

Report of the Chief Executive

Application Number:	24/00127/FUL
Location:	Oliver's Pub and Kitchen, 20 Nottingham Road, Eastwood, NG16 3NQ
Proposal:	Change of use of land to rear as public house and retention of marquee (Revised scheme)

The application is brought to the Committee at request of Councillor D Bagshaw.

1. Purpose of Report

The application seeks planning permission for the change of use of the land to rear as public house and retention of the marquee to the rear of the pub.

2. Recommendation

The Committee is asked to resolve that planning permission be refused.

3. Detail

3.1 The application site is a 3 storey semi-detached public house, with frontage tight to Nottingham Road to the north. The Marquee is located within the rear of the site, an area that has previously been used as a car park. The site is also located within the Eastwood Conservation Area.

3.2 The application seeks permission to retain the existing marquee, which received temporary permission for a 12-month period in 2021 under reference 21/00688/FUL.

3.3 An application to retain the marquee under reference 23/00497/FUL was refused in September 2023 due to its size, dominance, impact on the conservation area and impact on neighbouring amenity.

3.4 The main issues relate to whether or not the principle of the development would be considered to be an inappropriate feature within the conservation area and whether the use and the scale / siting of the marquee would have an amenity impact on neighbours.

4. Financial Implications

The comments from the Head of Finance Services were as follows:

There are no additional financial implications for the Council with the costs/income being within the normal course of business and contained within existing budgets. Any separate financial issues associated with S106s (or similar legal documents) are covered elsewhere in the report.

5. Legal Implications

The comments from the Head of Legal Services were as follows:

The Legal implications are set out in the report where relevant, a Legal advisor will also be present at the meeting should legal considerations arise.

6. Data Protection Compliance Implications

Due consideration has been given to keeping the planning process as transparent as possible, whilst ensuring that data protection legislation is complied with.

7. Climate Change Implications

Climate Change implications are considered within the report

8. Background Papers

Nil.

Appendix

9. Details of the application

- 9.1 The application seeks to retain the marquee for a further three year period and change the use of the land to the rear of the site from a car park to a public house use.

10. Site and surroundings

- 10.1 The application site is a three storey semi-detached property with frontage tight to Nottingham Road to its north. The Marquee is located within the rear area to the south of the building. 22, 24, 22a and 24a Nottingham Road are properties adjacent to the east, with number 26 Nottingham Road to the east of these. 3a, 3b, 5a and 5b Church Street are located to the south-west. 5 Church Street is a care home, located across Church Street to the west with number 7 Church Street next to this. Number 8 Nottingham Road is adjacent to the west. 32 and 34 Devonshire Drive are adjacent to the south. 11 and 9 Nottingham Road face the site to the north.

11. Relevant Planning History11.1 **Broxtowe Aligned Core Strategy 2014:**

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

- Policy 10 – Design and Enhancing Local Identity
- Policy 11 - The Historic Environment
- Policy 23: Proposals Affecting Designated and Non-Designated Heritage Assets

11.2 **Part 2 Local Plan 2019**

The Council adopted the Part 2 Local Plan on 16 October 2019

- Policy 17 – Place-making, design and amenity

11.3 **National Planning Policy Framework (NPPF) 2023**

- Section 2: Achieving Sustainable Development
- Section 4: Decision-making
- Section 12: Achieving Well-designed places
- Section 16: Conserving and enhancing the historic environment

12. Consultations

- 12.1 **Council's Conservation Officer:** Notes that the details are unchanged from the 2023 application. There is no new information or material that has altered the Conservation Officer's view previously stated which is set out below. There is a strong objection to approving this marquee permanently as it would set a negative precedent for change in a conservation area that would make it

very difficult to safeguard the character of the Eastwood CA, if such a precedent was set for harmful alteration.

The Conservation Officer has scrutinised the planning application for retention of the pub marquee at Oliver's, located within the Eastwood CA. It is noted that the building has been identified as a positive feature within the CA and as such its setting, including the rear where the marquee is located, must be taken into consideration.

The white marquee is constructed from uPVC and is considered to be a wholly inappropriate material for built form within a conservation area, even when there are only partial views offered from the street scene. The principle issue here is the size of the marquee, which is felt to be unduly prominent by virtue of its substantial scale and footprint. Granting a permanent permission for a structure of this size in an inappropriate material would set a negative precedent for change within the CA.

The economic challenges facing pubs and restaurants in the present climate is acknowledged and this objection does not come without a considered acknowledgment of the pressing need for pubs to find solutions to rising bills and declining number of visitors. However, the D&A statement acknowledges that the marquee has become popular in its own right but that the marquee has a limited lifespan. As such the applicant should consider a more permanent solution which Broxtowe Conservation could be happy to support, in principle, in recognition of the need to find adaptive solutions for the high street. This could be something as simple as a timber framed structure manufactured in tannellised softwood with a flat roof - it would not be a cost prohibitive solution.

If the applicant wishes to pursue this idea the Conservation Officer would be happy to agree to an extension of the temporary permission for use of the present marquee - perhaps for one more year - but then there would need to be swift enforcement action if the pub continued its use after this time. This one year would give the pub the time to design a simple lightweight timber structure that could serve as the new outdoor covered seating area.

In conclusion hopefully the above offers a constructive solution to overcome the problem the applicant is faced with. I must however state that I strongly object to a permanent permission for a marquee of this size in that location.

- 12.2 **Council's Environmental Health Officer:** Having reviewed the resubmission this department's stance on the matter has not changed from our memo dated 15 August 2023 for planning application ref 23/0049/FUL and we object to the proposed application. Discussions with the applicant on the 5th January 2024 requesting that they provide evidence that the marquee was not used in excess of the conditioned event numbers and evidence the event noise monitoring have not been provided within in the application therefore our stance has not changed. We object to the proposed application as the

applicant failed to renew original temporary permission promptly and continues to operate without regard to the requirements.

- 12.3 22 neighbouring properties were directly consulted on the application. Four site notices were placed in the vicinity of the site. There were 14 objections/responses received.

These were mainly on the basis of:

- Marquee being too large
- Noise disturbance
- Smell disturbances
- Traffic
- Waste attracting vermin
- Loss of privacy
- Fire risk
- Access issues, including preventing access for emergency vehicles
- Increased ASB
- Repeated applications to retain marquee
- Impact on conservation area.

13. Assessment

- 13.1 The main issues for consideration relate to whether the principle of the existing marquee is causing harm to neighbouring amenity, the character of the area, and to the conservation area.

14. Principle

- 14.1 The principle of the development is subject to assessment on design, neighbouring amenity and impact on the Eastwood Conservation Area.

15. Heritage

- 15.1 The statutory duty of sections 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authorities to have special regard to the desirability of preserving or enhancing the character or appearance of that area.

- 15.2 It is considered that the harm to the conservation area as a result of the marquee outweighs the benefit. The appearance of the marquee is not in keeping with the character of the area, the white upvc making it visible from neighbouring streets. The size and siting of the marquee also means it is easily viewed from neighbouring properties, harming the visual amenity of the conservation area for residents.

16 Amenity

- 16.1 Policy 10 states that the impact of a development on neighbour amenity will be a consideration. Policy 17 states that any development should not cause an unacceptable loss of amenity for the occupiers of neighbouring properties.
- 16.2 It is considered that the amenity impact on 32 and 34 Devonshire Avenue is not minimal. The marquee is tight to the boundary and as such it is considered that this has resulted in loss of light due to its size. Privacy and overlooking have resulted in a detrimental impact due to the close proximity and noise and ASB are potential issues that have also resulted in a detrimental impact to the neighbouring properties to the south.
- 16.3 3a, 3b, 5a and 5b Church Street are located to the south-west with 5 and 7 Church Street across the road. It is considered that the use of the marquee has resulted in a detrimental impact by virtue of the noise that comes from the use of the marquee. However, due to the distance from the marquee it is unlikely that any of these dwellings are impacted by any loss of light, loss of privacy or overlooking.
- 16.4 22, 24, 22a and 24a Nottingham Road are all adjacent to the east and it is considered that the size and location of the Marquee in the car park have resulted in a detrimental impact upon the occupier's privacy and have resulted in noise pollution, however overlooking is not as likely due to the enclosed nature of the marquee.
- 16.5 11 and 9 Nottingham Road should not be impacted by the marquee due to location of the Marquee at the rear, meaning loss of light, loss of privacy or overlooking are unlikely.
- 16.6 It is considered that the garden of number 28 Devonshire Drive is in close proximity to the marquee, which has resulted in detrimental impacts from noise and disturbance.

17 Access

- 17.1 It is considered that the Marquee does not have an impact on access to and from Nottingham Road, however its location within the car park has impact on access from Church Street since it has reduced the available parking spaces to the rear of the site, potentially leading to more on-street parking and an impact on parking for businesses who previously used this car park.

18. Planning Balance

- 18.1 The benefits of the proposal are the marquee attracts customers to the public house, benefitting the viability of the business.

18.2 The negative impacts are that the material and size of the marquee makes it unsuitable and harmful to the conservation area; and that the impact that the noise and disturbance causes to neighbouring amenity as a result of the continued use of the marquee.

18.3 On balance it is considered that the harm to the conservation area and to neighbouring amenity outweighs the benefit of the marquee.

19 Conclusion

19.1 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 it is recommended that planning permission be refused.

<u>Recommendation</u>	
The Committee is asked to RESOLVE that planning permission be refused with the following 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. 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 materials used in construction and due to the 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.	The Council has acted positively and proactively in the determination of this application by working to determine it within the agreed determination timescale.

Map



- Site
- Conservation Area

Photographs



