

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/19/02431/FPA
FULL APPLICATION DESCRIPTION:	Proposed removal of ground floor windows to Front Street elevation and insertion of sliding folding glazed doors to new openings formed
NAME OF APPLICANT:	Mr Jon Randall, JD Wetherspoon
ADDRESS:	The Wicket Gate 193 Front Street Chester-le-Street
ELECTORAL DIVISION:	Chester-le-Street West Central
CASE OFFICER:	Louisa Ollivere Planning Officer Telephone: 03000 264878 louisa.ollivere@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. This application relates to the Wicket Gate Public House which lies at the southernmost end of Chester-le-Street Front Street. The building is mainly a two-storey property but has a single storey element with a flat roof to the rear. A mini roundabout and the Front Street roadway lie immediately to the east. Adjacent to the property to the west is a petrol garage. To the north is another public house. Opposite the property are several commercial properties with offices and flats above. There are rows of terraced residential properties 40m to the east and 115m to the west.

The Proposal

2. The application proposes the removal of the existing window frames on the Front Street elevation and the widening of the openings and installation of aluminium folding doors within the openings with a 1.55m high glass balustrade in front of the doors.
3. This application is reported to Committee upon the request of Councillor Simon Henig on the basis of noise and disturbance to local residents.

PLANNING HISTORY

4. The site's planning history in the last 18 years mainly relates to minor applications relating to the building's current use as a public house, however the following are of some relevance to this application:

5. 08/00033/COU Proposed change of use of land to the side of building to form outside seating area for the placing of tables and chairs for use in connection with licensed premises (withdrawn).
6. 2/12/00089/FUL Creation of external beer garden and smoking area (Approved).
7. DM/17/03945/FPA Provision of beer garden on existing flat roof (Approved).

PLANNING POLICY

NATIONAL POLICY

8. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The NPPF was updated in July 2018. The overriding message remains that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
9. In accordance with paragraph 48 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.
10. The following elements of the NPPF are considered relevant to this proposal;
11. *NPPF Part 2 - Achieving sustainable development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
12. *NPPF Part 6 - Building a strong, competitive economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
13. *NPPF Part 8 - Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. It should promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other. Developments should be safe and accessible, 'so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion'.
14. *NPPF Part 12 - Achieving well-designed places.* Planning policies and decisions should ensure that developments achieve a range of aims including, 'create places

that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience’.

15. *NPPF Part 15 - Conserving and enhancing the natural environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

NATIONAL PLANNING PRACTICE GUIDANCE:

16. The National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.
17. Design -The importance of good design. Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, it enhances the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.
18. Noise - Noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. Consideration should be given to whether significant adverse effect or an adverse effect occurs or is likely to occur; or whether a good standard of amenity can be achieved. Paragraph 123 of the NPPF provides policy support to this aspect.

LOCAL PLAN POLICY:

19. There are no saved policies in the Chester-le-Street Local Plan 2003 relevant to the consideration of this application.

RELEVANT EMERGING POLICY:

20. Paragraph 48 of the NPPF states that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. Following consultation at ‘Issues & Options’, ‘Preferred Options’ and ‘Pre-Submission Draft’ stages, the CDP was approved for submission by the Council on 19 June 2019. The CDP was submitted to the Planning Inspectorate on 28 June 2019 and the EIP is currently progressing. Although the CDP is now at a relatively advanced stage of preparation, it is considered that it is not sufficiently advanced to be afforded any weight in the decision-making process at the present time.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at

<https://www.durham.gov.uk/article/3266/How-we-currently-make-planning-and-development-decisions>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

21. Highways – Have no objections but request an informative in relation to the legal requirements in terms of doors opening onto highways.

EXTERNAL CONSULTEE RESPONSES:

22. Durham Constabulary – Object to the enlargement of the front windows as they considered they would be a safety hazard due to people loitering on the footpath whilst interacting with the customers inside, both blocking the pavement and being a distraction for drivers on the mini roundabout which is tight to negotiate.

INTERNAL CONSULTEE RESPONSES:

23. Environmental Health – Note that the applicant's intent is to change the functioning of the premises so as to stop playing music. The Officer also notes that the developer has agreed that any glazing provided will be sufficient to meet the current acoustic value provided by the existing window units. It is recognised that the applicants have agreed to conditions to ensure the above. The Officer requires conditions to be imposed in relation to restricting music and in relation to ensuring the closure of the doors between 21.00 to 09.00 to prevent the breakout of voices. As music is not to be played, the Officer does not feel it necessary to ensure controls over the acoustic properties of the doors. With such conditions the Officer considers that this will be sufficient to mitigate the potential of statutory nuisance and amenity impacts therefore the Officer does not object.

PUBLIC RESPONSES:

24. A public consultation exercise has been undertaken and this has resulted in 30 letters of objection from local residents whose concerns are summarised as follows:

- Health and safety issues from passive smoking on pavement.
- Noise and disturbance from the premises.
- Customers will block pavement.
- No need for further outside area.
- Littering will take place on footpath through openings.
- There is already ASBO issues in the vicinity.
- This will open up access of most of building onto the footpath.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at

<https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P0LOOYGDIS300>

PLANNING CONSIDERATIONS AND ASSESSMENT

The Principle of the Development

25. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development and the impacts upon residential amenity and the character of the area.

The Development Plan

26. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The Chester-le-Street District Local Plan remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. The NPPF advises at Paragraph 213 that the weight to be afforded to existing Local Plan Policy depends upon the degree of consistency with the NPPF.
27. This Local Plan was adopted in 2003 and was intended to cover the plan period until 2006. However, the Framework advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF.
28. This is an application for alteration to an existing commercial development within Chester-le-Street Town Centre. The Development Plan is silent in respect of such development therefore consideration of the development should be led by paragraph 11 of the NPPF.

The NPPF

29. Paragraph 11(d) advises that where there are no relevant development plan policies, planning permission should be granted unless i) the application of framework policies which protect areas or assets of particular importance provides a clear reason for refusal or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against framework policies as a whole. There are no framework policies which protect areas or assets of particular importance affecting this site. Paragraph 11(d)(ii) therefore applies.

Policy Principle

30. The NPPF advises that decisions should help create the conditions in which businesses can invest, expand and adapt. The Wetherspoons company is both investing in and adapting the Wicket Gate premises and the changes are required to assist in the conversion of the premises from a Lloyds NO1 bar into a Wetherspoons pub which will no longer play amplified live music or host DJ nights. The alterations would allow the premises to continue to contribute positively to the daytime and early evening economy aiding to the vitality and viability of the commercial centre. The proposal therefore gains support from the NPPF in these respects, however the acceptability of the scheme will depend upon the application of the balancing exercise required by paragraph 11 of the NPPF which is considered in more detail later in this report.

Impact upon Neighbouring Amenity and the Surrounding Area

31. Paragraph 127 of the NPPF requires developments to create places that promote health and well-being, with a high standard of amenity for existing and future users. The NPPF in paragraph 170 requires new and existing development to be prevented from contributing to, or being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution. It is advised within paragraph 180 of the NPPF that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so it advises that development should mitigate and reduce to a minimum potential adverse impact resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.
32. It is generally accepted that occupiers of residential properties within town centres cannot expect the same level of peace and quiet as those who live in more distant and predominantly residential areas. Nevertheless, it is considered that such residents are entitled to a reasonable degree of peace and quiet during the small hours when most people are asleep.
33. Concerns have been raised by local residents in relation to the breakout of noise and potential for increase to anti-social behaviour in the area. The closest residential properties are 40 metres away from the site. Given the late opening hours of the current use and the proximity to residential properties, without suitable controls there would be significant impacts upon the neighbouring residential properties resulting in a loss of amenity to residents from noise and disturbance and the likelihood of a statutory nuisance. Concerns have been raised to the original submission by residents, the Police and the Environmental Health Officer in relation to the opening up of windows and the escape of noise from amplified music and people from within until late into the evening.
34. In response to this the applicants have confirmed that as the premises is changing to a traditional Wetherspoons pub and that there will no longer be any amplified or live music being played at any time on the premises and they agreeable to a condition to this effect. The applicants are also agreeable to a condition to ensure that the door be closed after 9pm. Furthermore, the applicants are willing to ensure that the sliding doors will be of better or at least the same attenuation /insulation value as the current window construction, although the Environmental Health Officer no longer thinks this is necessary. With conditions restricting live and amplified music and door opening hours the proposal would not be considered to be harmful to residential amenity or cause a statutory nuisance. It is considered that the escape of customer noise would not affect the acoustic character of the area to the extent that there would be a perceived change in quality of life to local residents.
35. Paragraph 91 of the NPPF seeks to ensure that developments do not undermine the quality of life or community cohesion – for example through the use of clear and legible pedestrian routes, and high-quality public space, which encourage the active and continual use of public areas
36. Admittedly the town centre and surrounding area suffer some anti-social behaviour issues however it is noted that the Police consider the management of the premises to be very pro-active and consider it a well-run establishment. The main element of concern to the Police and local residents is in relation to smokers not only loitering on the pavement but interacting with customers inside whilst doing so and customers inside littering the pavement through the doors. However, the nature of the

establishment is not one associated with litter production. With regards to smokers, it is anticipated that the number of smokers standing outside the front would be less than at present as they will be able to both drink and smoke in the large roof beer garden which already has planning permission and that is shortly to be developed. A condition can ensure that the doors shall not be in operation until the already approved beer garden is also open for use.

Design Considerations and Impacts upon character of the area

37. The NPPF attaches great weight to good design and seeks to ensure that developments address connections between people and places and the integration of the new development into the natural, built and historic environment.
38. The proposed predominantly glazed frontage would present a modern aesthetic in keeping with the modern appearance of the building. Therefore, there would be a negligible impact upon the visual amenity of the area.

Access/Parking/Highway Safety

39. Whilst the Police and public have concerns over safety of users of the footpath the design features and conditions detailed above would prevent this becoming an issue in front of the building. Furthermore, the Highways Officer has no objections to the proposals in terms of highways safety.

Conclusion

40. The NPPF outlines three dimensions to sustainable development, which needs to be considered together. These are economic, social and environmental roles. In respect of the balance of benefit versus harm for this application the following is noted. The application would support an existing town centre use contributing to the vitality and viability of Chester-le-Street Town Centre. The potential for significant adverse impacts upon residential amenity (noise) and anti-social behaviour can be mitigated to the extent they have a neutral impact to the quality of life for local residents. Matters in relation to design and visual amenity are considered neutral and do not weigh in favour or against the proposals.
41. The nearest noise sensitive receptors are 40 metres away from the site and this distance together with conditions lead Officers to consider that there would be no significant adverse impacts from the proposal in terms of noise and anti-social behaviour therefore the economic benefits of the development weigh in favour of this proposal. Issues raised by local residents, whilst noted, do not alter the conclusion of this assessment.

CONCLUSION

42. The scheme brings some economic benefits, and conditions will ensure no adverse impacts, therefore applying the 'tilted balance' required by paragraph 11 of the NPPF, there are no adverse impacts which will significantly and demonstrably outweigh the benefits. Accordingly, planning permission should be granted, subject to the identified conditions.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the following approved plans:

Plan Reference No: Date submitted:

Site Location Plan 26.07.2019

Proposed Ground Floor F1941-09 26.07.2019

Proposed elevation F1941-12 26.07.2019

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with the NPPF.

3. No live or amplified music shall be played at the premises at any time.

Reason: In the interests of residential amenity in accordance with section 15 of the NPPF.

4. The sliding doors hereby approved serving the front façade shall not be opened outside of the hours of 09.00-21.00.

Reason: In the interests of residential amenity in accordance with section 15 of the NPPF.

5. The approved glazed doors shall remain closed until the roof garden beer garden is available for use.

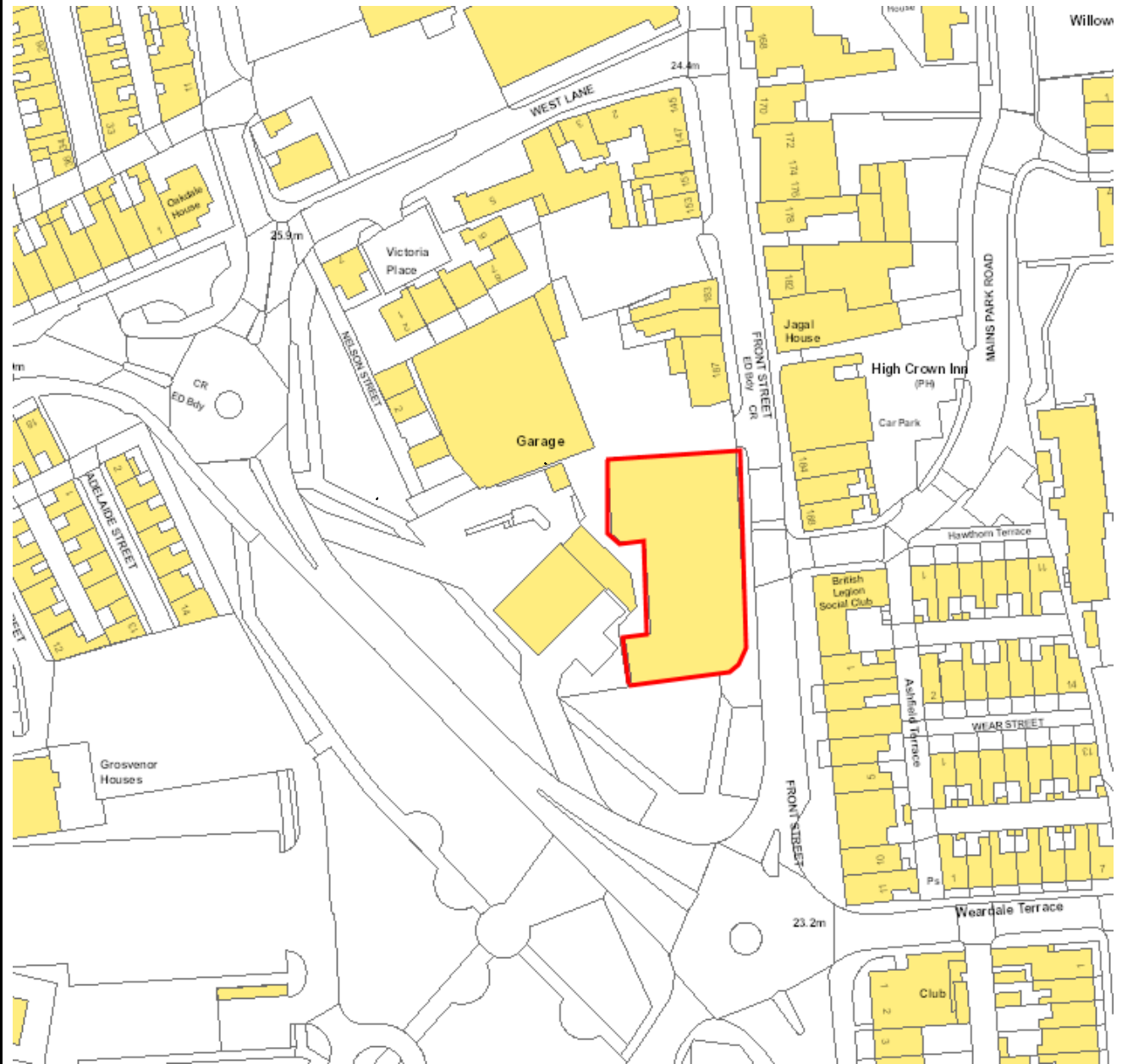
Reason: In the interests of protecting residential amenity in accordance with section 15 the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

The National Planning Policy Framework (2012)
National Planning Practice Guidance Notes
Chester-le-Street Local Plan 2003 (saved policies)
Statutory, internal and public consultation responses
Submitted forms, plans and supporting documents



Planning Services

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Provision of beer garden on existing flat roof.

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Comments

Date 31.10.2019

Scale NTS