

**Application No:** 19/01517/FUL Author: Maxine Ingram  
Date valid: 7 November 2019 ☎: 0191 643 6322  
Target decision date: 2 January 2020 Ward: Benton

Application type: full planning application

**Location: The Flying Scotsman, Briar Edge, Forest Hall, NEWCASTLE UPON TYNE, NE12 7JN**

**Proposal: Formation of roof terrace / beer garden to section existing single storey flat roof to south east of property including timber frame covered seating area, external and covered external stair access and formation of new door opening to rear at ground floor level (Acoustic Design Statement 28.02.2020)**

Applicant: Punch Taverns, Mr Mark Johnsons Jubilee House Second Avenue  
Burton Upon Trent DE14 2WF

Agent: Wakefields Chartered Surveyors, Mr Andrew Lormier 32 Leazes Park  
Road Newcastle Upon Tyne NE1 4PG

**RECOMMENDATION:** Application Permitted

## **INFORMATION**

### **1.0 Summary Of Key Issues & Conclusions**

1.0 The main issues for Members to consider in this case are:  
-The impact on amenity (residential and visual);  
-Other issues.

1.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Members need to consider whether this application accords with the development plan and also take into account any other material considerations in reaching their decision.

### 2.0 Description of the Site

2.1 The application site refers to an existing public house, The Flying Scotsman, located within Forest Hall. The building is a flat roof structure of varying heights. The car park is located to the north west of the building and is accessed via Briar Edge. The Forest Hall district centre is located to the east and south east of the site. The site backs onto railway tracks. A pedestrian bridge is located to the south of the building.

2.2 Residential properties are located to the north, north east, south east, south west and west of the site.

### 3.0 Description of the Proposed Development

3.1 Planning permission is sought for the formation of roof terrace/beer garden over part of the existing single storey flat roof (south east part of the property) and the construction of a timber frame covered seating area, external and covered external stair access and formation of new door opening to rear at ground floor level.

3.2 The submitted layout suggests the proposed development could accommodate a maximum of 84 people.

3.3 The proposed hours of operation are:

-Monday to Friday 12:00 to 23:00

-Saturday 12:00 to 00:00

-Sunday and Bank Holidays 10:00 to 22:30

### 4.0 Relevant Planning History

15/01084/ADV Erection of illuminated and non-illuminated signs to the exterior of the building (Adverts A1, A2, B, C, D, F and G only) – Permitted 27.08.2015

15/00139/FUL - Single storey side extension, new windows to front and side elevations, new double entrance doors, new canopy infill with double entrance doors to new external drinking and smoking area with timber fencing and 3m high wall to front elevation, new stained timber panelling to new and existing walls, existing door infilled to front and rear. (Resubmission of 14/01491/FUL) – Permitted 30.03.2015

14/01491/FUL - Single storey side extension, new windows to front and side, new canopy infill with double entrance doors, new double doors to side elevation, new external drinking area with metal railings and timber fencing, new smoking shelter and timber panelling to existing walls to front and side elevations – Refused 19.11.2014

08/00103/FUL - Provision of fenced beer garden in existing car park – Refused 12.03.2008

07/01288/FUL - Form exit from existing bar to enclosed external area with new paving flags surrounded by 1.1m high close boarded fence/extend existing flat roof to form canopy over and decking to car park elevation to form patio - Permitted - 28.06.2007

86/00648/FUL – Various advertisement signs – Permitted – 10.06.1986

76/00795/FUL - New roof to service yard – Permitted – 01.07.1976

### 5.0 Development Plan

5.1 Local Plan (2017)

## 6.0 Government Policy

6.1 National Planning Policy Framework (NPPF) (February 2019)

6.2 National Planning Practice Guidance (NPPG) (As amended)

6.3 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in the determination of all applications. It requires LPAs to apply a presumption in favour of sustainable development in determining development proposals. Due weight should still be attached to Development Plan policies accordingly.

## **PLANNING OFFICERS REPORT**

### 7.0 Detailed Planning Considerations

7.1 The main issues for Members to consider in this case are:

- The impact on amenity (residential and visual);
- Other issues.

7.2 Consultations responses and representations received as a result of the publicity given to this application are set out in the appendix to this report.

### 8.0 Impact on amenity – residential and visual

8.1 The NPPF makes it clear that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives: an economic objective; a social objective; and an environmental objective. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

8.2 The NPPF paragraph 11 makes it clear that plans and decisions should apply a presumption in favour of sustainable development. However, the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. The NPPF paragraph 12 states “Where a planning application conflicts with an up-to-date development plan permission should not normally be granted. Local Planning Authorities (LPA’s) may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed”.

8.3 Paragraph 80 of NPPF states that significant weight should be placed on the need to support economic growth. The proposal would contribute towards economic growth by improving the existing public house. Members should give this significant weight in favour of the proposal when deciding whether or not to grant planning permission,

8.4 The NPPF paragraph 91 states “Planning policies and decisions should aim to achieve healthy, inclusive and safe places which: a) promote social interaction....b) are safe and accessible...and c) enable and support healthy lifestyles...”

8.5 The NPPF paragraph 92 states “To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should: a) plan positively for the provision and use of shared spaces, community facilities (such as....public houses) and other local services to enhance the sustainability of communities and residential environments; b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community; c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs; d) ensure that shops facilities and services are able to develop modernise, and are retained for the benefit of the community;.....”

8.6 NPPF makes sets out clear guidance for Local Authorities through the decision-making and plan-making process to ensure adequate provision of community services and to guard against unnecessary loss.

8.7 LP Policy S7.10 ‘Community Infrastructure’ states “The Council and its partners will ensure that local provision and resources for cultural and community activities are accessible to the neighbourhood they serve. In order to achieve this, amongst other matters: a) Priority will be given to the provision of facilities that contribute towards sustainable communities, in particular, catering for the needs of the growing population around key housing sites; c) Existing provision will be enhanced, and multi-purpose use encouraged, providing a range of services and resources for the community, at one accessible location; d) Opportunities to widen the cultural, sport and recreation offer will be supported.

8.8 Planning permission for the re-use or redevelopment of any land or buildings used for community infrastructure will be permitted where the community’s ability to meet its day-to-day needs for services are not reduced.”

8.9 The supporting text to the above LP policy states “Community infrastructure provides for the health and wellbeing, social, educational, spiritual, recreational, leisure and cultural needs of the community through a wide range of venues and includes pubs and cafes, ...and other public venues.” It then goes on to state “Community infrastructure is an essential element in the creation of sustainable communities. The LP seeks to provide a range of services at the heart of every community which can contribute to community cohesion and identity and give opportunities for residents to pursue healthy and fulfilling lifestyles, and can also reduce the need to travel by providing easy access to multiple facilities.”

8.10 It is noted that several letters of support have been received. These letters set out the community benefits of the proposed development (Appendix 1 paragraph 2.2).

8.11 Members are advised that they will need to balance the economic and community benefits of the proposed development against the impacts of the proposed development on residential and visual amenity.

8.12 Paragraph 124 of the NPPF encourages good design stating that “this is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 130 of the NPPF makes it clear that “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents”.

8.13 LP Policy DM6.1 ‘Design of Development’ makes it clear that applications will only be permitted where they demonstrate high and consistent design standards. Amongst other matters proposed developments are responsive to their location, including topography, wildlife habitats, site orientation and existing buildings; ensuring a positive relationship to neighbouring buildings and spaces; ensuring sufficient parking is well integrated into the layout; and a good standard of amenity for existing and future residents.

8.14 LDD11 ‘Design Quality’ applies to all planning applications that involve building works.

8.15 The objections raised regarding the impact on residential amenity and visual impacts are noted. The objections are set out in Appendix 1 paragraph 2.1.

8.16 The proposed terrace/beer garden would include a decked surface, glazed edge balustrade and horizontal timber screening. The screening towards the front elevation of the property would be set back from the principal elevation. The applicant has advised that this is to minimise the impact on the streetscape and reduce the massing. External seating and tables will be low level. A timber framed, covered area, will be incorporated abutting the existing two storey section of the building. The applicant considers this would increase the usage capabilities of the areas and improve the poor appearance of the existing gable elevation at first floor level. A retractable “sail” sun shade cover would be added to the covered area to increase shade during summer months.

8.17 The external appearance of the building would, in the main, remain largely unchanged with all changes being confined to the roof, side (south east) and rear elevations. One new external door would be formed to the rear elevation to provide access to the covered stairs to the proposed terraced. Access to the second set of stairs would be via the existing doors to the external seating/smoking area.

8.18 Glazed balustrades would be utilised to provide a contemporary design approach to the side and rear. The timber screening to the north east would tie in with and complement the timber cladding that exists on parts of the main building. This would also assist in screening the proposed terrace/beer garden from residential properties located to the north east of the site. The applicant considers that the timber enclosure and profiled metal roof, reclaimed railway

lines recessed into the decking and external Victorian style lamp post and lanterns would create a unique theme and throw back to “Victorian train stations”.

8.19 The existing public house is located in a mixed-use area of Forest Hall (commercial and residential premises). To the north of the car park is an existing residential property, Elroy. Nos. 80, 82 and 84 Station Road are located to the south west of the site. The garden serving No. 84 Station Road is sited approximately 17.5m from the public house. Nos. 1-4 Benton View are sited approximately 40m to the west/south west of the public house. The garden area serving the nearest property sited on Benton View is sited closest to the public house. No. 109 Station Road is located approximately 30m to the west/north west of the public house. The railway track separates Nos. 80, 82, 84 and 109 Station and Nos. 1-4 Benton View from the application site.

8.20 To the north/north east/east of the site are the residential and commercial premises sited on West View and Station Road North. These premises are separated from the application site by a road.

8.21 The proposed development would be sited over part of the single storey flat roof; the section that lies closest to the railway track. It would be set back from the road to the north east of the public house. When travelling towards the district centre from Briar Edge the highest part of the public house would assist in screening the proposed development. More direct views of the proposed development would be afforded when travelling along Station Road North towards the public house; the main views would be of the timber structure, glazed panelling and stair well. It is the view of officers, that the visual impacts of this part of the proposed development, would not significantly impact on the character or appearance of this part of Forest Hall.

8.22 Horizontal timber fencing would be sited along the north eastern edge of the proposed development. Views of this part of the proposed development would be afforded from the north east and south west of the site. Consideration must be given to the fact that it would be set back from the north east and the south west elevation of the public house. This set back would assist in reducing its visual impact when viewed from street level. It is the view of officers, that the visual impact of this part of the proposed development, would not significantly impact on the character or appearance of this part of Forest Hall.

8.23 More direct views of the proposed development would be afforded from the footbridge and the railway track to the west and south west of the site. However, when viewed from these directions it would be seen against the highest part of the public house and residential/commercial premises beyond. It is the view of officers, that the visual impact of the proposed development, when viewed from these directions, would not significantly impact on the character or appearance of this part of Forest Hall.

8.24 The windows serving the habitable rooms of surrounding neighbouring properties (to the north east, south west, east and west of the site) do not afford direct views of the public house. It is acknowledged that obscure views of the proposed development from certain windows would be afforded. More direct views would be afforded from some of the residential gardens located to the west

and south west of the site. Due to the siting of the proposed development, including the set back of the timber fencing from the facades of the public house, it is not considered that the visual amenity of neighbouring properties would be significantly affected.

8.25 It is not considered that the privacy of the residential properties located to the north east of the site would be significantly affected.

8.26 Views from the proposed development over the garden areas serving some of the neighbouring properties to the west and south west of the site would be afforded. However, due to the separation distance that would exist, it is not considered that the privacy of these properties would be significantly affected.

8.27 The existing public house is timber clad, painted render and brickwork. The materials proposed to construct the development are considered to be in keeping with the existing materials.

8.28 The objections received regarding the impacts on the amenity of neighbouring properties in terms of noise, disturbance and anti-social behaviour are noted.

8.29 Paragraph 180 of the NPPF states “Planning policies and decisions should also ensure 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 they should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life; b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational amenity value for this reason; and c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation”.

8.30 LP Policy S1.4 “General Development Principles” states “Proposals for development will be considered favourably where it can be demonstrated that they would accord with the strategic, development management or area specific policies of this Plan.” Amongst other matters this includes: be acceptable in terms of their impact upon local amenity for new or existing residents and businesses, adjoining premises and land uses; and be accommodated by, and make best use of, existing facilities and infrastructure, particularly in encouraging accessibility and walking, cycling and public transport, whilst making appropriate provision for new or additional infrastructure requirements”.

8.31 LP Policy DM5.19 Pollution states “Development proposals that may cause pollution either individually or cumulatively of water, air or soil through noise, smell, smoke, fumes, gases, steam, dust, vibration, light, and other pollutants will be required to incorporate measures to prevent or reduce their pollution so as not to cause nuisance or unacceptable impacts on the environment, to people and to biodiversity.

8.32 Development proposed where pollution levels are unacceptable will not be permitted unless it is possible for mitigation measures to be introduced to secure a satisfactory living or working environment..."

8.33 The Manager of Environment Health has been consulted. She has considered the submitted acoustic report and advises that she does not agree that the use of the external terrace would not give rise to adverse noise impacts for neighbouring residents if permitted to operate until late evening.

8.34 She has advised that the submitted assessment considers potential noise from customers using the roof terrace during the day, late evening and night period. The assessment has been based on 50% of customers talking during a 1-hour period during the day and a 15-minute period after 23:00 hours. Typical noise levels from loud speech have been used to calculate the noise exposure at nearest residential properties based on a BS4124 assessment. She has advised that the noise report has not considered maximum noise levels at neighbouring residential properties from raised voices, as the assessment has averaged the noise levels generated, but loud voices arising from the use of the roof terrace is different to noise from plant and equipment and as such the maximum noise levels from customer voices may give rise to sleep disturbance, especially if residents have open windows during the late evening and early night period. It is clear from her comments that she would be concerned that any use of the roof terrace occurring late evening, with a capacity of 84 people, would give rise to significant associated noise from customer voice and result in disturbance for neighbouring residents. She has advised it is not anonymous noise like passing traffic which is considered less intrusive than unfamiliar distinct noise. The assessment has shown that noise levels will be in the region of +5 dB above background during the day and +10dB above background after 23:00 hours.

8.35 Members are advised that the NPPF paragraph 180, makes it clear that impacts from new development should "mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development - and avoid noise giving rise to significant adverse impacts on health and the quality of life". The applicant has requested use of the roof terrace until 0100 hours on Friday and Saturdays. The Manager of Environmental Health has advised that permitting the use of the roof terrace until this time would give rise to significant adverse impacts for neighbouring residents from the associated customer noise such as loud voice and it has not been demonstrated that such noise would be negligible.

8.36 Paragraph 54 of NPPF states, "Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations." Paragraph 55 states "Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects." The NPPF paragraph 180 aims to "avoid noise from giving rise to significant adverse impacts on health and quality of life". It is clear from the Environmental Health comments (Appendix 1 paragraph 1.12) that she would recommend a condition to restrict the operating hours for the roof terrace to no later than 21:00 as means of mitigating any late-night noise from the site. Subject to the imposition of this

condition, it is considered that the impacts arising from noise could be controlled. Officers consider that a further condition is required to control the height of the glass balustrade which must be increased to a height of 2m as per the requirements of the Acoustic Report. This increase in height would further assist in minimising the impact on residential amenity, particularly the residential gardens to the south.

8.37 Members need to determine whether the proposed development is acceptable in terms of its impact on residential amenity and visual amenity, including its elevated position and proposed materials. It is officer advice that the proposed development is acceptable in terms of its impact on residential and visual amenity, subject to the imposition of the suggested conditions. As such, it is officer advice that the proposed development accords with the advice in NPPF and policies DM5.19 and DM6.1 of the Local Plan.

## 9.0 Other Issues

### 9.1 Biodiversity

9.2 The Biodiversity Officer has been consulted. She has considered the submitted Bat Risk Assessment and Lighting Assessment.

9.3 She has advised that the submitted Bat Risk Assessment of the building concluded that overall, the structure was considered to be of negligible to low suitability to roosting bats and the site provides opportunities for nesting birds. The assessment identifies the likely impacts of the scheme without appropriate mitigation (Appendix 1 paragraph 1.17) and appropriate mitigation (Appendix 1 1.18).

9.4 The submitted Lighting Assessment advises that the proposed lighting would include 6no. low level Victorian style train station lanterns with low wattage lamps. These lanterns would have glass sides and metal tops to facilitate side/down lighting only. This is designed accordingly to avoid adverse light spill in relation to any potential flight path. In addition, bulkhead light fittings would be installed within the staircase enclosed and covered area to provide suitable lighting to enable the stairs to be adequately lit to facilitate safe use. These shall be ceiling mounted and provide down lighting to avoid adverse light spill in relation to any potential bat flight path and adjacent railway line. The Biodiversity Officer has advised that the proposed lighting has taken into considered the recommendations set out within the Bat Risk Assessment.

9.5 Members need to consider whether the proposed development is acceptable in terms of its impact on biodiversity. It is officer advice, subject to the suggested conditions, that it is.

### 9.6 Car Parking and Access

9.7 LP Policy DM7.4 'New Development and Transport' makes it clear that the Council will ensure that the transport requirements of new development, commensurate to the scale and type of development, are taken into account and seek to promote sustainable travel to minimise environmental impacts and support resident's health and well-being.

9.8 The Council's maximum parking standards are set out in the Transport and Highways SPD (LDD12).

9.9 Vehicular access to the site remains unchanged and there are no proposed changes to the existing car parking layout.

9.10 The Highways Network Manager has been consulted. He has raised no objection to the proposed development.

9.11 Members need to consider whether the proposed development is acceptable in terms of its impact on highways safety. It is officer advice that it is.

#### 9.12 Contaminated Land

9.13 NPPF paragraph 178 sets out guidance on ground conditions and pollution.

9.14 NPPF paragraph 179 states "Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner".

9.15 LP Policy DM5.18 "Contaminated and Unstable Land" sets out guidance on dealing with and mitigating any impacts relating to ground conditions.

9.16 The Contaminated Land Officer has been consulted. She has raised no objections to the proposed development.

9.17 The Coal Authority has been consulted. They have raised no objections to the proposed development.

9.18 Members need to consider whether the proposed development is acceptable in terms of its impact on ground conditions. It is officer advice that it is.

#### 9.19 Aviation Safety

9.20 Newcastle International Airport Limited (NIAL) has been consulted. They have raised no objection to the proposed development.

#### 9.21 Network Rail

9.23 Network Rail has been consulted. They have raised no objections subject to the imposition of the suggested conditions and informatives.

#### 10.0 Local Financial Considerations

Local financial considerations are defined as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by the Minister of the Crown (such as New Homes Bonus payments) or sums that a relevant authority has received, or will or could receive in payment of the Community Infrastructure Levy. Should planning permission be granted, the proposed works would assist the operation of an existing business and employment opportunities may be generated during the construction works.



7. All works will be undertaken in accordance with the measures set out in sections 6.3 and 6.4 of the Bat Risk Assessment.

Reason: To ensure that local wildlife populations are protected in the interests of ecology having regard to the NPPF and Policy DM5.5 of the North Tyneside Local Plan (2017).

8. Notwithstanding Condition 1, prior to the proposed development being brought into use details of 1no. bird boxes to be installed on the exterior walls of the building, including specifications and locations, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, these agreed details shall be installed prior to the development being brought into use and permanently retained.

Reason: To ensure that local wildlife populations are protected in the interests of ecology having regard to the NPPF and Policy DM5.5 of the North Tyneside Local Plan (2017).

9. Notwithstanding Condition 1, prior to the proposed development being brought into use details of 2no. bat boxes to be installed on the exterior walls of the building, including specifications and locations, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, these agreed details shall be installed prior to the development being brought into use and permanently retained.

Reason: To ensure that local wildlife populations are protected in the interests of ecology having regard to the NPPF and Policy DM5.5 of the North Tyneside Local Plan (2017).

10. Notwithstanding Condition 1, prior to the commencement of any works hereby approved the applicant and/or developer, including any contractors or sub-contractors, must contact Network Rails Asset Protection Team (Asset Protection Project Manager, Network Rail (London North Eastern), Floor 3B, George Stephenson House, Toft Green, York, Y01 6JT or Email: [assetprotectionlineem@networkrail.co.uk](mailto:assetprotectionlineem@networkrail.co.uk)) to discuss a method statement to ensure that the work can be delivered safely and without impact to operational railway safety. Following this discussion the Method Statement shall be submitted to and approved in writing by the Local Planning Authority in conjunction with Network Rail. This Method Statement shall include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. "possession" which must be booked via Network Rail's Asset Protection Project Manager and are subject to a minimum prior notice period for booking of 20 weeks. Thereafter, the proposed works shall only be carried out in accordance with these agreed details.

Reason: To ensure that the work can be delivered without impact to operational railway safety.

11. Notwithstanding Condition 1, prior to the installation of any lighting, details of the lighting shall be submitted to and approved in writing by the Local Planning Authority in conjunction with Network Rail. These details must ensure that the new lighting does not dazzle drivers and the location and colour of lights must not

give rise to the potential for confusion with the signalling arrangements of on the railway.

Reason: To ensure that the work can be delivered without impact to operational railway safety.

**Statement under Article 35 of the Town & Country (Development Management Procedure) (England) Order 2015):**

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirements in Paragraph 38 of the National Planning Policy Framework.

**Informatives**

Building Regulations Required (I03)

Consent to Display Advertisement Reqd (I04)

Take Care Proximity to Party Boundary (I21)

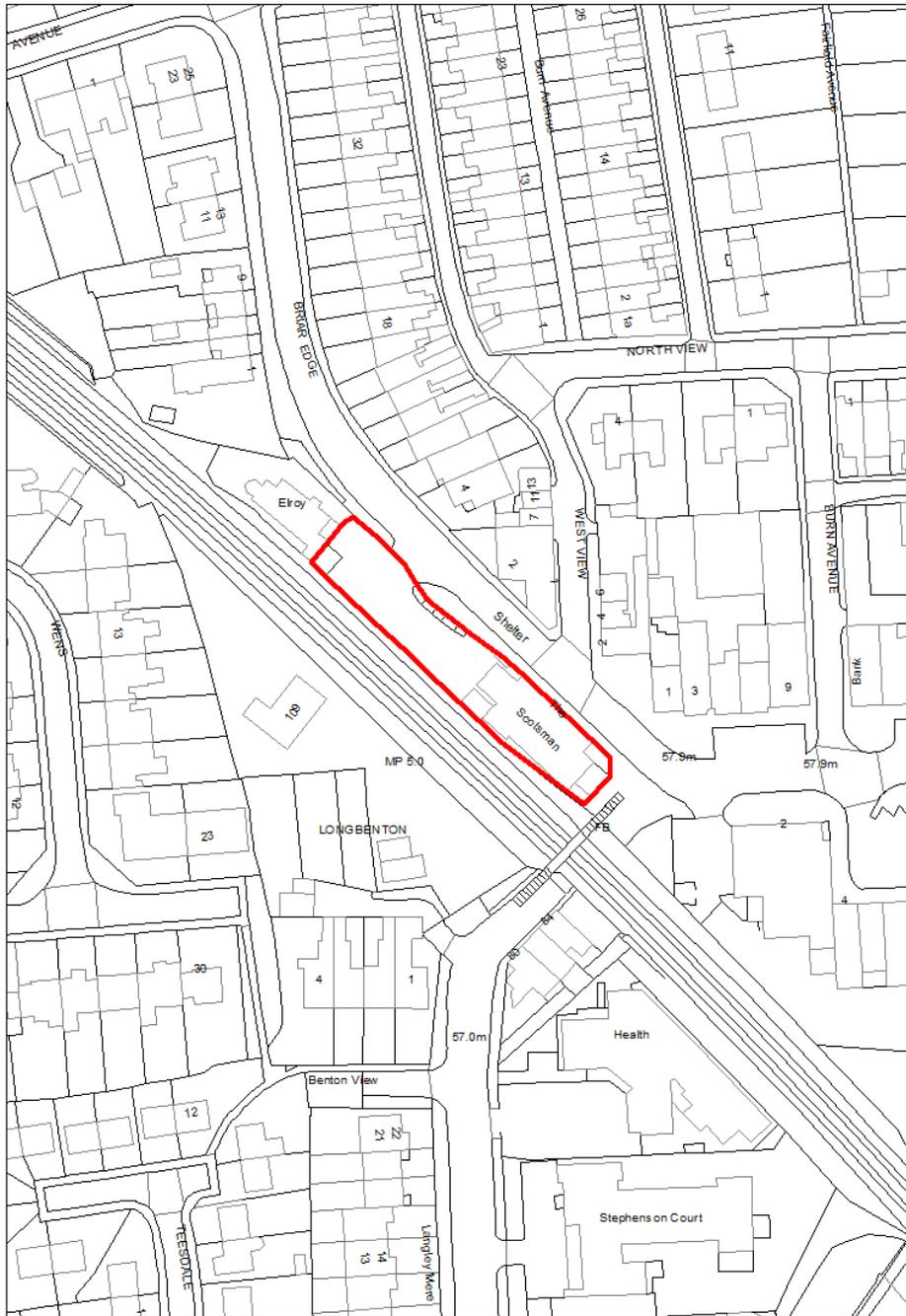
Advice All Works Within Applicants Land (I29)

Do Not Obstruct Highway Build Materials (I13)

Coal Mining Standing Advice (FUL,OUT) (I44)

Network Rail advisory information: -Condition 10 of the grant of planning permission Please note Network Rail will be unable to agree to discharge of a method statement condition without direct discussion and agreement with their Asset Protection Team and the developer entering into a Basic Asset Protection Agreement (where appropriate). They would advise that the developer discuss the proposals with Asset Protection prior to applying for the discharge of condition. -Fail Safe Use of Crane and Plant All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports. -Security of Mutual Boundary Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager. -OPE Once planning permission has been granted and at least six weeks prior to works commencing on site the Asset Protection Project Manager (OPE) MUST be contacted, contact details as below. The OPE will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway. -

Scaffolding Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed. -Access to Railway All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development. Network Rail is required to recover all reasonable costs associated with facilitating these works.



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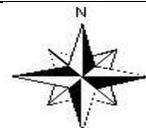
**Location: The Flying Scotsman, Briar Edge, Forest Hall**

**Proposal: Formation of roof terrace / beer garden to section existing single storey flat roof to south east of property including timber frame covered seating area, external and covered external stair access and formation of new door opening to rear at ground floor level (Acoustic Design Statement 28.02.2020)**

Not to scale

Date: 28.05.2020

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**Appendix 1 – 19/01517/FUL**  
**Item 1**

**Consultations/representations**

1.0 Internal Consultees

1.1 Highways Network Manager

1.2 Recommendation - Approval

1.3 No objections in principle to this proposal.

1.4 Informatives:

I10 - No Doors/Gates to Project over Highways

I12 - Contact ERH Erect Scaffolding on Rd

I13 - Don't obstruct Highway, Build Materials

I46 - Highway Inspection before dvlp

1.5 Contaminated Land Officer

1.6 No objection.

1.7 Manager for Environmental Health

1.8 I have viewed the acoustic report for the proposed roof terrace development. I disagree that the use of the external terrace will not give rise to adverse noise impacts for neighbouring residents if permitted to operate until late evening.

1.9 The noise assessment considers potential noise from customers using the roof terrace during the day, late evening and night period when customers will use the roof terrace. The assessment has been based on 50% of customers talking during a 1-hour period during the day and a 15-minute period after 23:00 hours. Typical noise levels from loud speech have been used to calculate the noise exposure at nearest residential properties based on a BS4124 assessment. The noise report has not considered maximum noise levels at neighbouring residential properties from raised voices, as the assessment has averaged the noise levels generated, but loud voices arising from the use of the roof terrace is different to noise from plant and equipment and as such the maximum noise levels from customer voices may give rise to sleep disturbance, especially if residents have open windows during the late evening and early night period. I would be concerned that any use of the roof terrace occurring late evening with a capacity of approximately 84 people will give rise to significant associated noise from customer voice and result in disturbance for neighbouring residents. It is not anonymous noise like passing traffic which is considered less intrusive than unfamiliar distinct noise. The assessment has shown that noise levels will be in the region of +5 dB above background during the day and +10dB above background after 23:00 hours.

1.10 The NPPF guidance on noise when considered in relation to Section 180 of the NPPF states that impacts from new developments 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". The applicant has requested use of the roof terrace until 0100 hours on Friday and Saturdays. I would suggest that

permitting until this time would give rise to significant adverse impacts for neighbouring residents from the associated customer noise such as loud voice and it has not been demonstrated that such noise would be negligible. I would therefore recommend a condition to restrict the operating hours for the roof terrace to no later than 21:00 hours as means of mitigating any late-night noise from the site.

1.11 If planning consent is to be given I would recommend the following conditions.

1.12 The external roof terrace to be restricted for use to between 08:00 to 21:00 hours.

#### 1.13 Biodiversity Officer

1.14 Additional information has been submitted to support the application. This includes:

- Bat Risk Assessment
- Lighting Assessment

#### 1.15 Bat Risk Assessment

1.16 The assessment of the building concluded that overall, the structure was considered to be of negligible to low suitability to roosting bats and the site provides opportunities for nesting birds.

1.17 The likely impacts of the proposed scheme without appropriate mitigation include:

- The low risk of causing harm or disturbance to roosting bats, should they be present at the time of works.
- Disturbance or potential modification to a small number of sub optimal features under metal edging at the wall tops that are likely to be of limited value to roosting bats.
- Potential destruction of suboptimal roosting locations during works to create the staircase to the south western elevation of the structure.
- Destruction or modification to a potential roosting location within the garage structure should plans change to include this structure.
- Potential harm or disturbance to bird species should they be present during the works.

1.18 The following measures are recommended to be incorporated into the design of the scheme to avoid impacts on wildlife:

- Existing security lights surround the existing structure. Any additional lighting to be installed as part of the roof terrace works should be directional in order to limit light spill on to the adjacent railway line.
- Works will not be undertaken during the nesting bird season (March to August inclusive) unless the site is checked by an appropriately experienced ecologist and nests are confirmed to be absent.
- The gap created due to a small section of damage on the south western elevation will be inspected with an endoscope by a suitably qualified ecologist prior to the commencement of works to create the staircase on this elevation.
- Should plans change to include works which may impact the single gap between the brick work and timber panel on the single garage, this feature will also be

inspected with an endoscope by a suitability qualified ecologist, prior to works commencing.

1.19 In addition, the following elements of compensation are proposed to address the limited impacts on bats and to increase the potential of the structure for biodiversity:

- Two bat boxes will be installed on exterior walls of the structure in order to provide roosting opportunities.
- A single bird box suitable for small garden passerines will be installed on an exterior wall in order to provide a nesting opportunity.

### 1.21 Lighting Assessment

1.22 The Lighting Assessment report confirms that roof terrace lighting will include 6no low level Victorian style train station lanterns with low wattage lamps. These lanterns will have glass sides and metal tops to facilitate side/down lighting only. This is designed accordingly to avoid adverse light spill in relation to any potential flight path. In addition, bulkhead light fittings will be installed within the staircase enclosure and covered area to provide suitable lighting to enable the stairs to be adequately lit to facilitate safe use. These shall be ceiling mounted and provide down lighting to avoid adverse light spill in relation to any potential bat flight path and adjacent railway line. Lighting has taken into consideration the recommendations set out within the Bat Risk Assessment Report.

1.23 I have no objection to the above application, subject to the following conditions being attached to the application: -

### 1.24 Conditions

- All works will be undertaken in accordance with the measures set out in sections 6.3 and 6.4 of the Bat Risk Assessment.
- 2no. bat boxes will be installed on the exterior walls of the building. Details of bat box specification and locations must be submitted to and approved in writing by the Local Planning Authority within 4 weeks of development commencing on site and will be installed in accordance with the approved plans.
- 1no. bird box will be installed on an exterior wall of the building. Details of bird box specification and location must be submitted to and approved in writing by the Local Planning Authority within 4 weeks of development commencing on site and will be installed in accordance with the approved plans.
- No vegetation removal or building works shall take place during the bird nesting season (March- August inclusive) unless a survey by a suitably qualified ecologist has confirmed the absence of nesting birds immediately prior to works commencing.

## 2.0 Representations

2.1 11 objections. The objections are set out below.

- Loss of privacy.
- Out of keeping with surroundings.
- Poor traffic/pedestrian safety.
- Poor/unsuitable vehicular access.
- Traffic congestion.

-Nuisance: disturbance, noise, dust, dirt.

-Will result in visual intrusion.

-I am concerned about the intrusion of being overlooked by this proposed roof terrace. We currently get significant noise from the live music until quite late in the evening and are worried that this will spill over onto the roof terrace causing even louder noise intrusion. Need assurances that this noise intrusion and being overlooked would be considered during this application process.

-When the existing refurbishment took place, we were advised by local councillors that this would be a family friendly pub serving food etc. Unfortunately, that did not happen and once again we have a noisy pub full of kids with loud music from groups on various nights of the week.

-The existing smoking area outside is an eyesore with people throwing cigarette butts onto the path, the whole place is filthy. Not to mention other rubbish they leave on path and over fence onto the railway. Anytime from about 11:30am you see people hanging about in there. Often when you pass the bad language coming from there is a disgrace, I have in the past had to walk the long way around rather than go over the steps as I have had my grandchildren with me and would not wish them to see this corner. Making a beer terrace in this particular pub is definitely not conducive to the area, disruption, noise and not to mention cigarette butts being thrown off the top.

-We would like to express our deepest objection to this application going ahead for the sake of the village, as all the locals call it, of Forest Hall.

-While we experience some noise from the current smoking area I believe this would increase if moved to a higher level. I am particularly concerned about more elderly neighbours who live adjacent to the Flying Scotsman.

-There is already a level of antisocial behaviour from the pub and bottles and glasses are thrown from the smoking area on to the railway sidings. I can only see this getting worse if the customers are on the roof.

-Unfortunately, due to some of the clientele that the Flying Scotsman attracts I think a roof terrace/beer garden would be a very bad idea.

-There is a problem with litter in the area and the additional drunkenness will only add to this.

-Parking irresponsibly is a big issue with greater numbers of drunk people, I feel it is only a matter of time before there is an accident.

-Forest Hall village is supposed to be a community shopping area not home to a large venue with outside areas for people to drink even at night and disturb residents.

-Increase in capacity will mean larger crowds leaving at night time meaning more litter and more anti-social behaviour from people walking home through residential areas.

-I am relatively new to this location and during the course of the year have had disturbance on a regular basis from the public house – noise from the public house especially at key holidays and disturbance from the patrons exiting the public house late at night – shouting/arguing, generally disturbing the quiet residential area on the other side of the footbridge.

-The impact of this development will be negative on what is currently a quiet, safe well used local shopping parade; it will also negatively impact the residential area to the south of the footbridge. The Forest Hall area already has its fair share of disturbance from youths etc. and I think this development will only exacerbate this problem.

-The alterations will not enhance the appearance of the building as stated by the applicant in their submitted design and access statement. The two metal staircases on the rear and side of the building, together with timber pergola, glazed panelling and Victorian lamp posts will increase the unattractiveness of the building. The use of these and other materials such as metal corrugated roof sheeting will add to the existing variety of materials on the external elevations of the building and give it a haphazard appearance. There have been recent environmental improvement works to the shopping area in Forest Hall and the conversion of the former Council offices to residential has improved the appearance of Irving House. However, the works proposed to the Flying Scotsman would have the opposite effect and possibly make it the most unattractive building in Forest Hall.

-I am also concerned about the level noise that could be generated from this open seating area. I note that the applicant has failed to mention the previous planning application 15/00139/FUL and condition 4 of the planning approval notice that restricts the use of the existing external drinking area to smoking only after 9pm. I have previously expressed concern to your department about the breach of this planning condition and environmental protection has looked into a noise complaint that I made. Noise coming from this area is still an issue and can be heard in the back bedrooms of my house especially on a Friday and Saturday night often up to about midnight. I do not imagine that the applicant would want to restrict the use of the proposed roof terrace in line with the condition 4 mentioned above and, indeed compliance and enforcement of any such requirement would be a concern.

-The applicant's design and access states that the public house is in a predominantly commercial area and submitted photos show the shops. There is, however, housing close by on 3 sides of the pub. I consider that the elevated position of the proposed outside area together with its proposed capacity could lead to a lot of noise being generated that would be heard in the area surrounding the public house and impact on the residents of many of the nearby houses. As your environmental health officer has stated no information about noise or mitigation of it has been submitted by the applicant and I think this shows a blatant disregard for the amenities of the occupiers of adjacent houses.

-The submission of a noise report does not alter the fundamental problems of the beer garden; noise, litter and increased anti-social behaviour. You get abuse from some of the customers as you cross over the stairs. The whole area is covered in cigarette butts and there is a lot of litter from the pub dumped over the fence on the railway lines. Having these customers above ground level would only exacerbate the problem. Those neighbours living closer to the pub, many of them elderly, would have privacy invaded and the noise levels would be unacceptable.

-I note that the document contains information about existing noise levels and, based on various assumptions, about noise that will be generated as a result of the proposed development. It seems to conclude that during the day/evening time the noise levels generated should be within acceptable levels and at night, with the height of the balustrade increased to 2m, similarly, noise levels should be within acceptable levels.

-Having lived across the railway line from the public house for about 40 years I find these results hard to accept. There is an existing 'smoking' area to the south of the pub and previously some picnic benches were located to the north of the building. Whilst we do/did not get disturbance early on in the day with

conversation at normal levels, during the day the volume of conversation increases, sometimes also with shouting, shrieking and raucous laughter, and we have had disturbance in the garden and in north facing bedrooms at first and second floor levels. This has led to sleep being disturbed and the need to close windows. The capacity of the open areas is/was far less than the 84 proposed for the roof terrace, and I consider that this development will lead to completely unacceptable levels of noise disturbance for nearby residents. Therefore, despite the conclusions of the Acoustic Design Statement, I retain my objection on noise grounds, and also on visual amenity, as in my previous objection letter.

-I note that one of the letters submitted in support of the proposed development, suggests that potential noise levels and impacts on residential amenity could be overcome by the imposition of planning conditions. I do not consider that any valid conditions could overcome my objections.

2.2 33 support. These comments are set out below.

-As a resident of the local area and a regular user of Forest Hall amenities, I believe this would be a great addition to the local area, if this is allowed to go ahead it has the potential to increase employment within the pub and this place is a great community pub. The hub of the community.

-My comment relates to support for the proposed development. I would firstly like to comment on the above suggested reasons for comments to be made, as these all relate to objections and are not in the spirit of promoting sustainable development in accordance with the NPPF. Further, these suggested objection comments appear to influence the commentary of local residents. There is not an equal list of reasons for support and this appears to be bias towards objection comments and is not in the spirit of promoting economic growth as required by national planning policy and guidance.

-The proposed development would increase the evening economy in the local area and increase economic spending. As you will be aware planning decisions should help create conditions which businesses can invest, expand and adapt. Significant weight should be applied in the determination of this application, as this proposal will create wider opportunities for a local business need.

-The public house attracts people to the shopping area and increases economic expenditure and footfall in other local businesses as a result of its offering. The public house has regular trade and in determining this application the decision should recognise the specific locational requirements of people who would welcome and use the proposed development.

-I am aware of the concerns raised over the East Coast Main Line, however the location of the public house is adjacent to a railway bridge which could arguable have the same concerns. Further, in regard to potential noise this can be controlled by the Local Planning Authority (LPA) by way of a planning condition. Any impacts on safety and residential amenity of nearby residents can be controlled by planning conditions and design considerations.

-The proposed development would increase economic trade and aid in the retention of a local service, which is much valued by the local community.

-This will be a huge asset to Forest Hall and its surrounding areas, The Flying Scotsman is a hub for the community, it has helped raise thousands for charity, our community needs a space like this to attract young professionals to the area, it will also help increase employment in the local area, it gives our community a place to go to and share ideas and talk to each other.

- I whole heartedly support the formation of a roof terrace/beer garden at The Flying Scotsman. I believe it will be great for the community, bringing the community together. A good meeting point for friends and a place to relax in the fast pace environment we live in. It will generate more work and help employment in the area. The Flying Scotsman is a friendly top-notch venue. I believe if it had a roof top terrace it would promote Forest Hall as an area by having a first-class establishment with a little more to offer than other pubs. It will also help other businesses in Forest Hall by bringing more people in.

-Excellent idea. Will create more jobs and will become a place where people can meet and relax. Make good use of space and create a lovely environment.

-This pub is the pride of Forest Hall where our community of all ages are welcome. One this missing is a big sun trapped beer garden. And where better to put it than the roof which catches every bit of sunlight all day every day. Creating this sunroof/beer garden. Would mean the local economy would grow because people will be spending money in the bar then after would most likely visit one of the takeaways nearby so they would also benefit. It would also create jobs for local contractors to help build it and it would also create jobs in the bar because it would attract more custom so would need more workers behind the bar. The bar itself goes out its way to benefit the customer by putting on events every night, for example Monday free pool nights, Thursday discounted drinks, karaoke Fridays and live bands over the weekend.

-Firstly the management and staff of the Flying Scotsman must be commended for their support and help to the local community.

-The addition of a roof terrace to the establishment is huge positive for the area and will only increase the public houses input into the local economy that through my years I have seen struggle, with the pub giving much needed foot traffic to other businesses.

-As someone who has grown up in the area and spent their childhood and adulthood here I have witnessed first-hand the positive impact the public house has had with its current management first hand, from sponsoring local sports teams, to raising thousands for charity providing employment to local people and being a hub for all members of the community.

-The objections voiced by others in regards to noise pollution and antisocial behaviour is something I feel the pub has only a tiny fraction of involvement with. The management adhere to the guidelines to the very best of their ability. I have first-hand experience where it is not the patrons of the pub who cause all the antisocial behaviour but the children of what can only be assumed as local residents where they have on more than one occasion been loud, rowdy and violent towards innocent bystanders.

-As per the concerns about noise pollution on my many returns home from work I walk through Forest Hall shops on a night time and have found it is not the people leaving the Flying Scotsman causing the noise but people returning to their homes from other establishments and locations which the pub unfairly gets the blame for.

-To combat any potential noise pollution from the roof terrace, would a curfew not be the best way forward to stop any potential noise from the pub spilling over?

-Overall I feel the addition of a roof terrace to the establishment can only be taken as a positive for the local area increasing the footfall in other local businesses and providing a safe secure place within the community for people to enjoy themselves during the warmer months.

-Really good for the community. Especially with what's going on will be a great place to continue with supporting each other locally.

- I think this is a great idea. What is already a bustling, lively pub will benefit greatly from the addition to outdoor seating area. This pub is the heart and soul of Forest Hall which sees a lot of people travelling to it for the great experiences. In addition, the more people that visit, the more business it will bring to the area. The surrounding shops will also benefit from the increased clientele at the pub. It will be good for the community as it will bring people together more and in turn create more jobs within the pub.

-Viewing platform for train spotters and general public.

-I also notice a lot of properties now being built are flats and bedsits with no outside space. This could be a great communal outside space. This bar traditionally has a decent level of clientele and a low level anti-social behaviour in comparison to other local bars. I believe this space would be positive for local area. It could also attract visitors from outside area thus improving local economy and creating jobs.

### 3.0 External Consultees

#### 3.1 The Coal Authority

3.2 The application site does not fall within the defined development high risk area and is located instead within defined development low risk area. This means that there is no requirement under the risk-based approach that has been agreed with the LPA for a coal mining risk assessment to be submitted of for The Coal Authority to be consulted.

3.3 In accordance with the agreed approach to assessing coal mining risks as part of the development management process, if this proposal is granted planning permission, it will be necessary to include The Coal Authority's Standing Advice within the Decision Notice as an informative note to the applicant in the interests of public health and safety.

#### 3.4 Newcastle International Airport Limited (NIAL)

3.5 Due to the modest nature of this application, NIAL would have no objection on aircraft safety grounds.

#### 3.5 Network Rail

3.6 With reference to the protection of the railway, Network Rail has no objection in principle to the development, but below are some requirements which must be met, especially with the close proximity to the development of an electrified railway.

#### 3.7 Asset Protection

3.8 Given the proximity of the proposed scheme to the railway boundary and high voltage overhead line equipment, it is imperative that the developer liaise with our Asset Protection Team (details below) prior to work commencing on site to ensure that the work can be delivered safely and without impact to operational railway safety. Issues to be discussed and agreed will include the safety of the construction and subsequent operation of the site in proximity to high voltage overhead line equipment, use of plant, cranes or machinery and construction methodology.

### 3.9 Fail Safe Use of Crane and Plant

3.10 All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

### 3.11 Security of Mutual Boundary

3.12 Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.

### 3.13 Method Statements/Fail Safe/Possessions

3.14 Method statements may require to be submitted to Network Rail's Asset Protection Project Manager at the below address for approval prior to works commencing on site. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. "possession" which must be booked via Network Rail's Asset Protection Project Manager and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavations/piling/buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.

3.15 Please note we will be unable to agree to discharge of a method statement condition without direct discussion and agreement with our Asset Protection Team and the developer entering into a Basic Asset Protection Agreement (where appropriate). We would advise that the developer discuss the proposals with Asset Protection prior to applying for the discharge of condition. Contact details for Asset Protection are below.

### 3.16 OPE

3.17 Once planning permission has been granted and at least six weeks prior to works commencing on site the Asset Protection Project Manager (OPE) must be contacted, contact details as below. The OPE will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway.

### 3.18 Scaffolding

3.19 Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

### 3.20 Lighting

3.21 Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Detail of any external lighting should be provided as a condition if not already indicated on the application.

### 3.22 Access to Railway

3.23 All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development.

3.24 Network Rail is required to recover all reasonable costs associated with facilitating these works.

3.25 I would advise that in particular the method statements and lighting should be the subject of conditions, the reasons for which can include the safety, operational needs and integrity of the railway. For the other matters we would be pleased if an informative could be attached to the decision notice.