer months from the existing terrace
- The area to the back of The Keys is primarily a residential area. The proposal will cause a negative impact to a large number of residences that are close to the proposed extension area.
- Impact on property re-sale values.
- This proposed beer garden will be used extensively during the summer months when I would like to use my balcony and have my patio doors open but will be unable to do so due to drinkers peering directly into my flat
- Impact on elderly residents
- Increased disruption and antisocial behaviour
- Over population of the garden is not managed or controlled with door staff who primarily cover the front of the property and would therefore be unable to manage any level of behaviour
- Development of every conceivable green space to the rear of Yarm high street brings no value to the surrounding area other than individual profiteering
- Development works will require access to transfer materials and as properties to the rear are under Private association control has a further interference factor based on whether the council approve such changes.
- Reference in the noise report emphasizing the number of personnel accessing the garden limited to 62 persons is never properly enforced by the management of The Keys.
- Actual numbers at the peak weather conditions are not controlled and adding to the available area will only encourage an increase of patrons well above the 62 referred, should the application be passed this will not be rigorously managed and pursuing issues will continue which council planning will be held accountable for.
- Stockton Borough Council is subject of ECHR Article 8, Article 1 of Protocol 1 and The Human Rights Act 1998. I believe that if this proposal is accepted, my right to a private and family life will be infringed as will my right to the peaceful enjoyment of my property.

PLANNING POLICY

14. 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 Plan is the Core Strategy Development Plan Document and saved policies of the Stockton on Tees Local Plan.
15. Section 143 of the Localism Act came into force on the 15 Jan 2012 and requires the Local Planning Authority to take local finance considerations into account, this section s70(2) Town and Country Planning Act 1990 as amended requires in dealing with such an application [planning application] the authority shall have regard to a) the provisions of the development plan, so far as material to the application, b) any local finance considerations, so far as material to the application and c) any other material considerations

National Planning Policy Framework

16. The purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three

overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives.

17. So that sustainable development is pursued in a positive way, at the heart of the Framework is a **presumption in favour of sustainable development** (paragraph 11) which for decision making means;

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Paragraph 127. Planning policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Paragraph 192. In determining applications, local planning authorities should take account of:

a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

c) the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 85. Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning policies should:

- a) define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters;

Paragraph 180 Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;

Local Planning Policy

18. The following planning policies are considered to be relevant to the consideration of this application.

Core Strategy Policy 1 (CS1) - The Spatial Strategy

1. The regeneration of Stockton will support the development of the Tees Valley City Region, as set out in Policies 6 and 10 of the Regional Spatial Strategy 4, acting as a focus for jobs, services and facilities to serve the wider area, and providing city-scale facilities consistent with its role as part of the Teesside conurbation. In general, new development will be located within the conurbation, to assist with reducing the need to travel

Core Strategy Policy 2 (CS2) - Sustainable Transport and Travel

1. Accessibility will be improved and transport choice widened, by ensuring that all new development is well serviced by an attractive choice of transport modes, including public transport, footpaths and cycle routes, fully integrated into existing networks, to provide alternatives to the use of all private vehicles and promote healthier lifestyles.

- iii) Across the Borough, to support regeneration proposals, including the Stockton Middlesbrough Initiative and to improve access within and beyond the City Region; and
- iv) To support sustainable development in Ingleby Barwick.

Core Strategy Policy 3 (CS3) - Sustainable Living and Climate Change

1. All new residential developments will achieve a minimum of Level 3 of the Code for Sustainable Homes up to 2013, and thereafter a minimum of Code Level 4.

3. The minimum carbon reduction targets will remain in line with Part L of the Building Regulations, achieving carbon neutral domestic properties by 2016, and non domestic properties by 2019, although it is expected that developers will aspire to meet targets prior to these dates.

8. Additionally, in designing new development, proposals will:

- _ Make a positive contribution to the local area, by protecting and enhancing important environmental assets, biodiversity and geodiversity, responding positively to existing features of natural, historic, archaeological or local character, including hedges and trees, and including the provision of high quality public open space;
- _ Be designed with safety in mind, incorporating Secure by Design and Park Mark standards, as appropriate;

_ Incorporate 'long life and loose fit' buildings, allowing buildings to be adaptable to changing needs. By 2013, all new homes will be built to Lifetime Homes Standards;

_ Seek to safeguard the diverse cultural heritage of the Borough, including buildings, features, sites and areas of national importance and local significance. Opportunities will be taken to constructively and imaginatively incorporate heritage assets in redevelopment schemes, employing where appropriate contemporary design solutions.

Core Strategy Policy 5 (CS5) - Town Centres

3. Billingham, Thornaby and Yarm will continue to function as district centres. Priority to regeneration initiatives will be given to:

- i) Thornaby centre
- ii) Billingham centre

Proposals which support Yarm's specialist niche role in offering higher quality comparison shopping, together with leisure and recreation opportunities will be supported, provided that the residential mix within the district centre is not compromised.

Saved Policy EN24 of the Stockton-on-Tees Local Plan

New development within conservation areas will be permitted where:

- (i) The siting and design of the proposal does not harm the character or appearance of the conservation area; and
- (ii) The scale, mass, detailing and materials are appropriate to the character and appearance of the area

Saved Policy EN28 of the Stockton-on-Tees Local Plan

Development which is likely to detract from the setting of a listed building will not be permitted.

MATERIAL PLANNING CONSIDERATIONS

19. The main planning considerations of this application are its compliance with the national and locally established planning policies, the impacts of the proposal on the character of the area, amenity of neighbouring occupiers particularly in regards to noise these and other material considerations are discussed below;

Principle of Development

20. The National Planning Policy Framework (2018) (the Framework) sets out the Government's planning policies for England. At its heart is a presumption in favour of sustainable development, and decision makers should look to approve development proposals that accord with up to date Development Plan policies without delay. The Framework also sets out a number of core planning objectives. Among these principles are the requirement to keep plans up to date and the need to promote the vitality of town centres. The NPPF advises Local Authorities of a presumption in favour of sustainable development with significant weight being placed on the need to support economic growth. The NPPF chapter 7 (Ensuring the vitality of town centres) offers further guidance on promoting competitive town centre environments, recognising town centres as being at the 'heart of their communities' and encouraging policies to support their viability and vitality, diversity and distinctive characteristics.

Existing use of the site;

21. The existing landscaped garden area was created as a result of a conservation area consent for demolition application in 2003 which allowed demolition of an existing residential cottage in poor condition (application 03/1695/P) As part of that planning approval a condition was placed on the approval which stated that the area *The vacant land resulting from the demolition of the structure shall not be used in connection with the adjacent public house. Rather than the land shall be landscaped in accordance with a scheme to be submitted to and approved in writing*

before the demolition takes place and thereafter implemented to the satisfaction of the Local Planning Authority within the first planting season following the demolition of the structure.

22. Subsequently although the garden area has been landscaped and owned by the Keys since that time, no approval has been given for the garden to be used in association with the public house. The application site is a commercial property situated in the limits to development within a defined district centre. The principle of the use of the garden area associated with an existing commercial business/ public house is therefore considered to be acceptable and in accordance with the aims of the NPPF and core strategy policy CS5 in respect of creating a mix of opportunities within town centres.
23. The proposal is therefore considered acceptable subject to all other considerations discussed in turn:

Impact on the character of the area/ Impacts on heritage assets

24. The proposal would not result in any significant visual change to the existing site with the addition of tables and chairs only which would be removable features. The garden is already landscaped with mature planting and is an attractive green space which forms part of the visual backdrop of the Keys.
25. The application does not propose any physical works to the existing garden area above and beyond placing of tables and chairs within the area. It is therefore not considered that the proposal raises any issues in respect of the setting of heritage assets including neighbouring listed buildings.
26. The existing established character of the site will be unaffected by the works and it is not considered that the use of the area for commercial purposes in association with the Keys would adversely impact on the character of the site or the wider Yarm Conservation area. It is considered that the proposal will preserve the character of the conservation area and is considered to be in accordance with saved policies EN24 and EN28.

Impacts on the amenities of the surrounding area:

27. The National Planning Policy Framework has a presumption in favour of sustainable development with under lying objectives an economic, a social and environmental objective. Paragraph 127 states that planning decisions should ensure that developments create places that are safe, inclusive and accessible, with a high standard of amenity for existing and future users. Additionally paragraph 180 of the NPPF states that development decision should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life. Core Strategy policy CS3 (8) states that in assessing planning applications they should make a positive contribution to the local area by protecting and enhancing important environmental assets, biodiversity and geodiversity responding positively to features of natural, historic, archaeological and local character, including trees and hedges and open space.
28. To the rear of the premises is a residential area with the property surrounding on the north, south and west boundaries by a mix of houses and flats. There have been 9 letters of objection received from neighbours and Yarm Town council have also objected to the proposal. The main neighbour concerns relate to the potential for noise and nuisance and the disturbance already generated from the Cross Keys, in particular the existing terrace/ beer garden and the resulting impacts on privacy and amenity to residential properties.

Noise and nuisance

29. It is recognised that the close grain of residential development to the rear of the property and the existing beer garden/ terrace area already has a degree of impact on the residential amenity of neighbouring properties. This is not uncharacteristic of a town centre environment

where you expect a certain reduction in amenity for residential properties in close proximity to commercial uses as a result of commercial comings and goings. There is an existing outdoor seating area associated with the Keys, notably the rear terrace and pergola which are located to the immediate rear of the building.

30. Planning permission was granted to extend the existing seating area partially into the restricted garden area through application 06/2450/COU. Whilst refused by the local planning authority, this application was allowed at appeal with the planning inspectorate commenting that:

The original beer garden shares a boundary with the side and part of the rear back gardens of no's 4/6 High Church Wynd and the rear of the development at Danby Wynd. In view of this the general noise and use of the beer garden can be readily heard from these properties and their gardens. However, given that the proposal extends the beer garden by around only 2.5m and does not directly adjoin any additional properties, I consider that the use of this extended area is unlikely to result in any significant further noise or disturbance to the nearby residents over and above that experienced from the original beer garden.

31. The inspector also noted that whilst the council contended that the proposal would give rise to increased activity on the premises, the area of the proposal in comparison to the size of the original beer garden was such that he did not consider that a significant increase in the number of people using the garden was likely. Furthermore the pub licence at that time restricted the beer garden to a maximum number of 60 persons, a number which could be accommodated in the original beer garden in any case. He additionally commented that the proposal was unlikely to exacerbate any problems associated with anti-social behaviour of the beer garden.
32. Issues of noise generation through use of the outside area have been considered more recently through the application by the Keys to create a children's play area in the grounds of 6 High Church Wynd to connect to the pub, applications 14/1579/COU & 15/2008/REV. The authority had concerns that the noise generated by the play area would adversely impact on the amenities of neighbouring properties and refused the applications. Amended proposals were submitted and accepted by the planning inspectorate, in respect of noise and nuisance issues.
33. The inspector concluded that the noise impact assessment submitted at that time showed a +1.3dB over a 5 minute period when compared to the lowest ambient noise level of 44.1dB, which is broadly reflective of the Council's ambient noise readings, and only a +1.0dB increase in LA10 noise level and that the LAmax noise level when attenuated by the existing brick wall would fall below the upper criteria of 55dB given in the WHO Guidelines.

Concluding that "*In the absence of any firm evidence to the contrary, I do not consider that the proposal would lead to such a significant increase in sound level as to be unduly intrusive.*

I am satisfied that the proposed hours of operation along with the restricted use of the area for children's play only can be controlled by the imposition of planning conditions. In addition to these the appellant has also expressed a willingness to accept a planning condition to restrict the number of children playing in this area at any one time to 15. I consider this to be reasonable, necessary and enforceable. These mitigation measures would therefore provide further control over the noise generated from the proposed play area."

34. The main conclusions of both inspectors suggest that subject to appropriate controls in respect of numbers of patrons and hours of use that increased use of the outside areas would not be significantly harmful in respect of noise and nuisance to neighbouring properties to warrant refusal of the applications.

35. The application is accompanied by a Noise Survey/assessment which has been reviewed by the Environmental Health Team. They advise that the mitigation measure set out in the report are unlikely to have a significant impact on the impacts of development and the main controls in respect of noise would be to limit the numbers of patrons using the garden areas and also the times of use. This is in agreement with the previous conclusions of the planning inspectorate. The Environmental Health team recommend restricting the numbers of users across the beer garden areas to 62 people and the hours of use of the garden to 10am to 9pm, 7 days a week. Both restrictions are agreeable to the applicant.
36. It is therefore considered in light of the previous Inspector decisions that whilst the commercial operation may be moving further to the west through use of the garden area. Any noise or nuisance issues associated with the proposed use are unlikely to be significantly different than the current situation in respect of noise and nuisance to neighbouring residential properties than the existing terrace area or play area, particularly if the controls suggested by Environmental Health are in place.
37. There are currently no planning restrictions on the number of users of the terrace area and the number of patrons is controlled through licensing provisions. Therefore, whilst the concerns of associated noise and nuisance raised by neighbours are noted. The considerations of the previous planning inspectors are material considerations and it is considered that subject to appropriate controlling conditions in respect of noise through control of cumulative numbers of patrons using the outside areas and hours of use that the proposal here would not be substantially different from the existing situation in respect of noise and disturbance to warrant refusal of the application on these grounds.
38. Whilst the authority raised concerns over the management provisions proposed through application 15/20008/REV (the play area) in respect of limiting the number of children using the play area and appropriate enforcement. The inspector found that such a condition was reasonable and enforceable. There is no reason to suggest therefore that such a condition in respect of the number of patrons using the entire gardens area would be unenforceable. Additionally controls can be put in place through the licensing of the premise to offer further control in respect of operating hours of the garden and area and numbers of patrons using the area at one time.

Amenity/privacy

39. It is recognised that introducing a commercial element into the garden area will project further than the existing terrace area and will bring the commercial activity associated with the Keys closer to these residential properties. However, the residential flats at the far end of Danby Wynd/The Old Market are orientated with the rear to the garden area and there are no principle windows on this elevation with only bathroom windows and a communal stairwell window on the boundary with the garden area.
40. There is screening in place through the existing high boundary walls and established planting which provides a degree of separation from these properties to the garden area. Due to the orientation of the properties and the lack of principle windows on this elevation it is considered that the introduction of the commercial activity within the garden area would not have an undue adverse impact on the amenities of this property in respect of privacy or amenity. Additionally this would not be dissimilar to many other situations found in Yarm centre where residential properties are in close proximity to commercial uses and indeed forms part of the established traditional character of the Conservation Area.
41. The garden area is enclosed by high boundary walls and fences and is separated from the rear of the properties on High Church Wynd by the garden of 6 High Church Wynd which wraps around the rear of the neighbouring properties. This area of garden land benefits from planning approval for change of use to a children's play area approved by the planning Inspector,

application number 15/20008/REV. It is therefore considered that whilst the properties on High Church Wynd have rear garden areas in close proximity to the site (approximately 10m), The use of the garden area at No 6 was previously accepted to change from a domestic use to a commercial use (play area in association with the Keys) by the Inspector which would bring commercial activity directly adjoining the garden boundaries of these properties. The proposed beer garden area will therefore be separated from these gardens by the proposed play area/existing garden area of 6 which will provide a buffer. The associated comings and goings through the change of use of the garden area proposed is not considered to be materially different than the current situation to these neighbours in respect of the use of the existing terrace or the anticipated impacts through the change of use to a play area.

42. The relationship of these resident properties to the play area would therefore not be dissimilar to that proposed by the current application to the properties on Danby Wynd. Whilst views of neighbouring properties will be obtainable from the garden area it is not considered that the impacts to neighbours through the change of use of the garden area would be materially different in respect of privacy or overlooking than that currently experienced through use of the existing terrace or those impacts considered through the proposed play area use. The proposed play area would be closer in proximity to the gardens/amenity areas of High Church Wynd and the Orchard than the current proposal.
43. It is therefore not considered that the proposal raises any issues in respect of outlook or visual impacts on the setting of the existing listed building, neighbouring properties or wider character of the Yarm Conservation area.

Other matters

44. Concerns raised by neighbours in regards to the potential impact on the future saleability of properties should the application be approved are not a material planning consideration.
45. Issues raised by the neighbouring property in respect of the provisions of the Human Rights Act 1998 are noted. The impacts on quality of life, privacy, amenity and noise are material planning considerations which have been fully considered and are set out in the officers report.

CONCLUSION

46. It is recommended that the application be Approved with Conditions for the reasons specified above.

Director of Economic Growth and Development
Contact Officer Fiona Bage Telephone No 01642 526271

WARD AND WARD COUNCILLORS

Ward	Yarm
Ward Councillor(s)	Councillor Tony Hampton
Ward Councillor(s)	Councillor Elsi Hampton
Ward Councillor(s)	Councillor Julia Whitehill

IMPLICATIONS

Financial Implications:

As report

Environmental Implications:

The assessment of the application has taken into account the impacts on the character and appearance of the area as well as impacts on adjoining properties and it is considered that there would be no significant impacts as detailed within the report.

Human Rights Implications:

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

Community Safety Implications:

The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report

Background Papers:

Stockton on Tees Local Plan Adopted 1997
Alteration Number 1 to the Adopted Local Plan – 2006
Core Strategy – 2010
Supplementary Planning Documents
SPD3 – Parking Provision for Developments
SPD4 – Conservation and Historic Environment Folder