

Report of the Chief Executive

<b>APPLICATION NUMBER:</b>	<b>24/00443/FUL</b>
<b>LOCATION:</b>	<b>The Old Wine Vaults, 11 Church Street, Eastwood, Nottinghamshire</b>
<b>PROPOSAL:</b>	<b>Retain outdoor servery, smoking shelter, timber walkway and garden marquee</b>

The application has been called in by Councillor M Radulovic MBE.

1. Purpose of the Report

The application seeks planning permission for the retention of an outdoor servery, smoking shelter, timber walkway and garden marquee.

2. Recommendation

**The Committee is asked to RESOLVE that planning permission be refused for the reason outlined in the appendix.**

3. Detail

The application seeks planning permission for the retention of an outdoor servery, smoking shelter, timber walkway and garden marquee.

The site is on the edge of Eastwood town centre and includes an established public house. The site includes the main public house building, parking, ancillary outbuildings and a garden area. The public house is a grade II listed building and is located in the Eastwood Conservation Area.

The main issues relate to whether the principle of development is acceptable, the impact on the special character of the listed building and on Eastwood Conservation Area and the impact on the living conditions of neighbouring residential properties.

The marquee would offer some social and economic benefits to attract more patrons to use the public house. It is considered that there is clear and convincing justification for the retention of the marquee on this basis which would not amount to substantial harm to the grade II listed building or the conservation area. Further to this, subject to limiting the hours that amplified sound is used in the marquee, it is considered the living conditions of neighbouring properties would not be adversely affected. Notwithstanding this, there are significant concerns with regards to the impact of the smoking shelter, servery and walkway which would amount to substantial harm to the grade II listed public house and would fail to conserve or enhance the Eastwood Conservation Area. On balance it is therefore considered that the proposal would warrant refusal.

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. Background Papers

Nil.

## Appendix

1 Details of the application

- 1.1 The application seeks planning permission for the retention of an outdoor servery, smoking shelter, timber walkway and garden marquee.

2 Site and surroundings

- 2.1 The site is located at 11 Church Street, Eastwood within the Eastwood Town Conservation Area. The building is Grade II Listed public house which includes a rear car park and garden area.
- 2.2 The public house is 3 storeys in height and constructed in common brickwork with a Rosemary Clay plain tiled roof. Some of the masonry to the building has been painted white. The roof slopes down from the frontage to 2 storeys at the rear of the building. The building has been subject to a number of alterations and interventions over previous years.
- 2.2 The site is positioned to the south of Eastwood town centre. To the north of the site, includes Eastwood Conservative Club. To the east of the site, includes Centenary Court a three storey building comprising of flats. To the south, separated by a driveway, includes St Mary's Church. To the west, on the opposite side of Church Street includes a row of detached residential properties.

3 Relevant Planning History

- 3.1 The application site has a mixed planning history, with the relevant historical applications being summarised in this section.
- 3.2 Planning application 07/00489/FUL for a smoking shelter was refused planning permission. Listed building consent for the same was also refused 07/00490/LBC. A further application for a smoking shelter was refused 09/00151/FUL. Planning application 09/00610/FUL for a revised scheme was granted planning permission for a smoking shelter to the side of the public house. Listed building consent for the same was also granted 09/00611/LBC. The location of the smoking shelter granted was positioned near the main front entrance adjoining the northern elevation of the public house.

4 Relevant Policies and Guidance4.1 **Greater Nottingham Aligned Core Strategies Part 1 Local Plan 2014:**

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

- Policy A: Presumption in Favour of Sustainable Development
- Policy 4: Employment Provision and Economic Development
- Policy 10: Design and Enhancing Local Identity

- Policy 11: The Historic Environment
- Policy 13: Culture, Tourism and Sport

**4.2 Part 2 Local Plan (2019):**

- 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

**4.3 National Planning Policy Framework (NPPF) 2023:**

- Section 2 – Achieving Sustainable Development
- Section 4 – Decision-making
- Section 8 - Promoting healthy and safe communities
- Section 12 – Achieving well-designed places
- Section 16 - Conserving and enhancing the historic environment

**5 Consultations**

**5.1 Broxtowe Environmental Health** - No objections subject to restricting amplified sound / music except between 12.00 - 21.00 hours Sunday – Thursday and 12.00 – 22.00 hours Fridays and Saturdays. It is also recommended the proposal be carried out in accordance with a noise management plan including noise mitigation measures.

**5.2 Broxtowe Conservation Officer** – Objection based on the substantial harm to the grade II listed building caused by the smoking shelter, servery and timber walkway. It should be noted that the marquee could be supported on heritage grounds due to the public benefits associated with use of the public house by customers.

**5.3 Resident comments** – 4 objections received raising the following concerns:

- Unacceptable noise impact from amplified sound in association with the marquee.
- Odour pollution.

**6 Assessment**

**6.1** The main issues for consideration are the principle of development, the design and appearance of the proposal, its impact on the grade II listed building and on Eastwood Conservation area and the impact of the proposal on the living conditions of neighbouring properties.

**6.2 Principle of Development**

**6.3** The site includes an established public house located of Church Street. The site comprises of the public house building, car parking and garden area. The site is located on the edge of Eastwood town centre.

- 6.4 The permitted use of the site is a public house. The application seeks permission for the retention of an outdoor servery structure, smoking shelter, timber walkway and marquee. As such, it is considered that the general principle of development is acceptable subject to the below material considerations.
- 6.5 **Historic Impact and Design**
- 6.6 The site is located within the Eastwood Conservation Area and the public house is a grade II listed building. Within the vicinity of the site includes a number of locally listed buildings.
- 6.7 The grade II listed public house is 3 storeys in height and constructed in common brickwork with a Rosemary Clay plain tiled roof. Some of the masonry to the building has been painted white. The roof slopes down from the frontage to 2 storeys at the rear of the building. The building has been subject to a number of alterations over previous years. Nonetheless, given the prominence of the building, the public house makes a positive contribution to the Eastwood Conservation Area.
- 6.8 The southern elevation is a Georgian façade with a central door and symmetrical sash windows and doors with stone heads and cills. The eastern elevation abuts the public highway and is a plain reducing gable in painted brickwork. This elevation retains an original sash window at first floor whilst at ground floor are two intervention windows not in the original style of the building. The southern elevation forms the principal elevation and entrance to the public house. This elevation retains no original features below the roofline. The building has been subject to a single storey extension to accommodate a toilet block.
- 6.9 The building entrance has a gabled structure forming an entrance porch with timber painted doors and overhanging canopy. There is also a lean too timber smoking shelter erected historically. The eastern façade of the building has been extended during the late Georgian period early Victorian period to form ancillary accommodation to the building. This attachment to the Georgian structure is two storeys in height formed in common brickwork with a slate tile roof over two storeys with both gable and hip features. This part of the building retains its original windows which are simple Georgian sliding sash windows with a mixture of stone heads and cills and brick arches to the ground floor. This part of the building has been subject to historical additions and more recent interventions primarily to serve the use of the building as a public house.
- 6.10 The listed building has a series of outbuildings along its northern boundary ranging from single storey to a two-storey stable block. The single storey outbuildings have been subject to interventions with garage doors installed as well as a modern concrete interlocking tiled roof.

- 6.11 Policy 23 of the Part 2 Local Plan advises that proposals will be supported where heritage assets and their settings are conserved or enhanced in line with their significance. 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. For designated heritage assets:
- i) Where substantial harm is identified, there must be substantial public benefits that outweigh the harm.
  - ii) Where less than substantial harm is identified, the harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 6.12 Paragraph 207 of the NPPF advises that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss.
- 6.13 The proposed smoking shelter has been installed to the southern ground floor elevation. This shelter is constructed from primarily timber polycarbonate roof bolted off the building. The proposed outdoor servery consists of a timber flat roof infill extension to the south-east elevation. The southern elevation of the servery is brick built approximately half way up from ground level. The walkway is a timber post and flat pergola also formed in timber. The walkway has been finished with polycarbonate roof to provide a covered access from the public house to the marquee. The marquee consists of a timber frame and a laminated marquee cover. The marquee has been erected in the southern-eastern corner of the garden area.
- 6.14 The Council's Conservation Officer has reviewed all elements of the proposed development. During the course of the application, concerns were raised with the applicant regarding the negative impact of the smoking shelter, servery and timber walkway on the grade II listed public house and Eastwood Conservation Area. The applicant refused to remove these three elements when provided with the opportunity. As such, the Council's Conservation Officer has objected to the proposal on the grounds that the smoking shelter, servery and walkway would amount to substantial harm to the grade II listed building. There are also concerns that the development would adversely affect the character of the conservation area which is a designated heritage asset. It is considered that the marquee, due to its detached location in the public house garden area, offers public benefits to local customers and would be of economic benefit to the business owners of the public house.
- 6.15 It is considered that the timber smoking shelter, servery and timber walkway fail to conserve or enhance the special character of the grade 2 listed building or wider conservation area. There are concerns that the timber structures and use of non-matching brickwork for the servery would detract from the historic character of the building. It is considered that no clear or convincing

justification has been provided to justify substantial harm to the grade II building.

- 6.16 It is considered that the proposal would amount to substantial harm to the grade II listed building and would adversely impact the Eastwood Conservation Area. As such, there are significant concerns the proposal would not positively contribute to the character and appearance of the locality. Overall, the proposal would fail to comply with Policy 23 of the Part 2 Local Plan and Part 16 - Conserving and enhancing the historic environment of the NPPF.
- 6.17 **Residential Amenity**
- 6.18 The site consists of an established public house with a relatively large rear garden area. The nearest residential properties to the proposal includes Centenary Court, to the east, which comprises of a block of flats. To the north-east of the site includes two storey dwellings off Devonshire Drive. To the west of the site, on the opposite side of Church Street includes a row of detached and semi-detached dwellings.
- 6.19 It is important to note that the site includes an established public house garden area. As such, the use of the land permits patrons to stand or sit in the garden area. This application seeks permission for retention of the structures. Some concerns from neighbouring properties have been raised with regards to the potential noise impact, specifically the use of the marquee. The marquee is single storey and would be 4.5m separation distance from the eastern boundary wall and 2.1m from the southern boundary. As such, there are limited concerns with regards to the impact of the proposed structures on neighbouring properties in terms of any potential overbearing or overshadowing.
- 6.20 Policy 17 of the Part 2 Local Plan advises that permission will be granted for development which ensures a satisfactory degree of amenity for occupiers of neighbouring properties. Further to this, Policy 19 of the Part 2 Local Plan advises that will not be granted for development which would result in an unacceptable level of pollution.
- 6.21 The use of the marquee may include opportunities for events including live music. In support of the proposed marquee, the applicant has proposed restricted hours of use of the marquee. Notwithstanding this, there are no existing restricted hours of use controlled by planning condition for the entirety of the public house site, including the pub garden. The applicant has provided noise mitigation measures that they would need to adhere to by condition. These measures include maintaining good relations with neighbouring properties, noise monitoring and the premises management keeping a log of all noise events at the public house.
- 6.22 The Councils Environmental Health team have reviewed the application and have provided no objections to the proposal, subject to a condition that restricts amplified sound / music in the marquee to be between 12.00 - 21.00

hours Sunday – Thursday and 12.00 – 22.00 hours Fridays and Saturdays. It is recommended that a noise management plan would be conditioned to include mitigation measures to reduce the potential for future noise complaints.

6.23 Overall, it is considered that subject to the above conditions the proposed development would not adversely impact the living conditions of neighbouring residential properties in terms of noise.

6.24 **Highway Safety**

6.25 The site includes a car park to the rear of the building. The proposed structures would not obstruct any of the parking spaces or access. The site is located on the edge of Eastwood centre and as a result is relatively accessible by public transport. Furthermore, it is a reasonable expectation that patrons visiting the public house are less likely to use a vehicle as a means of transport. The proposed development uses the existing outdoor areas of the premises. As such, it is considered that the proposed development would not result in an unacceptable impact on the safety of the highway network.

6.26 **Biodiversity**

6.27 The legal requirement to deliver 10% biodiversity net gain does not apply to retrospective planning applications made under Section 73a of the Town and Country Planning Act 1990.

6.28 **Planning Balance**

6.29 The marquee would offer some social and economic benefits to attract more patrons to use the public house. It is considered that there is clear and convincing justification for the retention of the marquee on this basis which would not amount to substantial harm to the grade II listed building or the conservation area. Further to this, subject to restricted hours amplified sound can be used in the marquee, it is considered the living conditions of neighbouring property would not be adversely affected. Notwithstanding this, there are significant concerns with regards to the impact of the smoking shelter, servery and walkway which would amount to substantial harm to the grade II listed public house and would fail to conserve or enhance the Eastwood Conservation Area. On balance it is therefore considered that the proposal would warrant refusal.

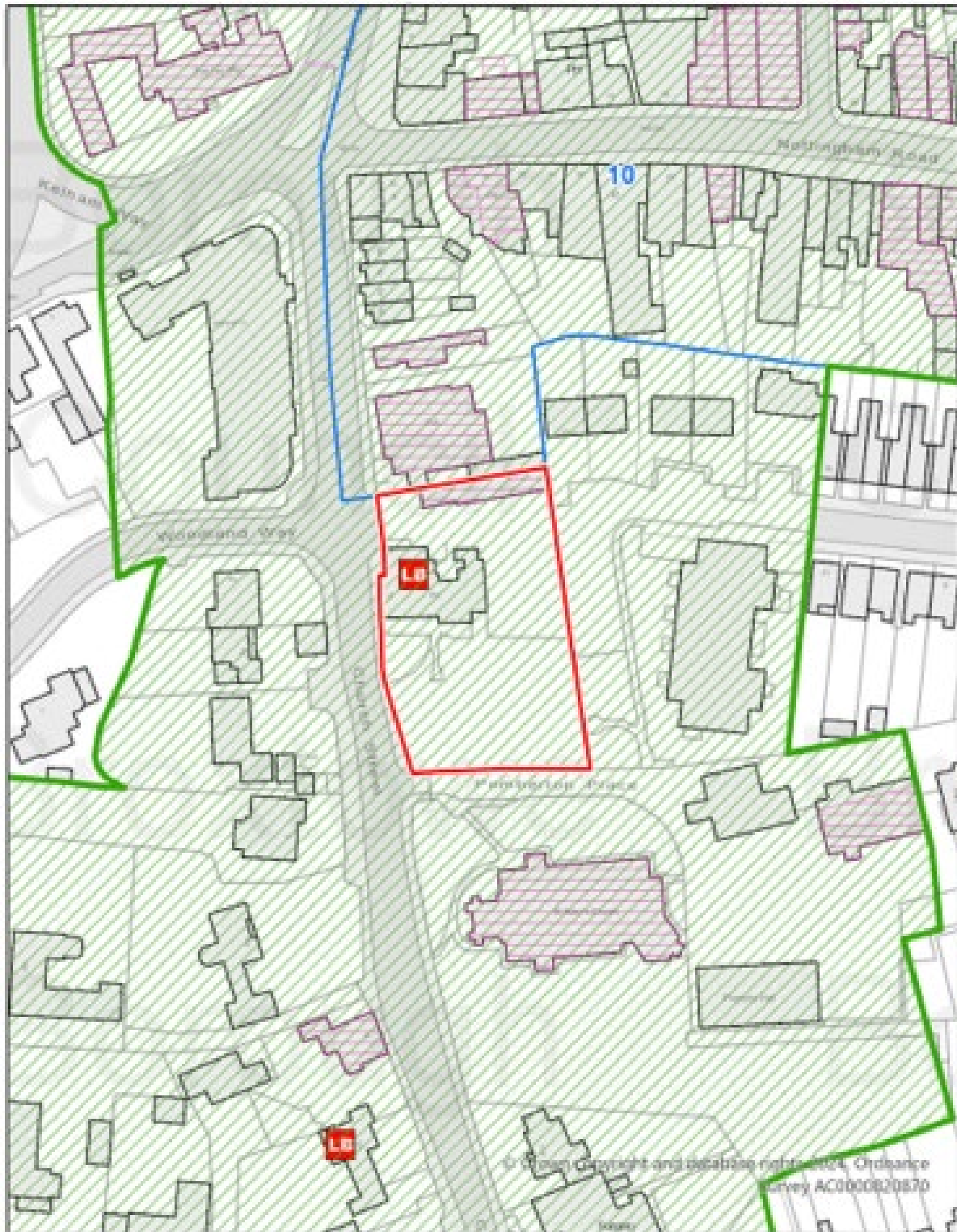
6.30 Conclusion

6.31 It is recommended that the application be refused.



<b><u>Recommendation</u></b>	
The Committee is asked to <b>RESOLVE</b> that planning permission be refused on the following grounds:	
1.	The proposed development by virtue of its siting and design would result in substantial harm to the special character of the Grade II listed building and on Eastwood Conservation Area, contrary to the aims of Policy 11 of the Broxtowe Aligned Core Strategy (2014), Policy 23 of the Part 2 Local Plan (2019) and the NPPF (2023).
	<b>NOTES TO APPLICANT</b>
1.	The Council has acted positively and proactively in the determination of this application by working to determine it within the agreed determination timescale.

Site Location Plan (not to scale)



-  Site
-  Conservation Area
-  Local Interest Building
-  Listed Building
-  Town or District Centre

Policy 10