

Report of the Chief Executive

APPLICATION NUMBER:	21/00688/FUL
LOCATION:	20 Nottingham Road Eastwood Nottinghamshire NG16 3NQ
PROPOSAL:	Retention of Marquee

The application is brought to the Committee by Councillor M Radulovic MBE

1 Executive Summary

- 1.1 The application seeks planning permission to retain a marquee at the rear of a public house.
- 1.2 The public house is part of a Victorian terrace in Eastwood Town Centre and is also within Eastwood Conservation Area.
- 1.3 The main issues relate to whether the design and appearance of the proposal is acceptable; whether the marquee would harm the character and appearance of the conservation area; and whether the use of the marquee would impact on neighbour amenity.
- 1.4 The benefits of the proposal are that it would increase the space for leisure and entertainment usage at the pub. The negative impacts are that the scale and design of the marquee given its location and allocation within a conservation area, impact on access for business use and refuse collection and impact on the amenity of neighbours.
- 1.5 The Committee is asked to resolve that planning permission be refused for the reasons set out in the appendix.

Appendix 1

2 Details of the Application

- 2.1 The application seeks planning permission to retain a marquee at the rear of a commercial property. This increases the operational area for this hospitality business.
- 2.2 The marquee measures 12 metres by 12 metres with a maximum height of 3.85 metres. It has an aluminium frame with white canvas covering. This is to the rear of the of the pub and erected on a tarmac area that was formally used as a location for parking and refuse collection. The marquee is 3.8m to the south east of the pub to which it is associated.
- 2.3 It is understood that whilst the marquee was originally erected in order to provide outdoor seating in order to comply with Covid 19 regulations (social distancing), outdoor events such as cabaret shows, DJ sets, sporting events and community uses have been held within the marquee, some of which have been 'weekend' events.

3 Site and surroundings

- 3.1 The marquee is located in the Eastwood Conservation Area on the land behind (south) 20 Nottingham Road, known as 'Oliver's'. This is part of a Victorian terrace of retail and hospitality units, some of which have residential uses above, on the high street of Eastwood in the Town Centre designated area.
- 3.2 The marquee occupies land that was previously used as parking space and waste bin storage / collection. The terrace of mixed use buildings continues along Nottingham Road to the east and west of this property. The properties that border onto the rear of the site to the east are in retail and hospitality use, some of which share residential uses on the upper floor.
- 3.3 To the rear (south) of the marquee is a residential area with houses and an apartment block. 32 and 34 Devonshire Drive are two storey houses directly south of the marquee, which are 12.8 metres from the common boundary, and which are newer than the other buildings in the area, having been constructed within the last 10 years, and the apartment block (Centenary Court) is south of these two dwellings.
- 3.4 The south east of the property is all residential use. To the west of the site is Church Street, which has a variety of buildings that differ in age and appearance. There are a mix of residential (3a and b, and 5a and b), which are directly adjacent, commercial and hospitality uses (Conservative Club and Old Wine Vaults PH) along this stretch of Church Street, backing onto or close to the site. Hartwell Court, a block of apartments, are to the west side of Church Street.

4 Relevant Planning History

- 4.1 93/00147/FUL - Construct rear extension to form w.c. accommodation and internal alterations to increase bar area
- 4.2 11/00024/FUL - Proposed change of use of the first and second floor of former public house to 3 no. flats (revised scheme)
- 4.3 11/00025/FUL - Construct 3 no. shopfronts (revised scheme)
- 4.4 16/00709/FUL - Change use of first floor offices, storage and accommodation to form restaurant and external alterations to front elevation
- 4.5 21/00616/FUL - Retain kitchen extractor flue

5 Relevant Policies and Guidance

5.1 **Greater Nottingham Aligned Core Strategies Part 1 Local Plan 2014:**

5.1.1 The Council adopted the Core Strategy (CS) on 17 September 2014.

- Policy A: Presumption in Favour of Sustainable Development
- Policy 2: The Spatial Strategy
- Policy 6: Role of Town and Local Centres
- Policy 10: Design and Enhancing Local Identity
- Policy 11: Historic Environment

5.2 **Part 2 Local Plan 2019:**

5.2.1 The Council adopted the Part 2 Local Plan (P2LP) on 16 October 2019.

- Policy 10: Town Centre and District Centre Uses
- Policy 17: Place-making, design and amenity
- Policy 19: Pollution, Hazardous Substances and Ground Conditions
- Policy 23: Proposals affecting Designated and Non-Designated Heritage Assets

5.3 **National Planning Policy Framework (NPPF) 2021:**

- Section 2 – Achieving Sustainable Development.
- Section 4 – Decision-making.
- Section 7: Ensuring the vitality of town centres
- Section 12 – Achieving well-designed places.
- Section 16: Conserving and enhancing the historic environment

6 Consultations

- 6.1 **Council's Conservation Officer:** The marquee is not in character with its surroundings, it is very large and it impacts negatively upon the character of the Conservation Area, and the Locally Listed host building. Objects to the structure having an assumed permanence and suggests that a fixed time period is associated with a permission (if granted), with removal conditioned at the end of that period, or a further application made, if Covid restrictions are extended.
- 6.2 **Council's Environmental Health Officer:** Objection to the development. The department have investigated multiple noise complaints relating to the use of the marquee and consider that the marquee is too close residential property as it's approximately 13 metres from the nearest residential properties facade. The proposed structure is not suitable for use as a live/recorded music, amplified speech entertainment venue in terms of noise attenuation as it does not sufficiently limit the passage of sound to external areas. The proposed opening hours for the marquee (up to 2.30 in the morning) are excessive and will lead to further loss of amenity and quiet enjoyment for immediate residential properties especially after 23.00 hours.
- 6.3 Sixteen properties either adjoining or opposite the site were consulted and two site notices were displayed. 69 comments were received with 48 in support and 21 objections, including one from the local MP, Lee Anderson, which cited a number of complaints being received in respect of anti-social behavior and noise disturbances affecting immediate neighbouring residents. Also received was a petition to support the proposal was submitted with the signatures of 340 people.
- 6.4 The objections tended to raise complaints about noise levels from the marquee and unreasonable operating hours. These have negatively affected the welfare of local residents, disrupting their sleep and making it difficult to relax and enjoy their properties. The use of the outdoor marquee has also resulted in an increase in anti-social behavior.
- 6.5 There were complaints that the marquee structure was too dominating and was not in keeping with the character of the area, which is a conservation area with many Victorian buildings.
- 6.6 Issues were raised about the marquee blocking land that had been used by neighbouring businesses for refuse storage awaiting collection. As a result of inadequate space for rubbish bins it has led to an increase in the number of vermin.
- 6.7 Several comments stated that the marquee has also blocked rear access to businesses that had previously been used for deliveries as well as restricting accessible entrances to businesses for users with disabilities, which has considerably harmed business operations.

- 6.8 The comments in support of the venue stated that it provides a space for entertainment opportunities, offering community meeting place and a COVID-19 safe area, and supporters claim it causes minimal disruption to local residents.

7 Assessment

- 7.1 The main issues for consideration are whether the design and appearance of the proposal is acceptable; whether the marquee would harm the character and appearance of the conservation area; and whether the use of the marquee would impact on neighbour amenity.

7.2 Principle

- 7.2.1 The application site is located in a conservation area and therefore the principle of development is subject to whether or not it complies with local and national policies regarding historic environments and heritage assets. Broxtowe Local Plan Part 2 (2019) Policy 23 states that proposals that affect heritage assets will be required to demonstrate an understanding of the significance of the assets and their settings, identify the impact of the development upon them and provide a clear justification for the development, and then lists criteria against which proposed development would need to be considered.

- 7.2.2 Policy 6 of the Aligned Core Strategy and Policy 10 of the Part 2 Local Plan seek to ensure that town centre uses are located in defined Town Centres and that any development in those centres is an appropriate town centre use and that the development would contribute to the vitality and viability of that centre. The marquee, as it is associated with an established PH, which is an appropriate town centre use, would, in principle, be acceptable, subject to the matters set out below.

- 7.2.3 Policy 10 (d and e) of the ACS states that massing, scale, proportion, materials, architectural style and detailing will be considerations when assessing development. Policy 17 (1) of the BLP states that (among other requirements) development should integrate into its surroundings; be close to community facilities; provide attractive, clearly-defined and safe private and public spaces; provide adequate external storage and amenity space; and ensures a satisfactory degree of amenity for occupiers of the new development and neighbouring properties.

7.3 Design and Impact on Designated and Non-Designated Heritage Assets

- 7.3.1 The marquee measures 12 metres by 12 metres with a maximum height of 3.85 metres. It has an aluminium frame with white canvas covering. The marquee is located to the rear of the pub and erected on a tarmac area that was formally used as a location for parking and refuse collection. The marquee is to the south east of the pub by 3.8 metres.

- 7.3.2 Policy 23 (3) of the BLP states that proposals affecting a heritage asset and/or its setting will be considered, whether the proposals would be sympathetic to the

character and appearance of the asset; whether the proposal would conserve and enhance the character and appearance of the heritage asset by virtue of its siting, scale, building form, massing, height, materials and quality of detail; and whether the proposal would demonstrate high standards of design appropriate to the historic environment.

7.3.3 Whilst the marquee is not highly visible from the public highway, with only limited glimpses from between buildings, it is highly visible from the private rear areas of properties to the sides and rear (particularly those on Devonshire Drive). It is considered that the marquee dominates the houses that back onto the pub and therefore considered to be not in character with its surroundings as there are no other large outdoor structures present and it also differs in appearance to the brick buildings that surround the site. Furthermore, with the site being located in a conservation area, it is considered that the marquee, which has a temporary appearance and being of a size, materials and colour that differs from the surrounds, results in harm to the character and appearance of the Eastwood Conservation Area.

7.3.4 The size of the marquee means that it occupies most of the area that was previously used for vehicles to access and service the neighbouring businesses and for refuse collection. This along with the barriers that have been installed surrounding the marquee prevent such vehicular access and has created inconvenience for the neighbouring businesses. Furthermore, as bins cannot be stored there, they have been left on a public thoroughfare which has created further issues of blocking access, harming visual amenity and attracting vermin to the area.

7.3.5 Overall it is considered that the marquee fails to conserve or enhance the Eastwood Conservation Area, for the reasons set out above. Additionally, due to its size and position within the site, it disrupts access for neighbouring businesses impacting on their operations (servicing, access and deliveries) and the collection of refuse.

7.4 Amenity

7.4.1 Policy 10 (f) of the ACS states that the impact of a development on neighbour amenity will be a consideration. Policy 17 of the P2LP (4d) states that any development should not cause an unacceptable loss of amenity for the occupiers of neighbouring properties. Policy 19 of the P2LP states that proposals for development must identify potential nuisance issues arising from the nature of the proposal and address impacts on that development from existing land uses. Permission would not be granted for development which would result in an unacceptable exposure to sources of pollution or risks to safety.

7.4.2 The main impact on amenity of neighbours from this development is the noise level, disturbance and operating hours, the latter occurring late into the evening. Noise complaints have been raised, with multiple neighbours claiming that levels have reached above 85 decibels. The materials of the marquee mean that there is significantly less sound insulation than if the same event was being carried out inside a brick built or other substantially constructed building. Furthermore, with the marquee being detached from the original pub building, located in the south

east corner of the site and close to residential buildings on Devonshire Drive, along with the proposed operating hours for Monday to Saturday 10:00 – 02:30 hours and 10:00 – 00:30 hours Sundays and Bank Holidays, the use would be considered to be detrimental to neighbour amenity as it would result in loud noise and anti-social behaviour that would potentially last throughout most of the day and often into the early hours of the morning.

- 7.4.3 Although the structure is noticeable in terms of design it does not block out light to the neighbouring properties, given the presence of the rear gardens that directly back onto the application site. Furthermore, the marquee is not very high at only 3.85 metres and is north of the residential units. Whilst it is acknowledged that views into the rear gardens from the area where the marquee is sited would be no different to the existing, the increased use of this area would result in a detrimental impact on neighbour amenity in terms of privacy, through perceived impact on neighbouring private outdoor amenity space.
- 7.4.4 As such it is considered that this marquee has negatively impacted the amenity of neighbouring residents due to the noise and disturbance of the use and the proximity of the marquee. This is worsened by the long operating hours that go on into the morning. Whilst there are no impacts on privacy or natural light it is judged that because the impacts due to noise the use of the marquee has a detrimental overall effect to the amenity of local residents.

8 Planning Balance

- 8.1 The benefits of the proposal are that the marquee would provide events space for community meetings and social events to the benefit of the business.
- 8.2 The negatives are the impacts the impact on neighbour amenity which is significantly detrimental. Furthermore, the marquee is not in keeping with the character and appearance of the Eastwood Conservation Area, being of an unacceptable scale and design, which fails to be in accordance with the policies contained within the adopted plan policies.
- 8.3 On balance it is considered that the negative impacts outweigh the benefits derived from this development.

9 Conclusion

It is concluded that, having regard to the relevant policies of the Local Plan, national planning guidance and to all other material considerations, the development is not acceptable and that there are no circumstances which otherwise would justify the acceptance of permission.

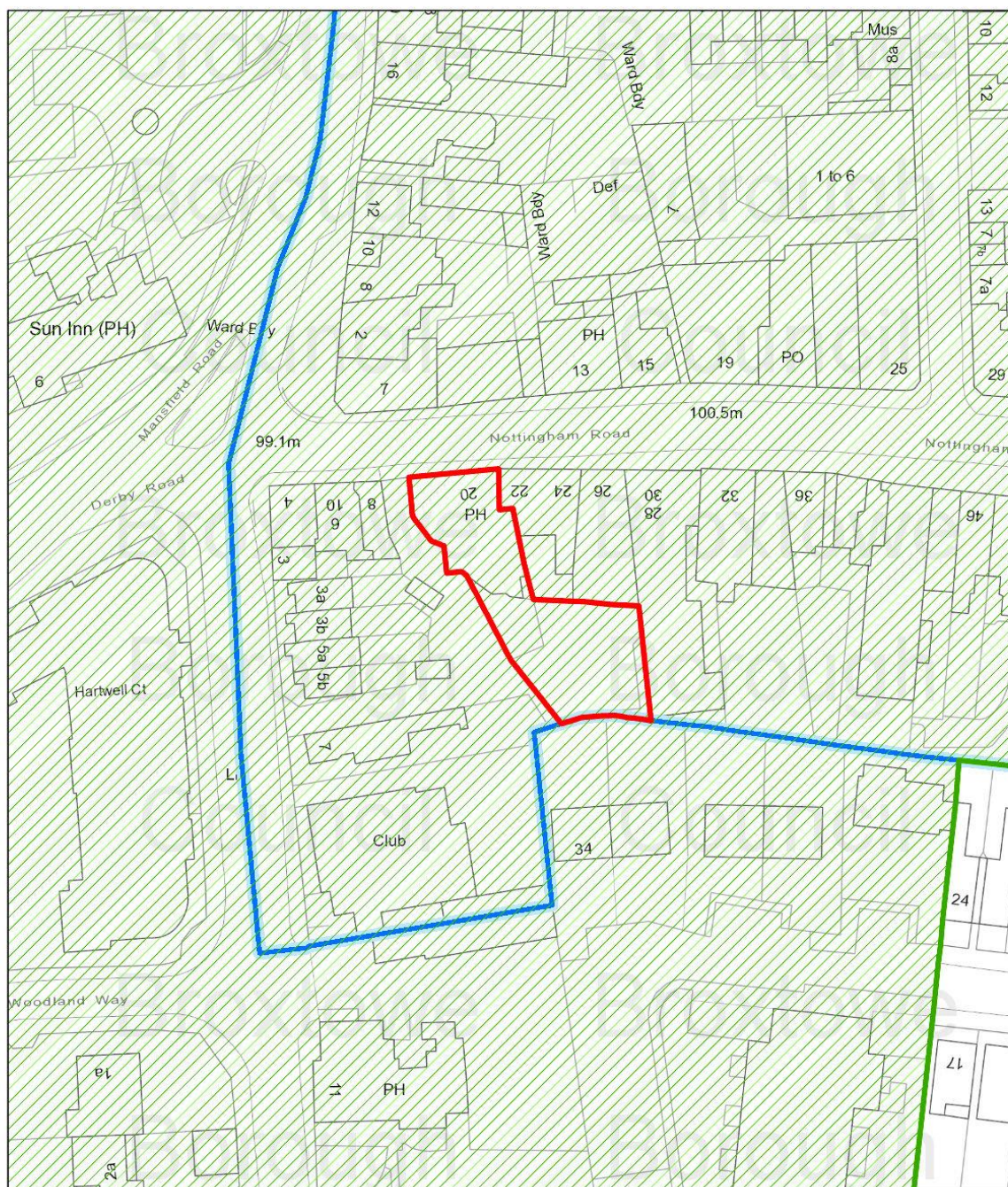
RECOMMENDATION

Recommendation: (if refusal, state reasons here)	Refuse planning permission
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REASONS

1.	The retention of the marquee by virtue of its size, scale and position within the site is considered to be a dominant feature that fails to respect the proportions and design of the existing building and area. It is considered that the marquee would result in harm to the character and appearance of the surrounding area and the Eastwood Conservation Area and also result in a poor layout, restricting access to adjacent premises and restricting the safe storage of waste. The retention of the marquee would therefore be contrary to Policy 10 and Policy 11 of the Broxtowe Aligned Core Strategy (2014), and Policy 17 and Policy 23 of the Broxtowe Part 2 Local Plan (2019).
2.	The use of the marquee as an outdoor entertainment space is considered to have a detrimental impact on neighbour amenity in terms of noise and disturbance, due to the construction and siting of the marquee in close proximity to residential properties, contrary to Policy 10 of the Broxtowe Aligned Core Strategy (2014), Policy 17 and Policy 19 of the Broxtowe Part 2 Local Plan (2019).
	NOTES TO APPLICANT
1.	Whilst it has not been possible to achieve a positive outcome, due to the fundamental concern regarding the use, appearance and siting of the marquee, the Council has acted positively and proactively in the determination of this application and a decision was issued within the agreed determination period.

20 Nottingham Road, Eastwood, NG16 3NQ



11/22/2021, 10:46:56 AM



Conservation Area

Site



Town Centre Boundaries

1:750

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Photographs



Rear of Nottingham Road terrace



Entrance to marquee

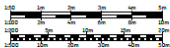


Side view from west of marquee, outer enclosure and dwelling to the rear

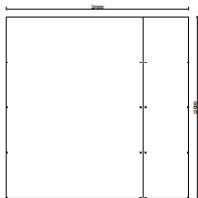


Side view from west of marquee and outer enclosure

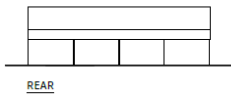
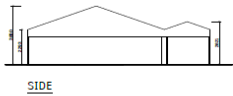
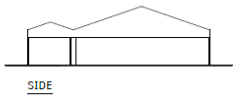
Plans (not to scale)



PROPOSED LAYOUT
SCALE 1:100



PROPOSED ELEVATIONS
SCALE 1:100



REVISION			
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	Name		
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	Title		
	Description		
APPROVED BY	DATE	DATE	
	16/03/2021	16/03/2021	
REVISIONS			
T0/GKO/16/036/05	-		
<small>Notes: This plan is submitted for planning purposes only and is not to be used for any other purpose without the written consent of Paul Gaughan Planning Consultants. It is the responsibility of the client to ensure that all necessary permissions are obtained for the proposed development.</small>			
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