

Report of the Chief Executive

APPLICATION NUMBER:	20/00326/FUL
LOCATION:	Star Inn 22 Middle Street Beeston NG9 1FX
PROPOSAL:	Retain marquee extension and a sheltered bar servery and variation of condition 3 of planning approval 13/00533/FUL to permit amplified music and speech within the marquee and marquee extension

The application is brought to the Committee at the request of Councillor P Lally.

1 Executive Summary

- 1.1 The application seeks planning permission for the retention of an extension to the existing marquee and a detached sheltered bar servery, to the rear of the property, and also seeks to vary a restrictive condition in respect of amplified music and speech in the marquee and marquee extension.
- 1.2 The site contains a two storey detached building and coach house, in use as a public house, and which has been extended at the rear in the past. The pub has a large beer garden to the rear. Part of the site falls in Flood Zone 2.
- 1.3 The main issues relate to whether the marquee extension and bar servery are of an acceptable design and whether these would have an unacceptable impact on neighbour amenity, and whether the variation of the restrictive condition would have an unacceptable impact on neighbouring amenity through noise and disturbance.
- 1.4 The benefits of the proposal are that the retention of the marquee extension and bar servery would be regularised, and would enhance outdoor facilities for the benefit of the customer, thereby contributing to the viability of a local business and retain local employment opportunities. The proposal is considered to be in accordance with policies contained in the development plan. This is given significant weight. There is the potential for an increase in noise and disturbance, however this could be controlled by conditions. This is outweighed by the benefits of the scheme.
- 1.5 The Committee is asked to resolve that planning permission be granted subject to conditions outlined in the appendix.

Appendix 1

1 Details of the Application

- 1.1 The application seeks to retain an open sided extension to the marquee, located to the rear of the building, and a sheltered bar servery, which has been erected in the rear beer garden area, located to the rear of the kitchen extension and adjacent to the Moore Gate boundary.
- 1.2 The marquee extension consists of a frame with a poly carbonate roof and is attached to the existing covered marquee, and adjacent to the timber built smoking shelter. The bar servery, which had been erected at the time of the Planning Officer site visit, consists of a timber built frame with hipped roof, and infill panels. There are panels above which are openable during hours of use.
- 1.3 The application also seeks a variation to condition 3 imposed on planning approval 13/00533/FUL and this condition relates to the use of amplified music and speech, which is not allowed in the marquee at any time. The condition states:

‘No amplified music equipment or amplified speech equipment shall be used in the marquee at any time.’

The application seeks permission for the use of amplified music and speech to be allowed in both the marquee and the marquee extension.

2 Site and surroundings

- 2.1 The Star Inn is a two storey detached public house located to the south east side of Middle Street, and opposite the public transport interchange and Beeston Square development. The site is just outside of the Town Centre boundary.
- 2.2 The site consists of a two storey building with a two storey former coach house building attached to the north east. The property has been extended to the rear, having a single storey brick built extension to the rear of the main building, a single storey brick built extension to the rear of the coach house building, and a marquee between, linking the main building and extension to the other extension and the coach house, in effect infilling this area. There is a raised decking area to the rear of the marquee and this is covered by way of an extension to the marquee, and has open sides beyond the main marquee. The pub has a large external area to the rear, which consists of a ‘beer garden’ with picnic style benches and tables, and a fenced off area which is used as a children’s play area. There is a forecourt for limited parking to the front of the property.
- 2.3 There are a mix of uses along the Middle Street frontage, which include pubs, commercial uses, apartments and a care home. The area to the south west and south east of the site, to the rear, is generally residential in character.
- 2.4 To the north east of the site, and also fronting Middle Street, is The White Lion, also a detached two storey pub with an external area to the rear. To the rear of

this property is 1 Nether Street, which is to the north east boundary of the application site, adjacent to the beer garden of the Star Inn, and adjacent to this but not adjoining the site, is 106 Station Road, a single storey building in commercial use.

- 2.5 1 Nether Street is a detached two storey cottage which has its side elevation forming the boundary to the site. No windows are in the side elevation. The rear garden of this property is adjacent to the site and there are windows in the rear elevation (north west facing).
- 2.6 Nether Street, at the point where it abuts the rear of the site, is a footpath which links Station Road to Waverley Street and Moore Gate. To the south east of the footpath is 48 Waverley Street, a detached bungalow, the side elevation of which is adjacent to the footpath.
- 2.7 To the south west of the site and running along the side of the site is Moore Gate, a link which is not wide enough for vehicular traffic for its whole length. To the north west end of Moore Gate, where it meets Middle Street, there is a car parking area associated with Newgate House, beyond, which is a three storey residential apartment building. To the south east of this there is a commercial two storey property which is understood to be used as a warehouse or storage facility. This building has windows facing the site and is built up to the edge of Moore Gate.
- 2.8 Beyond the commercial building and to the south east are a pair of semi-detached two storey dwellings (16 and 18 Moore Gate). These dwellings are set back from Moore Gate and have the front elevation facing the site, looking over the children's play area and into the beer garden beyond. The dwellings also have a secondary vehicular access from Hallam Road, to the rear. 20 Moore Gate is to the south of these semis and is a two storey detached cottage with a single storey addition in a L shape form and has windows at ground floor and one window at first floor in the north east facing elevation.
- 2.9 To the south east of 20 Moore Gate and 48 Waverley Street, which are opposite one another, the street is residential with a mix of detached bungalows (north east side of the street) and two and three storey properties mainly to the south east side.
- 2.10 Part of the site (the rear of the building and the external areas) falls within Flood Zone 2.

3 Relevant Planning History

- 3.1 Prior to 2013, there were planning applications for minor works such as advertisements and an access ramp.
- 3.2 In 2013, planning permission was granted for the construction of a single storey rear and side extension, and the erection of a marquee (reference 13/00533/FUL). The rear extension was to the rear of the main body of the building, adjacent to the Moore Gate side (the south west elevation), and to the width of the building, and the side extension was to the rear of the coach house

element, adjacent to the White Lion site (the north east elevation). The marquee was attached to the side extension and positioned between this and the main building. A condition was imposed on this planning permission which required no amplified music or amplified speech equipment to be used in the marquee at any time.

- 3.3 In 2014 planning permission was granted for a change of use of the first floor to create 8 letting bedrooms and alterations to the rear extension and marquee (reference 14/00586/FUL). This application was retrospective and saw the creation of 8 letting rooms on the first floor; changes to the extension along the north east boundary which sees the extension detached from the coach house, and built further off the boundary, and have a covered area to the rear accessed via the marquee; and the marquee design changed to show two sets of doors in lieu of full height glazing, and 0.5m further toward the rear boundary. Again, a restrictive condition in respect of amplified music or speech equipment was imposed, as per the 2013 planning permission.
- 3.4 In 2015, planning permission was granted to retain 'extension, shed, fencing beside Moore Gate, and extraction equipment' (reference 15/00543/FUL). The extension to be retained related to that approved in 2013, albeit with different choice of materials. The shed was a detached structure to the rear of the extension, and the fencing was to the side of this. The extraction equipment was located above the single storey rear extension. A requirement of planning permission was for the extraction equipment to be painted black.

4 Relevant Policies and Guidance

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

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

- Policy A: Presumption in Favour of Sustainable Development
- Policy 1: Climate Change
- Policy 10: Design and Enhancing Local Identity

4.2 **Part 2 Local Plan 2019:**

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

- Policy 1: Flood Risk
- Policy 17: Place-making, design and amenity
- Policy 19: Pollution, Hazardous Substances and Ground Conditions

4.3 **National Planning Policy Framework (NPPF) 2019:**

- Section 2 – Achieving Sustainable Development.
- Section 4 – Decision-making.
- Section 12 – Achieving well-designed places.
- Section 14 – Meeting the challenge of climate change, flooding and coastal change

5 Consultations

- 5.1 **Council's Environmental Health Officer:** Recommend that condition 3 not be removed but can be amended such that amplified music and speech can take place in the internal marquee only, and not the external marquee. Conditions relating to hours and length of sessions in this respect, and to measures to ensure noise levels are monitored, and to limit hours of operation for the outdoor bar servery, are recommended.
- 5.2 **Nottingham Express Transit:** as the works are to the rear of the property and do not appear to interfere with any of the tram infrastructure, the NET team have no comments to make. Works vehicles required to be kept clear of tram tracks at all times. Note – all development works now complete.
- 5.3 Six properties either adjoining or opposite the site were notified of the application by the applicant and site notices were displayed. 22 letters were received, one of support, one making observations and 20 objections.
- 5.4 The grounds of objection are as follows:
- Several noise complaints made by residents as amplified music has been played in the marquee for 12 months now, leading to complaints to Environmental Health and to Planning Enforcement
 - The marquee is unfit to host amplified music, as it is very disruptive and lowers the quality of life for nearby residents
 - Only asking for removal of the condition now as it hasn't been enforced before
 - The external bar has already been built
 - This, along with the development at the top of the road, will add further disruption to the residents
 - Whilst the pub has been there a long time, the development of the outside as a beer garden and use as outside music venue is a complete change of purpose
 - Condition 3 (of planning permission 13/00533/FUL) was specifically imposed in order to protect local residents from noise and should not be lifted
 - Already unable to sleep before 11pm when music is played outside. If this is approved then live music can be played outside every weekday til 11pm and 11.30pm on Fridays and Saturdays, with an outside bar serving until midnight
 - This is not a 'centre of town' location – Waverley Avenue and surrounding roads are home to many elderly residents and families with young children
 - Previous experience of music events demonstrated that loud music and shouting of customers travels unimpeded along most of the length of Waverley Avenue, and excessive noise on a bank holiday extended license made it unpleasant to be outside in gardens, and when inside, windows and doors had to be kept closed to try and limit the impact from bass frequencies
 - Both the premises licence and the planning application should be rejected
 - The traditional old coach house is continually being extended out into the garden area, reducing the amount of green space and obscuring the

architecture of the building. The tent bolted on to the rear is an eyesore and any extension will make this worse

- The owner constructs whatever they like and then applies retrospectively
- This is one of the few streets of family housing remaining in this area and this noisy business could drive families away, leaving the area to the blight of more HMO's
- Lack of sound insulation (in the marquee) allows for music to emanate almost without restriction
- Currently, as most of the noise is confined to the buildings, noise is not a problem, however with the marquee area and outside bar if granted permission, would result in potential excessive noise
- Already experience anti-social behaviour with people leaving the pub and shouting late into the evening. Also have seen vandalism which may not be directly linked to the pub but the concern is that this will happen more if the pub promotes late-finish events more frequently
- Lack of publicity / consultation on the planning application [it should be noted that this was prior to site notices being posted]
- The proposal to retain the external bar and effectively have an enlarged open air music venue is wholly inappropriate due to the close proximity of residential properties and the impact on health and amenity of residents due to noise from both loud music and shouting from customers over the noise of the music
- Concerned that there will not be a cap on the number of events that take place, or that the sound levels will be monitored by a professional sound engineer
- No problem with the occasional event, or even a small number in succession similar to that held at the Victoria, but the difference is there [at The Victoria] is that the music has to finish by 9pm so that it doesn't intrude on local residents. The outdoor area at the Victoria is covered and surrounded by trees, so the sound doesn't carry as much, whereas the Star's patio and garden space is unobstructed so sound will carry quite far if the doors to the marquee are open
- If the Star is granted late night music, this will set a precedent for the neighbouring pub (The White Lion) who may wish to hold its own late finish outdoor events
- No problem with alcohol being served [outside] but feel that amplified music and speech should be stopped sooner than proposed as the combination of alcohol and music can escalate into more problematic, or serious, behaviours
- Concerned in regard to the need to have four 'portaloos' in the former play area, to support this development
- Understand that the facilities are owned by Heineken – should they be making the application rather than the landlord?
- There should be a condition that requires the external marquee to be cleared by 22.30, the same as the beer garden area, and the external bar servery to cease use by 22.00
- No objection to the use of amplified music in the marquee as long as the sound levels are kept to an average of 5dB above background noise over a 15-minute period. There has been no mention of any sound insulation being added to the marquee and as such are unable to see how noise reduction can be achieved.

5.5 One letter of observation was received. Whilst there are no objections to the building or the serving of alcohol outside, do have concerns over live music being played outside every Friday and Saturday evening until 23.30. If it was once a month this wouldn't be too bad, but every weekend is too much. No concerns if music were to be played during the day (as long as it doesn't contain offensive language).

5.6 One letter of support has been received. In light of the pandemic, where the hospitality industry has suffered tremendously, considers that the marquee arrangement at the Star enables customers to feel safer, able to access everything, without the need to go inside. In these difficult times it would help the Star to remain a sustainable business and continue to be a valuable social resource for local people.

6 Assessment

6.1 The main issues for consideration are the design and impact on neighbours in regard to the built structures, and the impact on neighbours in regard to the variation of the restrictive condition relating to amplified music and speech.

6.2 **Principle**

6.2.1 The principle of built development is acceptable subject to consideration of design and to the impact on neighbours. The principle of the use as a public house is established. Consideration of the impact of the variation of the restrictive condition is set out below, and would need to comply with the requirements of Policy 19 of the Part 2 Local Plan in respect of noise and disturbance.

6.3 **Design**

6.3.1 The marquee extension is a lightweight structure which is attached to an existing marquee. Given the context, which is the rear of a two storey building used as a public house, and the nature of the use, it is considered that the design and scale of the marquee extension is acceptable.

6.3.2 Similarly, the external bar, which is located on the lower beer garden and is of a lower height than the kitchen extension adjacent, and which is located in the context of the commercial building behind on Moore Gate, is also considered to be of a design that is appropriate to the use of the site as a public house.

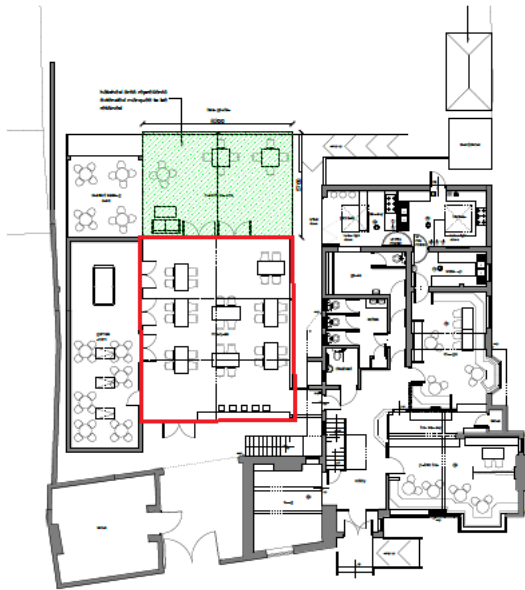
6.4 **Neighbour Amenity**

6.4.1 In regard to the physical structures of the marquee extension and the external bar area, due to their siting adjacent to the pub buildings, it is considered that these structures do not have a significant impact on the amenities of the occupiers of nearby residential property in respect of loss of light, outlook, or privacy.

6.4.2 Condition 3 of planning permission reference 13/00533/FUL, which requires that no amplified music equipment or amplified speech be allowed in the marquee at any time, was imposed following concerns from the Environmental Health team in

regard to previous noise complaints, and in order to ensure that the amenities of the occupiers of nearby property were safeguarded.

- 6.4.3 Given the proximity of residential properties, with the closest (1 Nether Street) being less than 25m measured from its rear elevation to the closest part of the external marquee, and being located directly to the north east boundary of the site, adjacent to the beer garden, it is considered necessary to ensure that the potential for noise and disturbance is minimised.
- 6.4.4 It is apparent from consultation responses that noise from events at the pub have resulted in disturbance for the residents of nearby property. Many of the comments relate to events which appear to have taken place outside of the marquee. Whilst the application does seek permission for use of amplified music and speech to be allowed in both the marquee and the external area of the marquee, this does not include the beer garden or other external areas, where there is no restrictive planning condition. A premises licence which seeks to increase the licensable area to include the beer garden and the marquee has recently been agreed and the decision issued. Conditions are included on the licence restricting use of the beer garden (external bar to close at 10pm, garden to be clear of customers by 10.30pm and only two live/recorded entertainment events per annum in the garden), requiring a contact telephone number for residents to be displayed in the event of noise disturbance and requiring the licence holder to assess the impact of noisy activities and to take action to reduce noise levels if necessary (use to be made of decibel meter).
- 6.4.5 Measures to minimise noise transmission from the enclosed marquee have been undertaken and these include the installation of solid walls to three sides and additional roof draping.
- 6.4.6 Notwithstanding the above measures, it is considered that it would not be appropriate for amplified music and speech to be allowed in the external marquee, due to its' elevated position and proximity to sensitive noise sources. It is considered that the measures undertaken to reduce noise transmission from inside the enclosed marquee are acceptable and the variation of condition 3 of planning permission reference 13/00533/FUL can therefore be considered in respect of this area only, but not in respect of the external area of the marquee. A modified condition, which will limit the amount of sessions to three a week and for a maximum duration of three hours up to 10pm within the enclosed marquee only, would be imposed in its place.



Red line denotes internal (enclosed) marquee area.

6.4.7 A restrictive condition is also recommended in respect of operating hours of the external bar area, to between 12 noon and 10pm on any day, in order to further minimise noise and disturbance. It is noted that there are no planning conditions as to the hours of use of the external area including the beer garden and as such it would be unreasonable to impose a condition restricting the hours of use of the external areas. This can be controlled by the premises license.

6.5 Flood Risk

6.5.1 The application site is partly within Flood Zone 2. A public house (drinking establishment) is classed as a ‘more vulnerable’ development. The Environment Agency standing advice considers development in this case to be appropriate. As the marquee extension is at a higher ground level and located on an existing raised area, and has no ‘sides’, and the external bar is a structure that is temporary in nature, it is considered that these structures would not significantly increase flood risk to the property or to surrounding properties, and as they do not include or impact upon living accommodation, there would be no significant increase in risk to lives.

6.6 Other Matters

6.6.1 Whilst it is acknowledged that the character of the area, to the south east and south west, is residential, it should also be noted that the pub is located on a busy road with several non-residential uses surrounding and as such the surrounding area is a mix of uses. Whether the use would ‘drive families away’ to be replaced with HMO’s is not a material planning matter, and given the site’s location and the proximity of Waverley Street and adjacent roads to the town centre, it can be expected that the area will be attractive to a mix of households in the vicinity.

6.6.2 The matter of anti-social behaviour is noted, however, this is an existing business and the proposed development, including the change to the condition relating to

the use of the marquee, would not, in itself, give rise to a significant increase in anti-social behaviour.

- 6.6.3 Lack of publicity of the application – the comment was received prior to the posting of four site notices which were erected in the immediate vicinity. The applicant also notified all adjoining properties about the planning application.
- 6.6.4 In regard to ‘setting a precedent’, should the White Lion, adjacent to the site, submit a planning application, this would be considered on its own merits and on the circumstances at the time of any submission.
- 6.6.5 There are currently some portable toilets located in the beer garden area. It is understood that these are temporary and have been installed so as to provide additional facilities, for the safety of staff and customers, during the current pandemic.
- 6.6.6 The ownership certificate has been signed by the applicant and the Local Planning Authority are satisfied that this is correct.

7 Planning Balance

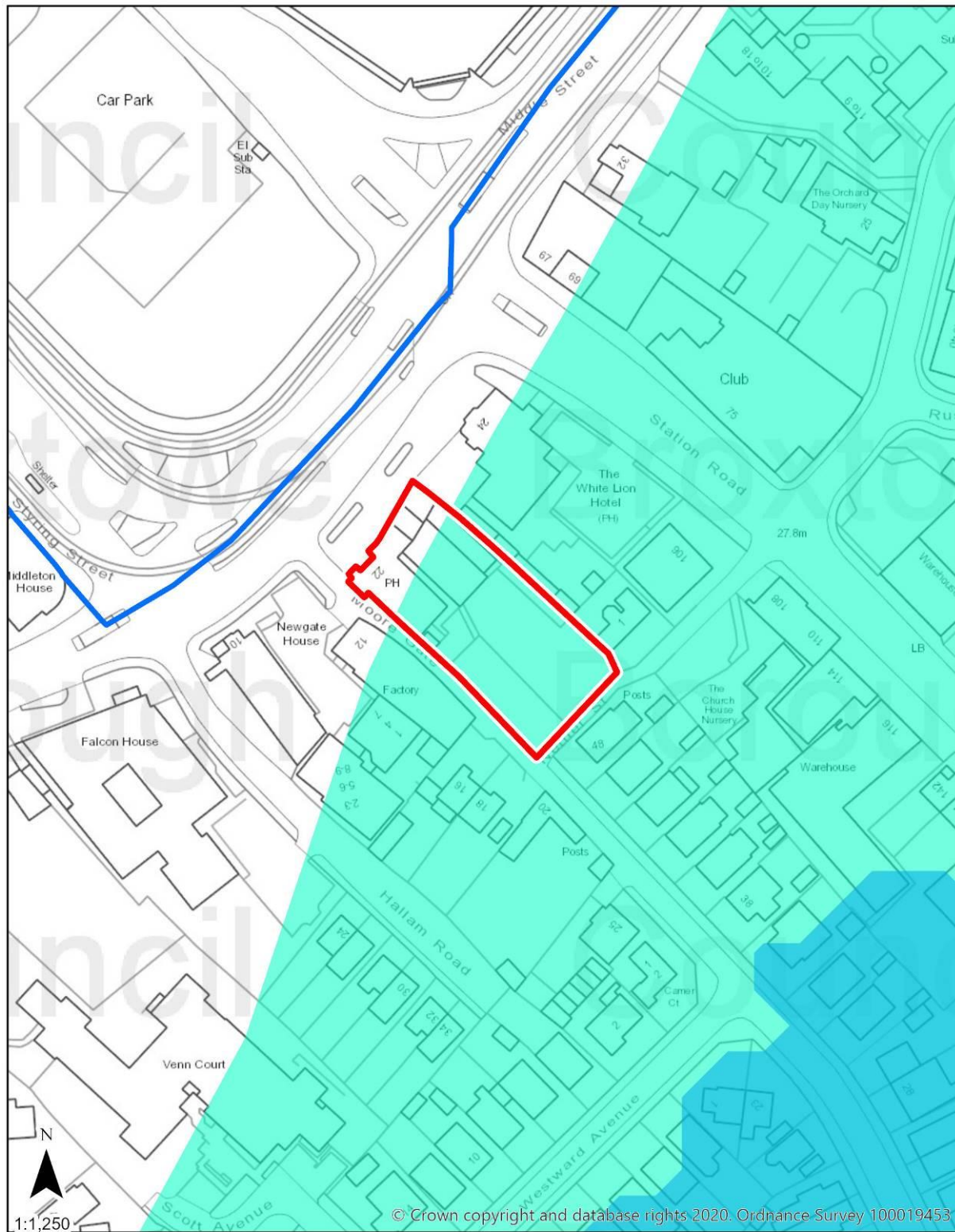
- 7.1 The benefits of the proposal are the enhanced facilities for users of the public house and potential increase in viability for a local business and retention of employees.
- 7.2 The negative impacts are the potential for an increase in noise and disturbance for the occupiers of nearby residential property.
- 7.3 On balance the enhancements to the existing facility, which is a social resource in the area, would outweigh the concerns raised in regard to noise and disturbance subject to the imposition of appropriate conditions in respect of hours and times of operation.

8 Conclusion





- 8.1 It is recommended that conditional planning permission be granted. The development accords with Policies 1 and 10 of the Aligned Core Strategy (2014), and Policies 1, 17 and 19 of the Broxtowe Part 2 Local Plan (2019).

<u>Recommendation</u>	
The Committee is asked to RESOLVE that planning permission be granted subject to the following conditions.	
1.	The development hereby permitted shall be retained/carried out in accordance with the Site Location Plan, received by the Local Planning Authority on 27.05.20, proposed layouts JG/DM/13/038/10 received by the Local Planning Authority on 17.06.20, proposed elevations JG/DM/13/038/30 rev B received by

	<p>the Local Planning Authority on 23.06.20 and proposed block plan JG/DM/13/038/40 rev D received by the Local Planning Authority on 26.08.20.</p> <p><i>Reason: For the avoidance of doubt.</i></p>
2.	<p>Any performance of live and recorded entertainment involving amplified music and/or speech or regulated entertainment shall only be permitted in the internal marquee area and shall be limited to a maximum of 3 sessions per calendar week. Such sessions shall only take place between 12.00 noon – 22.00 hours daily and each session shall be limited to a maximum duration of 3 hours, inclusive of any breaks, per session.</p> <p><i>Reason: To protect immediate residents from excessive operational noise, in accordance with Policy 10 of the Broxtowe Aligned Core Strategy (2014) and Policy 19 of the Broxtowe Part 2 Local Plan (2019).</i></p>
3.	<p>The external bar servery shall not be open for the serving of customers outside of the hours of 12.00 noon to 22.00 hours daily.</p> <p><i>Reason: To protect immediate residents from excessive operational noise, in accordance with Policy 10 of the Broxtowe Aligned Core Strategy (2014) and Policy 19 of the Broxtowe Part 2 Local Plan (2019).</i></p>
	NOTES TO APPLICANT
1.	<p>The Council has acted positively and proactively in the determination of this application by working to determine it within the agreed determination timescale.</p>
2.	<p>The granting of planning permission and associated conditions does not pre-empt any formal action under Statutory Nuisance or Nuisance legislation being taken against the applicant by the Council.</p>
3.	<p>All doors and windows shall be maintained in good order and kept closed during events in order to minimise noise breakout.</p>



Legend

-  Site Outline
-  Flood Zone 3
-  Flood Zone 2
-  Town Centre Boundaries

Photographs



Photo inside the enclosed marquee



View of the external marquee from the beer garden



View of the beer garden from the external marquee area. The rear and side elevation of 1 Nether Street can be seen to the left of the photo



View of the external bar, to the left, the kitchen extension, centre, and the external marquee

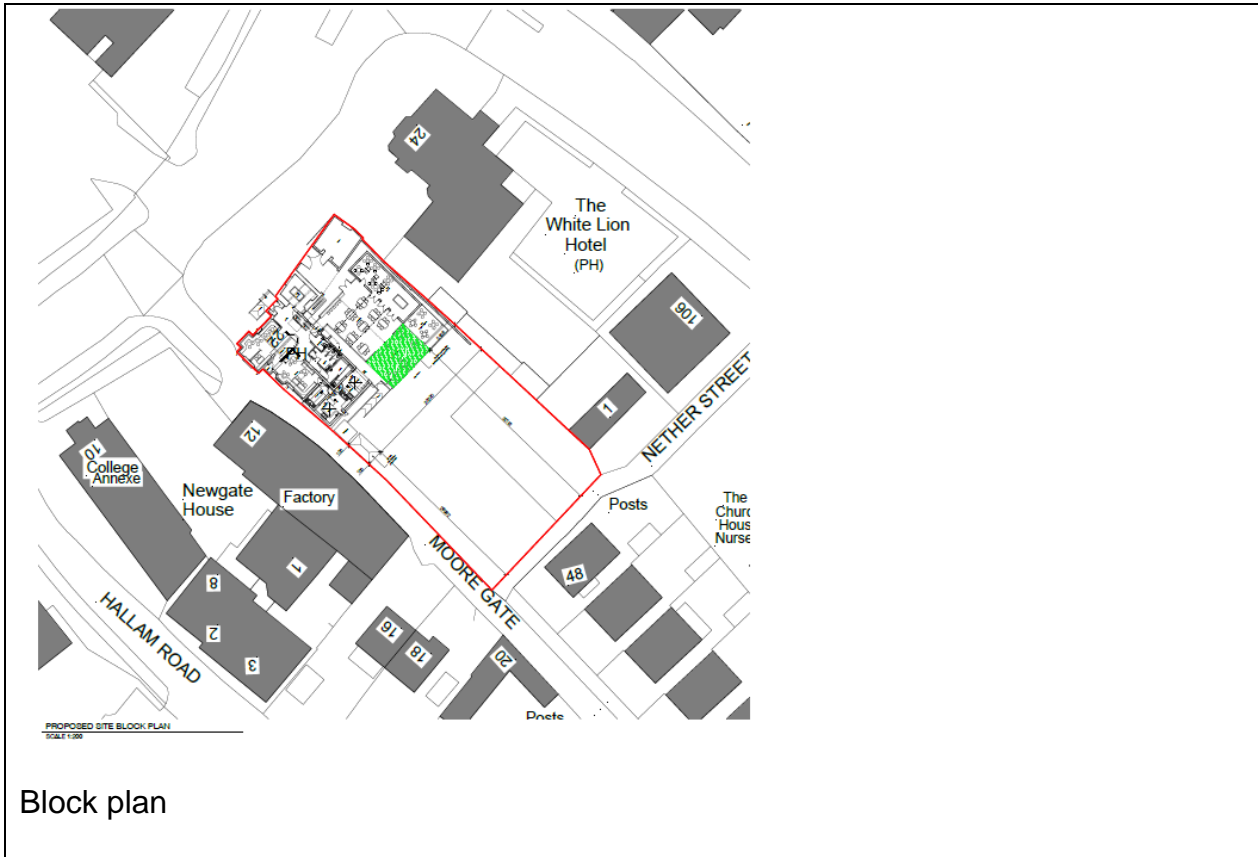


External bar with warehouse to Moore Gate in the background

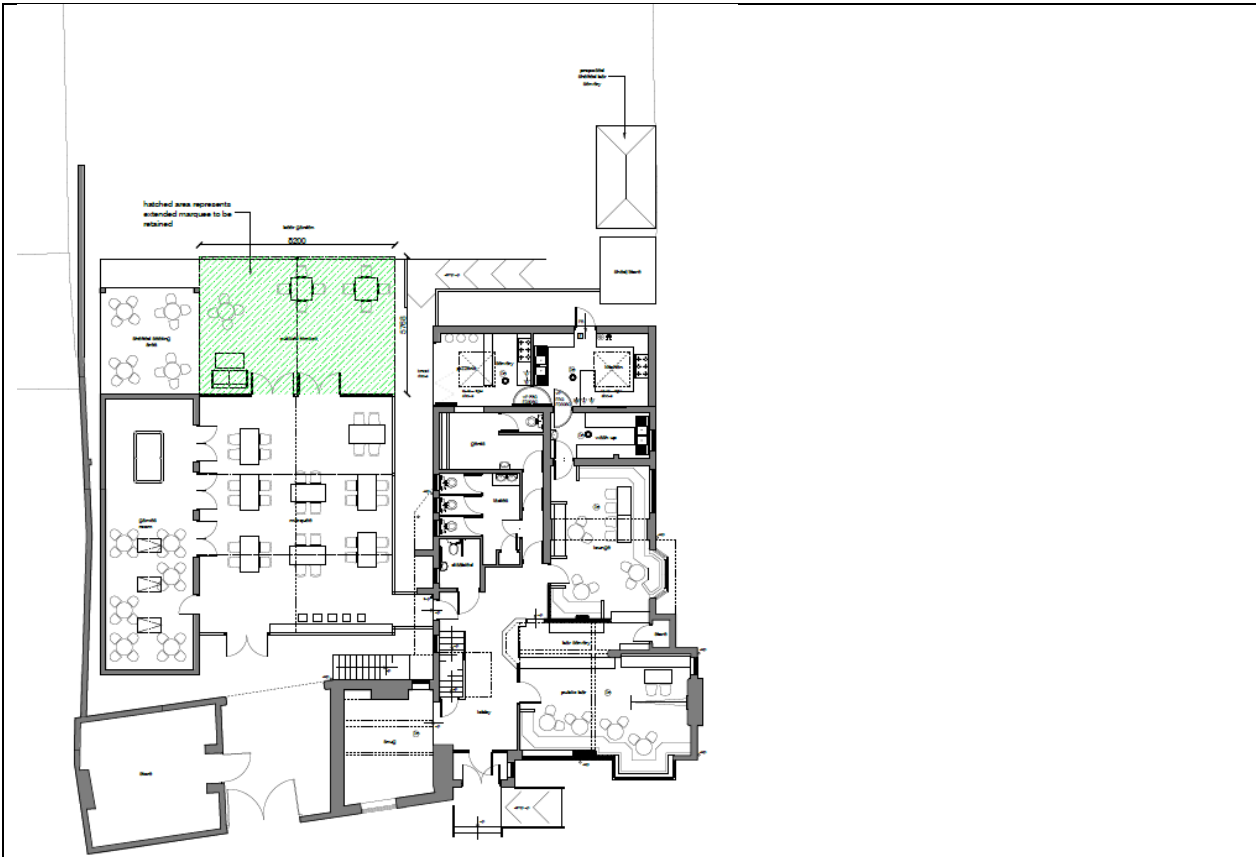


16 and 18 Moore Gate

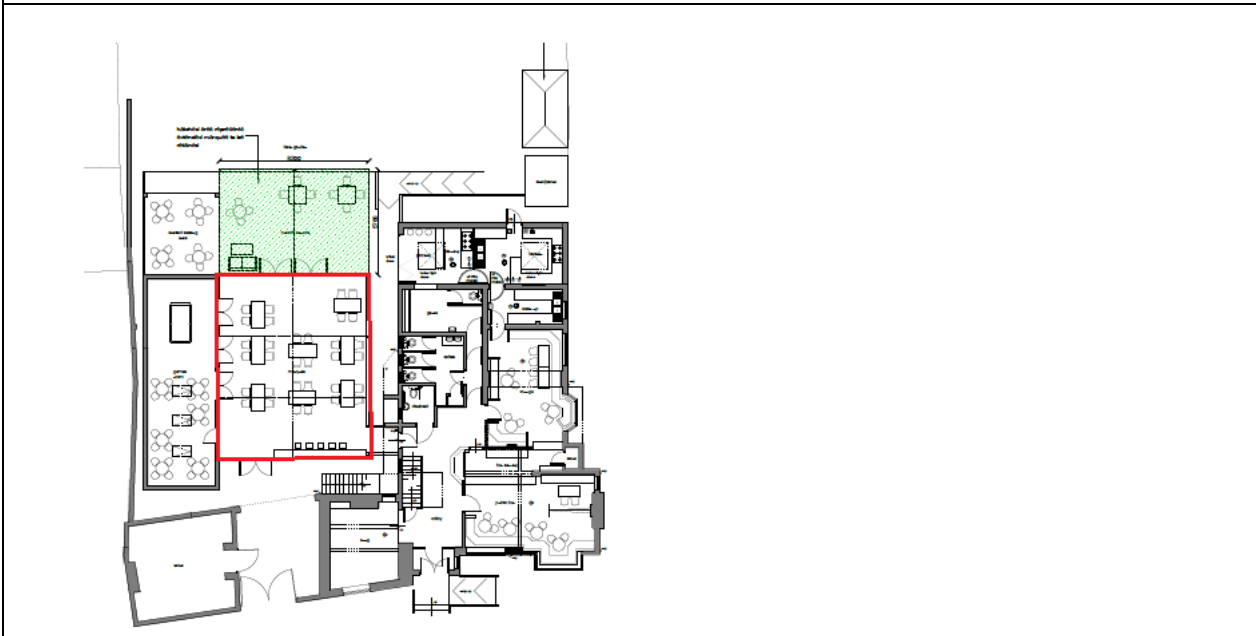
Plans (not to scale)







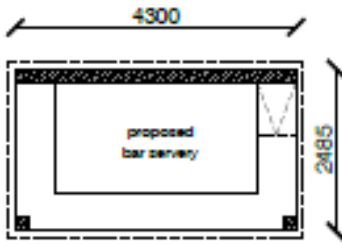
As built floor plan



Red line denotes extent of the internal (enclosed) marquee area

AS BUILT SHELTERED BAR SERVERY FLOOR PLAN

SCALE 1:50



AS BUILT SHELTERED BAR SERVERY ELEVATIONS

SCALE 1:100



Outdoor bar servery