
Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 10-Feb-2022

Subject: Planning Application 2021/93351 Formation of decked area, erection of balustrades to boundaries to provide outdoor seating area (within a Conservation Area) Hooley House, 1 , Concord Street, Honley, Holmfirth, HD9 6AE

APPLICANT

J Tahany

DATE VALID

26-Aug-2021

TARGET DATE

21-Oct-2021

EXTENSION EXPIRY DATE

16-Feb-2022

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Holme Valley North

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION:

1.1 This application is brought before Huddersfield Planning Committee for determination under the terms of the Delegation Agreement since it has attracted significant local objection (21 objections from 13 third parties).

2.0 SITE AND SURROUNDINGS:

2.1 Hooley House, 1 Concord Street, Honley is situated on a corner site within Honley District Centre. The building and its associated land form a triangle bounded by Concord Street to the west and Marsh to the north-east, and adjacent to an industrial building to the south. The main building is two-storey and has a white rendered exterior but it has a single-storey element at its southern end which is part artificial grey cladding and provides an entrance off Concord Street.

2.2 The associated land comprises tarmac hardstanding surrounding the building on two sides which has a downward gradient towards the junction and is surrounded by a stone wall with a gap to allow vehicular access off Marsh.

2.3 Marsh is a residential street apart from the corner property, Concord Street is dominated by industrial and business uses. 1 Concord Street also faces a public car park.

2.4 The site has planning permission for a restaurant and bar (classed as a mixed A3/A4 use under the older version of the Use Classes Order, a mixed E(b) and sui generis use under the current version). At the time of the case officer's site visit, works had commenced on the external works associated with the permission but the use as a bar / restaurant had not commenced.

2.5 The approved plans did not clearly indicate how the outdoor space was to be used and did not explicitly show any outdoor areas for use by customers. Condition (9) attached to the permission specified however that: "The outdoor areas within the site outlined in red on Dwg. No. 19/347/02 shall not be used for seating, dining or gathering associated with the hereby approved use outside the hours of 08:00 to 21:00 on any day of the week" which implies that a degree of usage by customers was expected.

3.0 PROPOSAL:

- 3.1 The proposal is for the formation of a decked area, the erection of a new boundary wall within the site and a raised boundary wall to the Concord Street boundary. The decking would provide an outdoor seating area.
- 3.2 The proposed decking would be constructed on the Concord Street frontage and would measure 5.5m by 3.1m, not including the width of the outer boundary wall. It would be constructed in timber and would be raised approximately 550mm above the existing ground level. The highway boundary wall adjacent to the decking would be raised by approximately 500mm so as to be between 1.5 and 1.7m in height measured from the highway side and 1.2m high above the decking. A new 1.2m wall of the same height would be constructed within the site to separate the decked area from the remaining hard-surfaced area within the site.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2019/91935 – change of use and alterations to mixed use (A1/B1a/B1b/B8) to form restaurant/bar (A3/A4) (within a Conservation Area). Approved
- 2021/93350 – Erection of illuminated and non-illuminated signs (within a Conservation Area). Consent granted.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

- 5.1 On the plans as originally submitted, the whole of the outdoor area would have become decking, surrounded by a glass balustrade, and a timber pergola with a plastic sheeting roof constructed to shelter it. On the new plans, the decking has been considerably reduced in scale, the pergola has been deleted, and glass balustrading no longer forms part of the scheme.
- 5.2 11-Nov-2021 Amended plan submitted deleting canopy from the scheme, description also changed.
- 5.3 The amended plans / description was subjected to new publicity by notifying the 4 neighbouring properties opportunity for public comment. This step was perhaps not essential since the amendment represented a reduction and did not add any new elements, but since it had attracted numerous objections and was expected to be a Sub-Committee item, it was considered desirable to re-publicise in the interests of openness.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

Kirklees Local Plan (2019):

- 6.2 The site is within Honley Conservation Area on the Local Plan proposals map and forms part of the Strategic Green Infrastructure Network. It is also within Honley District Centre (near the eastern extent).

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 16** – Food and drink uses and the evening economy
- **LP 20** – Sustainable travel
- **LP 21** – Highways and access
- **LP 24** – Design
- **LP31** – Strategic Green Infrastructure Network
- **LP 35** – Historic environment
- **LP 52** - Protection and improvement of environmental quality

6.3 Supplementary Planning Guidance / Documents:

- KC Highways Design Guide 2019

National Planning Guidance:

6.4 National Planning Policy Framework

- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment.

6.5 Neighbourhood Development Plans

- Holme Valley Neighbourhood Development Plan was adopted 08-Dec-2021 and therefore forms part of the Development Plan.

7.0 PUBLIC/LOCAL RESPONSE:

7.1 Final publicity period expired 17-Dec-2021. Publicity was undertaken by site notice and press advertisement in accordance with the requirements of the Development Management Procedure Order on the grounds that the development proposal would affect a Conservation Area.

7.2 13 third parties made representations as a result of the initial publicity, all opposing the development. No further representations were made as a result of the amended publicity. Summary of concerns raised:

- Loss of parking spaces within the site;
- Further congestion resulting from increased on-street parking, and possible access difficulties for emergency vehicles;
- Design and appearance would not be in keeping with its surroundings or the village .
- It is less than 20m from residential premises and would result in unacceptable noise from people drinking outside, waiting for taxis, smoking, etc and from live music;
- It would affect adjacent new houses and make them difficult to sell;
- Privacy – people using the outdoor area would be able to see into neighbouring residential properties;
- Safety issues because no footpath and no space between the drinking area and the highway;
- The use of glass as a material for the development will raise safety issues;

- Large wagons turn and pass by the existing exterior wall which has been knocked down and damaged in the past;
- If amendments could be made to the design so that the corner wall is left at a very low height (as it currently is) thus allowing the vehicles to turn in to Concord Street it would take away the risk of major damage, possible injury and costly bills.
- Likely increase in drunkenness and antisocial behaviour
- Litter and fumes arising from outdoor smoking;
- A site visit by Committee is required to they can see the severity of the parking problems.

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:** There were no statutory consultees.

8.2 **Non-statutory:**

KC Environmental Health – No objection subject to conditions

KC Highways Development Management – No objection

KC Conservation & Design – No objections.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Highway issues
- Drainage issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The site lies within land designated as part of Honley Conservation Area. As such Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 needs to be considered which requires that Local Planning Authorities shall pay special attention to the desirability of preserving or enhancing the appearance of buildings or land within a Conservation Area. This is also reflected in NPPF Chapter 16 and LP35 which require that development should not be permitted if it would give rise to loss of significance of heritage assets, unless there is a proportionate justification for the harm caused.
- 10.2 Since the proposal is for the enhancement of a bar / restaurant that already has planning permission, rather than a wholly new one, it is considered that the first criterion of Policy LP16 – avoiding an excessive concentration of food and drink uses in any one part of a commercial centre – does not apply. The remaining parts of LP16, relating to noise, potential for anti-social behaviour, servicing arrangements, and so forth, will be assessed in as far as they are relevant.

- 10.3 The site lies within land designated as Strategic Green Infrastructure Network under the Local Plan. Under Policy LP31(i), development proposals should ensure that the function and connectivity of the green infrastructure network is retained. The development would be on land that is already hard surfaced, would not displace any green infrastructure, and would not include the erection of a building. It is therefore considered that it would have no impact on the function or connectivity of the network. The criteria (ii) and (iii) of Policy LP31 – that new green infrastructure is integrated into the development where appropriate, it integrates into existing walking and cycling routes, are not considered to be applicable here owing to the scale and nature of the development.
- 10.4 The other LP and NPPF policies listed above will be taken into account in the assessment, concerning visual and residential amenity and highway safety will be taken into account.
- 10.5 Some of the policies in the Holme Valley Neighbourhood Development Plan are also relevant. These include Policies 1 & 2 which emphasise the importance of conserving landscape and built environment character, and that proposals should minimise harmful impacts as a result of noise, odour, light and other causes, and Policy 7 and 8 which supports the sustainable expansion of existing and new businesses, including those in Honley District Centre, subject to highway safety, amenity and sustainability considerations.

Urban Design issues

- 10.6 The application site 1 Concord Street is an unlisted two-storey building situated on the prominent corner of Concord Street and Marsh, and just within the boundary of the Honley Conservation Area. The building dates to the early 20th century and is situated within the historic core of the village, with the north-east elevation facing an open space which was historically the Market Place and the west elevation facing the Market Place car park in the centre of the conservation area. This area is characterised by small scale vernacular buildings constructed in natural stone with stone slate roofs and traditional features, although it is acknowledged that the car park makes a negative impact on the character of the conservation area and could be improved.
- 10.7 1 Concord Street itself has recently been refurbished to create a bar, with the rendered walls re-painted, the later bay window removed, the single-storey part re-clad, and the windows replaced. Despite the loss of the original leaded light sash windows, the building retains some architectural detailing of interest including the stone gutter corbels, surviving chimney stack and a low stone boundary wall which partially extends around the site. It is considered to make a neutral (or slightly positive) contribution to the character of the Conservation Area
- 10.8 The works as originally proposed would have introduced a blatantly modern feature into the site. It would have significantly detracted from the appearance of the building and the character of its surroundings by reason of the design, scale and materials of the canopy and balustrade, including the use of plastic sheeting on the canopy and glass as balustrading. It was therefore considered it could not be supported.

- 10.9 The plans now under consideration are very different in nature. An outdoor drinking or dining area would be formed by the addition of decking to create a level surface, but it would no longer be enclosed. The decking or terrace would have very limited visibility from outside the site since it would only be slightly raised above the level of the existing tarmac slope. The new walling would be stone, and as such would harmonise with the existing boundary treatments, and the predominant materials in use in the local area, provided that the details were the same (use of dry stone with mortared copings). It has considered that the changes have addressed the concerns originally raised by the Conservation & Design team and the case officer.
- 10.10 The Holme Valley NDP places a strong emphasis on landscape and village character. It is considered that owing to the scale and location of the proposal, and for the reasons set out in paragraphs 10.8-9 above, it would have no impact upon the wider landscape and would conserve the townscape.
- 10.11 It is considered that the development would represent a low-key addition to the building that would harmonise with its surroundings, and as such would fulfil the purpose of conserving the character of the existing building and the Honley Conservation Area. It would thereby comply with the aims of Policies LP24 and LP35 of the Local Plan, Chapter 16 of the NPPF, and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990
- 10.12 In conclusion, it is considered that the development would respect the character of the existing building and its surroundings, and it would comply with the aims of LP24(a) and LP35 and the relevant parts of NPPF Chapter 12 and 16, and policies 1 & 2 within the Holme Valley NDP.

Residential Amenity

- 10.13 The site lies within the boundary of Honley Local Centre but near its edge. To the east, along Marsh and Southgate, commercial uses soon give way to residential ones. The officer report on the original application for change of use to a restaurant / bar noted this, and also acknowledged that there were residential properties above some of the commercial properties on Westgate. Bars and restaurants have the potential to generate noise – from the behaviour of customers when at the premises or when arriving and departing, from deliveries, or from plant and machinery. The officer report found that whilst there were some shortcomings in the noise report, the information was sufficient to suggest that noise from equipment would be below background level, and this should be controlled by a prescriptive condition (condition 3). It recommended three further conditions:
1. Signage and disposal of glass bottles
 2. Limiting hours of use (no later than 10pm most days, until 11pm Fri/Sat)
 3. Limitation on use of the outdoor area by customers (no later than 9pm)
- 10.14 These were imposed as conditions C7, 8, 9 along with a limit on “entertainment noise” which must be inaudible at nearby residential premises (C6)

- 10.15 Any assessment of the potential for noise disturbance arising from the current proposal must take into account the existing permission. The approved plans did not explicitly show an outdoor area for customer, but the wording of the condition implies that this use was expected (see paragraph 10.4 above). However, the creation of a terrace will provide a level surface to put out customer chairs and tables, and possibly other paraphernalia such as heaters and umbrellas, and will encourage more uptake by customers. Increased usage will give rise to increased potential for noise. In view of the existing permission, which allows outdoor use by customers, it would be unreasonable to refuse the application on this basis.
- 10.16 However, there will need to be a way of limiting noise. Environmental Health have recommended (i) that hours of use are, as before, to be no later than 9pm or earlier than 8am; (ii) a Noise Mitigation Scheme is submitted and approved, which shall consider noise from loud voices from customers at the premises or leaving the premises, disposal of glass bottles, delivery of supplies and removal of wastes.
- 10.17 It is also recommended that in the interests of avoiding nuisance or harm to local amenity arising from glare or light trespass, it should be conditioned that no outdoor lighting may be installed without details first having been submitted to and approved in writing by the Local Planning Authority.
- 10.18 Subject to this the development would avoid having a materially negative impact on residential amenity and would accord with the aims of LP16, LP24(b), LP52, NPPF Chapter 15 and Policy 8 of the Holme Valley Neighbourhood Development Plan.

Highway issues

- 10.19 The plans for approval 2019/91935 did not indicate car parking was to be provided within the site, nor did it specifically set aside an area for loading or unloading. The Officer's Report states "The application site would not provide any off-street parking" and none of the conditions require parking or unloading space to be provided or retained within the site. The proposed decking will therefore not be taking up any space that was required to provide parking spaces for customers or staff, or servicing space under this permission.
- 10.20 The current plans show an area indicated as "parking" off Marsh. This would measure up to 7m in length from the access to the steps at the bottom of the decking. It may be sufficient for a light goods vehicle to unload, although a vehicle swept path has not been shown. If the space were to prove inadequate for unloading, then deliveries and unloading would have to take place on Concord Street or Marsh. The view of the Highway Officer is that whilst this might give rise to short-term obstruction to the public highway, this is also liable to occur with other businesses in the vicinity of Concord Street when taking deliveries or having refuse collected and could have occurred anyway if the approved bar / restaurant were to open without the proposed decked area.
- 10.21 The proposed raising of the highway boundary wall would serve as a safety measure to ensure that there is no danger of customers falling from the decking or straying off it into the path of vehicles travelling along Concord Street, and in the interests of preventing highway safety hazards occurring it is recommended it be conditioned that these works are carried out before the decking is brought into use and thereafter retained.

- 10.22 The current plans show bin storage within the site adjacent to the northern wall of the building.
- 10.23 Subject to the areas designated for refuse storage being retained as such, which should be conditioned, the proposed development would have no material impact on highway safety and would accord with the aims of LP20-21 and those of Policies 7-8 of the Holme Valley Neighbourhood Development Plan.

Other Matters

Ecology:

- 10.24 It is considered that the proposed development has no implications for biodiversity.

Works to existing building:

- 10.25 It has been noted that some of the external works to the building deviate from those shown on the approved plans for 2019/91935. In particular:
- The front elevation of the single-storey structure has three windows instead of two full-height ones, and uses more stone;
 - The rear elevation – the roof style has been changed, in that it now has a symmetrical double-pitched roof instead of an asymmetrical one, the main window is a lot smaller and the balance of composite boarding to render has increased.
- 10.26 It is considered that neither of these changes impact negatively upon the appearance or character of the building. So far no application to regularise these changes has been made (Variation of Condition or Minor Non-Material Amendment) but they are not considered to be in any way material to the current application.

Representations

- 10.27 The comments made are summarised here with officer responses.
- Loss of parking spaces within the site;
Response: The plans as approved for application 2019/91935 did not show any designated car parking areas nor was any car parking conditioned.
 - Further congestion resulting from increased on-street parking, and possible access difficulties for emergency vehicles;
Response: It is considered that any intensification in the use of the site would be minor and that since it is in a highly accessible location, it is reasonable to assume that a high proportion of customers would arrive on foot, by taxi, or using public transport.
 - Design and appearance would not be in keeping with its surroundings or the village.
Response: Design and visual amenity have been examined in paragraphs 10.6-10.12 above.

- It is less than 20m from residential premises and would result in unacceptable noise from people drinking outside, waiting for taxis, smoking, etc and from live music.

Response: These potential problems can be avoided by the imposition of appropriate conditions.

- It would affect adjacent new houses and make them difficult to sell.

Response: It is not clear which development or permission is being referred to here. Permission was obtained (reference 2008/93588, extension of time granted 2012/91076) for demolition of a haulage yard and erection of 14 dwellings on land immediately to the south. From an external view, there are no signs of the development having been commenced and it is not known whether the permission is still live. In any case, perceived impact on property value is a private interest and cannot be treated as a material planning consideration.

- Privacy – people using the outdoor area would be able to see into neighbouring residential properties.

Response: The direct line of site from the decking would be towards the public car park (to the west) and an estate agency to the north. The nearest residential property for which there would be a clear mutual line of sight, 1 Southgate, is about 19m away from the northern edge of the proposed terrace and it is considered that this is too far away to materially affect privacy.

- Safety issues because no footpath and no space between the drinking area and the highway.

Response: Highways Development Management have raised no concern about this aspect of the development in particular. The proposed boundary wall would prevent patrons from accidentally wandering into the highway or falling on to it.

- The use of glass as a material for the development will raise safety issues.

Response: Glass is no longer to be used at the site boundaries, but stone.

- Large wagons turn and pass by the existing exterior wall which has been knocked down and damaged in the past;

Response: Again, Highways Development Management have highlighted potential dangers from large vehicles as a concern and it is considered it would not be possible to substantiate a refusal on this basis, especially as the area could be used by customers anyway even before this application was made.

- If amendments could be made to the design so that the corner wall is left at a very low height (as it currently is) thus allowing the vehicles to turn in to Concord Street it would take away the risk of major damage, possible injury and costly bills.

Response: The wall at the corner is to remain at 600mm.

- Likely increase in drunkenness and antisocial behaviour.

Response: Hours of use should be limited by condition. Based on lack of evidence of existing problems of this nature in Honley and the lack of negative comment by West Yorkshire Police, it would not be possible to justify a refusal on these grounds.

- Litter and fumes arising from outdoor smoking.
Response: Again, there is nothing to prevent people using the area to smoke if the bar-restaurant use is commenced, and since the site does not directly adjoin a residential property, it is unlikely that cigarette fumes would be at a level to cause nuisance.
- A site visit by Committee is required so they can see the severity of the parking problems.
Response: The case officer's presentation of this item to Sub-Committee will include photographs of the site and a full explanation of the plans.

11.0 CONCLUSION

- 11.1 It is considered that the proposed development would conserve the character of the Honley Conservation Area and visual amenity generally, that highway safety would be unaffected, and that subject to suitable conditions it would not endanger the amenities of residential properties in the vicinity of the site.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and it is therefore recommended for approval.

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)

1. Standard 3-year timeframe for commencement of development
2. Development to be completed in accordance with the submitted plans and specifications
3. Raised highway boundary wall to be constructed before decking brought into use.
4. Hours of use of decking (no later than 9pm)
5. Noise mitigation scheme
6. No outdoor lighting without details being approved first.

Background Papers:

- Application website:
[Link to application details](#)
- Original Permission for Change of Use - 2019/91935 – change of use and alterations to mixed use (A1/B1a/B1b/B8) to form restaurant/bar (A3/A4) (within a Conservation Area). Webpage:
[Link to application details](#)
- Certificate of Ownership A signed