

Item No: 1
Application No: 21/01029/FUL
Date valid: 13 April 2021
Target decision date: 8 June 2021
Author: Rebecca Andison
☎: 0191 643 6321
Ward: Tynemouth

Application type: full planning application

Location: Parking Bays Opposite, 50 And 50B, Bell Street, North Shields, Tyne And Wear

Proposal: Proposed use of part of the parking area opposite The Quay Taphouse, River Cafe and Dodgins Yard, to be used as additional external seating for customers of these businesses. External seating is to provide socially distanced amenity space and will feature a roadside barrier and waiter/waitress table services (AMENDED DESCRIPTION AND PLANS AND ADDITIONAL INFORMATION).

Applicant: 55 Quay Limited, Mr Paul Sample Parking Bays Opposite 50 And 51 Bell Street North Shields NE30 1HF

Agent: ALCC Limited, Mr Andy Laurie Rake House Farm Unit 12 Rake Lane North Shields NE29 8EQ

RECOMMENDATION: Application Refused

INFORMATION

1.0 Summary Of Key Issues & Conclusions

1.0 Main Issues

1.1 The main issues for Members to consider are:

- whether the principle of the proposal is acceptable;
 - the impact on surrounding occupiers;
 - the impact on the character and appearance of the site and its surroundings;
- and
- the impact on highway and pedestrian safety.

2.0 Description of the Site

2.1 The application site is located on the south side of Bell Street on North Shields Fish Quay. It comprises an area of hardstanding and measures 170 sqm in area.

2.2 On the north side of Bell Street are three food and drink outlets, namely The Quay Taphouse, River Cafe and Dodgin's Yard. Immediately to the west of

these premises are residential apartments within Waterfront Apartments. To the south of the site is Western Quay car park and beyond this is the River Tyne.

2.3 Until April 2021 the application site was used to provide permit parking for residents and pay and display parking for visitors. Since this time, it has been used to provide outside seating for the adjacent food and drink outlets. It was originally operating under the permitted development rights given by Part 4, Classes B and BA of the General Permitted Development Order which allow land to be used temporarily for up to 56 days per calendar year. This period has now been exceeded.

2.4 The site is located within the Fish Quay Conservation Area.

3.0 Description of the Proposed Development

3.1 Planning permission is sought to use the land on a permanent basis to provide external seating for customers of The Quay Taphouse, River Cafe and Dodgin's Yard.

3.2 The proposed seating area can accommodate up to 100no. customers and the proposed hours of use are from 10:00 to 21:00 daily. The area is currently enclosed by timer fencing. It is proposed to replace this with stainless steel post and wire fencing. Pole mounted string lights are also proposed. The proposal originally included portable toilet facilities, a pergola and parasols. These elements have been omitted and the plans updated.

4.0 Relevant Planning History

4.1 There is no planning history relevant to this proposal.

5.0 Development Plan

5.1 North Tyneside Local Plan 2017

6.0 Government Policy

6.1 National Planning Policy Framework (July 2021)

6.2 Planning Practice Guidance (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 according to the degree to which any policy is consistent with the NPPF.

PLANNING OFFICERS REPORT

7.0 Main Issues

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

- whether the principle of the proposal is acceptable;
- the impact on surrounding occupiers;

- the impact on the character and appearance of the site and its surroundings; and
- the impact on highway and pedestrian safety.

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

8.0 Principle of the Proposed Development

8.1 Paragraph 7 of NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development.

8.1 Paragraph 11 of NPPF introduces a presumption in favour of sustainable development, which amongst other matters states that decision makers should approve development proposals that accord with an up-to-date development plan without delay.

8.2 The NPPF (para.81) states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

8.3 Policy DM1.3 of the Local Plan states that the Council will work pro-actively with applicants to jointly find solutions that mean proposals can be approved wherever possible that improve the economic, social and environmental conditions in the area through the Development Management process and application of the policies of the Local Plan. Where there are no policies relevant to the application, or relevant policies are out of date at the time of making the decision, then the Council will grant permission unless material considerations indicate otherwise.

8.4 Policy S1.4 states that 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. Should the overall evidence based needs for development already be met additional proposals will be considered positively in accordance with the principles for sustainable development.

8.5 Policy S2.1 states that proposals that make an overall contribution towards sustainable economic growth, prosperity and employment in North Tyneside will be encouraged.

8.6 Policy AS8.12 states that the Council will support the continuation and further development of the Fish Quay and New Quay as a characterful, vibrant mixed-use area by:

- a. Supporting suitable residential developments in those areas shown on the Policies Map;
- b. Giving priority to fishing industry related employment uses in those areas shown on the Policies Map, unless alternative proposals can demonstrate that they would not:
 - i. Result in the unacceptable loss of operating fishing industry related businesses and jobs

- ii. Result in an excessive reduction in the supply of land for development of fishing industry related employment uses; and,
- iii. Have an adverse impact upon the amenity and operation of neighbouring properties and businesses;
- c. Protecting those areas of green space within the area, as shown on the Policies Map;
- d. Encouraging suitable recreation and tourism uses, especially around the Clifford's Fort area;
- e. Supporting a mix of other uses, such as appropriate small retail premises and small to medium sized businesses;
- f. Seeking improvements to access and linkages to the area, especially from North Shields town centre; and
- g. Ensuring all new development is built to the highest quality design that respects the area's special character.

8.7 The Fish Quay Neighbourhood Plan 2013 states that the area is considered to be suitable for a mix of development that includes existing businesses, along with small new business (e.g. independent shops and professional services, cafes, restaurants, offices and tourism related business) and residential developments. It recognises the importance of the retail and restaurant/public house segment of the FQNP economy, but also the importance of preventing additional disturbance that may arise from late night pub and club uses.

8.8 The site comprises an area of hardstanding previously used to provide 16no. parking spaces. Under Policy AS8.12 of the Local Plan it is identified as suitable for part fishing related employment use and part leisure, tourism and public open space.

8.9 Policy AS8.12 and the Fish Quay Neighbourhood Plan 2013 encourage a mix of uses within the area. There are many food and drink uses on the Fish Quay, some of which include outside seating, and the proposal would not therefore be out of keeping.

8.10 The importance of supporting economic growth and needs of businesses is set out within the NPPF and the above Local Plan Policies. This need is of even greater importance following the Covid 19 pandemic, particularly for businesses within the hospitality sector, and this has been made clear by the Government through recent legislative changes including the Business and Planning Act (July 2020).

8.11 The principle of the proposal is considered to accord with the above policies given that it would support existing businesses and help secure economic growth. However, for the proposed use to be acceptable it must also be assessed in terms of the impact on the amenity of the surrounding occupiers, the character of the conservation area and highway/pedestrian safety. These issues are discussed below.

9.0 Impact on Neighbouring Occupiers

9.1 NPPF paragraph 185 states that planning 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 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.

9.2 Policy S1.4 of the Local Plan states that development proposals should be acceptable in terms of their impact upon local amenity for new or existing residents and businesses, adjoining premises and land uses.

9.3 DM5.19 states that 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. Development that may be sensitive (such as housing, schools and hospitals) to existing or potentially polluting sources will not be sited in proximity to such sources. Potentially polluting development will not be sited near to sensitive areas unless satisfactory mitigation measures can be demonstrated.

9.4 Policy DM6.1 of the Local Plan states that proposals are expected to demonstrate a positive relationship to neighbouring buildings and spaces; a safe environment that reduces opportunities for crime and antisocial behaviour; and a good standard of amenity for existing and future residents and users of buildings and spaces.

9.5 The site is located in an area which contains both residential and commercial properties. There are residential properties within Riverside Apartments, which are located less than 10m from the western end of the site, and further residential properties above commercial premises to the east and within Quayside Court to the west.

9.6 A significant number of public comments have been received regarding this application both in support of and objecting to the proposal. The majority of residents who have written in support of the proposal live outside the immediate area, while the majority of objectors live in close proximity to the site. Local residents have raised concern regarding the impact the outside seating has on their standard of living due to additional noise disturbance and anti-social behaviour. Northumbria Police have also submitted comments. Their initial comments raise concern regarding anti-social behaviour associated with the portable toilet facilities, highway and pedestrian safety and the potential for anti-social behaviour to result in increased complaints from local residents. Their later comments raise additional concerns regarding customers jumping into the River Tyne.

9.7 In response to these concerns the applicant has removed the portable toilets facility from the proposal. Information has been submitted to demonstrate that there is adequate toilet provision within the existing premises to cater for the additional seats. A Noise Impact Assessment has also been submitted.

9.8 The Manager of Environmental Health has reviewed the Noise Assessment and provided comments. She states that the noise levels used in the assessment do not represent the actual noise levels experienced by residents of Waterfront Apartments, and that the actual levels would border statutory nuisance when compared to the ambient noise levels. She advises that the report does not consider the sporadic and distinctive nature of the noise, which includes raised voices, shouting and singing. She also notes that on one occasion music was played by customers.

9.9 The Noise Assessment determines that internal noise levels in adjacent residential properties would be slightly elevated above World Health Organisation community noise guidelines for internal noise with an open window. However, Environmental Health noise monitoring at Waterfront Apartments has shown that that voices of customers gave rise to noise levels peaking up to 68 dB internally with the patio door partially open, with overall noise levels from loud voice ranging between 45 to 55 dB. The LAeq 1 hour internally was in the region of 51 dB, significantly higher than the 36-38 dB LAeq 1 hour predicted within the Noise Assessment.

9.10 The Manager of Environmental Health considers that it would be difficult to mitigate noise arising from customer voices, singing, cheering, whistling and shouting. She notes that ambient noise levels in the area are already elevated by patrons of other licensed premises but considers that the proposal further exacerbates existing noise levels and the degree of disturbance suffered by residents. She recommends that planning permission should be refused.

9.11 NPPF Paragraph 180 states that any new development should avoid noise giving rise to significant adverse impacts on health and the quality of life, and Policy DM5.19 states that potentially polluting development should not be sited near to sensitive areas unless satisfactory mitigation measures can be demonstrated.

9.12 In this case noise monitoring carried out by Environmental Health Officers has shown that noise from the development results in a significant loss of amenity and reduced standard of living for nearby residents. It is officer opinion that due to the nature of the development it is not possible to mitigate this noise to an acceptable level. It is considered unreasonable for residents to have to close windows and doors to mitigate against noise, especially on warm summer evenings when the seating area use is likely to be busier.

9.13 The concerns raised regarding anti-social behaviour are noted. Designing out crime is a material consideration and Policy DM6.1 states that development should be designed to reduce opportunities for crime and anti-social behaviour. It is not considered that the design of the proposed seating area would result in any increase in anti-social behaviour given that the area is open and the portable toilet facility has been omitted. There are already areas of outside seating along the Fish Quay and there is no evidence to suggest that the proposal would have any greater impact than these existing areas. As set out above the general increase in noise and disturbance is considered to be harmful to residents and, in officer opinion, unacceptable. However, it is not considered that a refusal on grounds of increased anti-social behaviour would be justifiable.

9.14 Northumbrian Police and residents have also raised concern regarding customers jumping into the River Tyne. The quayside is open, and this is already a risk due to the proximity of the numerous drinking establishments along the Fish Quay to the river. While the proposed seating area is closer to the river, it is not considered that the additional safety risk posed by the development would be significant.

9.15 Members need to consider whether the impact on existing occupiers is acceptable. It is officer opinion that the impact of the proposal on the living conditions of existing residents is not acceptable and that the development fails to comply with the NPPF and Policy DM5.19 of the Local Plan.

10.0 Design and Impact on the Streetscene

10.1 The National Planning Policy Framework states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. It states that developments should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping; be sympathetic to local character and history, including the surrounding built environment and landscape setting; and establish or maintain a strong sense of place.

10.2 Par.199 of NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

10.3 Para.200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

10.4 Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. (NPPF para.201-202).

10.5 At paragraph 206 of the NPPF it states:

"Local planning authorities should look for opportunities for new development within conservation area....and within the setting of heritage assets to enhance or better reveal their significance."

10.6 Policy DM6.1 of the Local Plan states that applications will only be permitted where they demonstrate high and consistent design standards. Designs should be specific to the place, based on a clear analysis the characteristics of the site, its wider context and the surrounding area.

10.7 Policy S6.5 states that the Council aims to pro-actively preserve, promote and enhance its heritage assets.

10.8 Policy DM6.6 states that the alteration, extension or restoration of heritage assets, and development that affect their settings, will be permitted where it sustains, conserves and, where appropriate, enhances the significance, appearance, character and setting of heritage assets in an appropriate manner. As appropriate, development will conserve built fabric and architectural detailing that contributes to the heritage asset's significance and character; repair damaged features or reinstate missing features that contribute to the asset's significance; and remove additions or modifications that are considered harmful to the significance of the heritage asset. Any development proposal that would detrimentally impact upon a heritage asset will be refused permission, unless it is necessary for it to achieve wider public benefits that outweigh the harm or loss to the historic environment and cannot be met in any other way.

10.9 The Design Quality SPD applies to all planning applications that involve building works. It states that all extensions must offer a high quality of accommodation and design that will sustain, enhance and preserve the quality of the built and natural environment. The SPD encourages innovation in the design and layout and contemporary and bespoke architecture. The chosen design approach should respect and enhance the quality and character of the area and contribute towards creating local distinctiveness. Applicants should also consider how the design reinforces the character or distinctiveness of an area. Positive features within the local area should be used as design cues that can then be interpreted in a traditional or contemporary manner.

10.10 The Fish Quay Neighbourhood Plan 2013 sets out a series of objectives for the area. These include providing an environmentally, socially and economically sustainable future for the area for residents, business and visitors; protecting and enhancing the conservation area and historic environment; and adding vitality to the area by encouraging the development of appropriate retail and small to medium sized businesses.

10.11 The New Quay and the Fish Quay Conservation Areas Character Statement demonstrates a commitment to positive action for safeguarding and enhancing the character of the conservation area.

10.12 The application site comprises a cobbled area with steps at the rear. Its boundaries are open, allowing clear views across to the river. It is proposed to enclose the area with 1.2m stainless steel post and wire fencing and sections of hedging.

10.13 The Planning Policy Officer (Heritage and Design) has provided comments. He states that amendments have been made in response to his initial comments. The portable toilets and other features over 120cm in height have been omitted and the boundary treatments and been amended. He considers that the revised plans address his previous concerns and that the revised scheme is acceptable.

10.14 There are several outside seating areas on the Fish Quay and the proposal would not therefore appear out of keeping with its existing character. However, as these seating areas are located on the landward side of Bell Street adjacent to the buildings, they are not as prominent as the proposal, which is positioned on open land between the highway and the river. The seating area is of a considerable size with the potential to impact on the streetscene, the character of the conservation area and views of and from the river.

10.15 Amendments have been made to reduce the prominence of the development and the amended boundary treatment, which comprises stainless steel post and wire fencing, allows clear views through the site to the river. The visual impact of the proposal would be limited to the area immediately surrounding the site and the nature of the proposal means that the structures could be easily removed in the future, leaving no permanent impact. The area was previously used for parking, as is the land between the site and the river. It is not considered that the visual impact of the proposal would be significantly greater than that of the previous use.

10.16 Taking into account the amendments that have been made, on balance, it is officer opinion that the impact on the streetscene and conservation area is acceptable.

10.17 If planning permission were given a condition would be required to control any signage and additional furniture.

10.18 It is officer opinion that the development accords with the NPPF, Local Plan and the Fish Quay Neighbourhood Plan SPD. Members must consider whether they agree.

11.0 Highway and Pedestrian Safety

11.1 NPPF states that transport issues should be considered from the earliest stages of plan-making and development proposals. It states that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.

11.2 All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

11.3 Paragraph 111 of NPPF states that development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or where the residual cumulative impacts of development are severe.

11.4 Local Plan Policy DM7.4 New Development and Transport states that the Council and its partners 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 residents health and well-being.

11.5 The Council's adopted parking standards are set out in the Transport and Highways SPD.

11.6 The proposal results in the loss of 16no. parking spaces and introduces an area of seating directly adjacent to the public highway.

11.7 Concerns have been raised by local residents and Northumbria Police regarding the potential for customers to spill onto the highway when intoxicated, and the need for staff and customers to cross the highway to serve food/drink and to access facilities within the existing food and drink outlets.

11.8 A Road Safety Audit has been submitted to assess the impact on highway and pedestrian safety, and the proposal has been amended in response to the recommendations made by the audit. Two sections of hedging have been removed at the western end of the seating area to increase the visibility lines for pedestrians crossing Bell Street and a central buffer zone has been added to provide a customer waiting area.

11.9 The Highway Network Manager has reviewed the assessment and provided comments. In respect of the loss of parking he advises that the proposal would result in the loss of a relatively small number of parking spaces and that there is sufficient parking in the wider area to meet the needs of the Fish Quay. He states that planning permission should be given on a temporary basis only given that parking pressures may change over time. The Highway Network Manager does not consider that the temporary loss of the parking spaces would have a severe impact on the highway network.

11.10 With regards to the impact on pedestrian safety the Highway Network Manager states that a Road Safety Audit has been submitted and improvements made to the original layout to increase pedestrian visibility, limit crossing points and provide protection from vehicles. The Highway Network Manager considers that the impact on pedestrian safety is acceptable.

11.11 The concerns raised by residents and Northumbria Police are noted and it is acknowledged that the proposal will lead to increased numbers of people crossing Bell Street. However, measures are proposed to increase the safety of staff and customers and it is noted that pedestrians already cross Bell Street between the numerous food/drink outlet and the quayside and parking opposite.

11.12 On balance the impact on the highway network and pedestrian safety is considered to be acceptable and in accordance with the NPPF and Policy DM7.4.

12.0 Ecology

12.1 An environmental role is one of the three dimensions of sustainable development according to NPPF, which seeks to protect and enhance our natural, built and historic environment by amongst other matters improving biodiversity.

12.2 Paragraph 180 of NPPF states that when determining planning application that if significant harm to biodiversity cannot be avoided, or as a last resort compensated for, then planning permission should be refused.

12.3 Local Plan Policy S5.4 states that the Borough's biodiversity and geodiversity resources will be protected, created, enhanced and managed having regard to their relative significance. Priority will be given to:

- a. The protection of both statutory and non-statutory designated sites within the Borough, as shown on the Policies Map;
- b. Achieving the objectives and targets set out in the UK Post-2010 Biodiversity Framework and Local Biodiversity Action Plan;
- c. Conserving, enhancing and managing a Borough-wide network of local sites and wildlife corridors, as shown on the Policies Map; and
- d. Protecting, enhancing and creating new wildlife links.

12.4 Policy DM5.5 of the Local Plan states that all development proposals should:

- a. Protect the biodiversity and geodiversity value of land, protected and priority species and buildings and minimise fragmentation of habitats and wildlife links; and,
- b. Maximise opportunities for creation, restoration, enhancement, management and connection of natural habitats; and,
- c. Incorporate beneficial biodiversity and geodiversity conservation features providing net gains to biodiversity, unless otherwise shown to be inappropriate.

Proposals which are likely to significantly affect nationally or locally designated sites, protected species, or priority species and habitats (as identified in the BAP), identified within the most up to date Green Infrastructure Strategy, would only be permitted where:

- d. The benefits of the development in that location clearly demonstrably outweigh any direct or indirect adverse impacts on the features of the site and the wider wildlife links; and,
- e. Applications are accompanied by the appropriate ecological surveys that are carried out to industry guidelines, where there is evidence to support the presence of protected and priority species or habitats planning to assess their presence and, if present, the proposal must be sensitive to, and make provision for, their needs, in accordance with the relevant protecting legislation; and,
- f. For all adverse impacts of the development appropriate on site mitigation measures, reinstatement of features, or, as a last resort, off site compensation to enhance or create habitats must form part of the proposals. This must be accompanied by a management plan and monitoring schedule, as agreed by the Council.

Proposed development on land within or outside a SSSI likely to have an adverse effect on that site would only be permitted where the benefits of the development clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the SSSI national network.

12.5 Local Plan Policy DM5.6 states that proposals that are likely to have significant effects on features of internationally designated sites, either alone or in-combination with other plans or projects, will require an appropriate

assessment. Proposals that adversely affect a site's integrity can only proceed where there are no alternatives, imperative reasons of overriding interest are proven and the effects are compensated.

12.6 Policy DM5.7 states that development proposals within a wildlife corridor, as shown on the Policies Map, must protect and enhance the quality and connectivity of the wildlife corridor. All new developments are required to take account of and incorporate existing wildlife links into their plans at the design stage. Developments should seek to create new links and habitats to reconnect isolated sites and facilitate species movement.

12.7 The site is located within a wildlife corridor but is occupied by hardstanding and therefore has little ecological value. The Biodiversity Officer has provided comments. She states that she has no objection to the proposal given that it would not have any adverse ecological impact. To enhance the wildlife corridor as required by Policy DM5.7 she recommends that bird and bat boxes are provided on the adjacent buildings. She also recommends conditions in respect of a litter management strategy and external lighting,

12.8 Subject to these conditions it is officer advice that the impact on ecology is acceptable and in accordance with the NPPF and Policies DM5.5, DM5.6 and DM5.7 of the Local Plan.

13.0 Local Financial Considerations

13.1 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 (CIL). The proposal would help to support an existing business and retain jobs.

14.0 Conclusions

14.1 The proposal would support existing business and help to secure economic development in accordance with the NPPF. It is officer advice that the proposed development is acceptable in terms of principle, the character of the conservation area and in respect of highway and pedestrian safety. However, the development is considered to have an unacceptable impact on residential occupiers as a result of additional noise disturbance. There is no means to mitigate this impact and as such the proposal fails to comply with the NPPF and Policy DM5.19 of the Local Plan.

14.2 The need to support existing business has been taken into account but in officer opinion this is not sufficient reason to justify a development that would result in significant harm to the living conditions of residents.

14.3 It is therefore recommended that planning permission is refused.

RECOMMENDATION: Application Refused

Conditions/Reasons

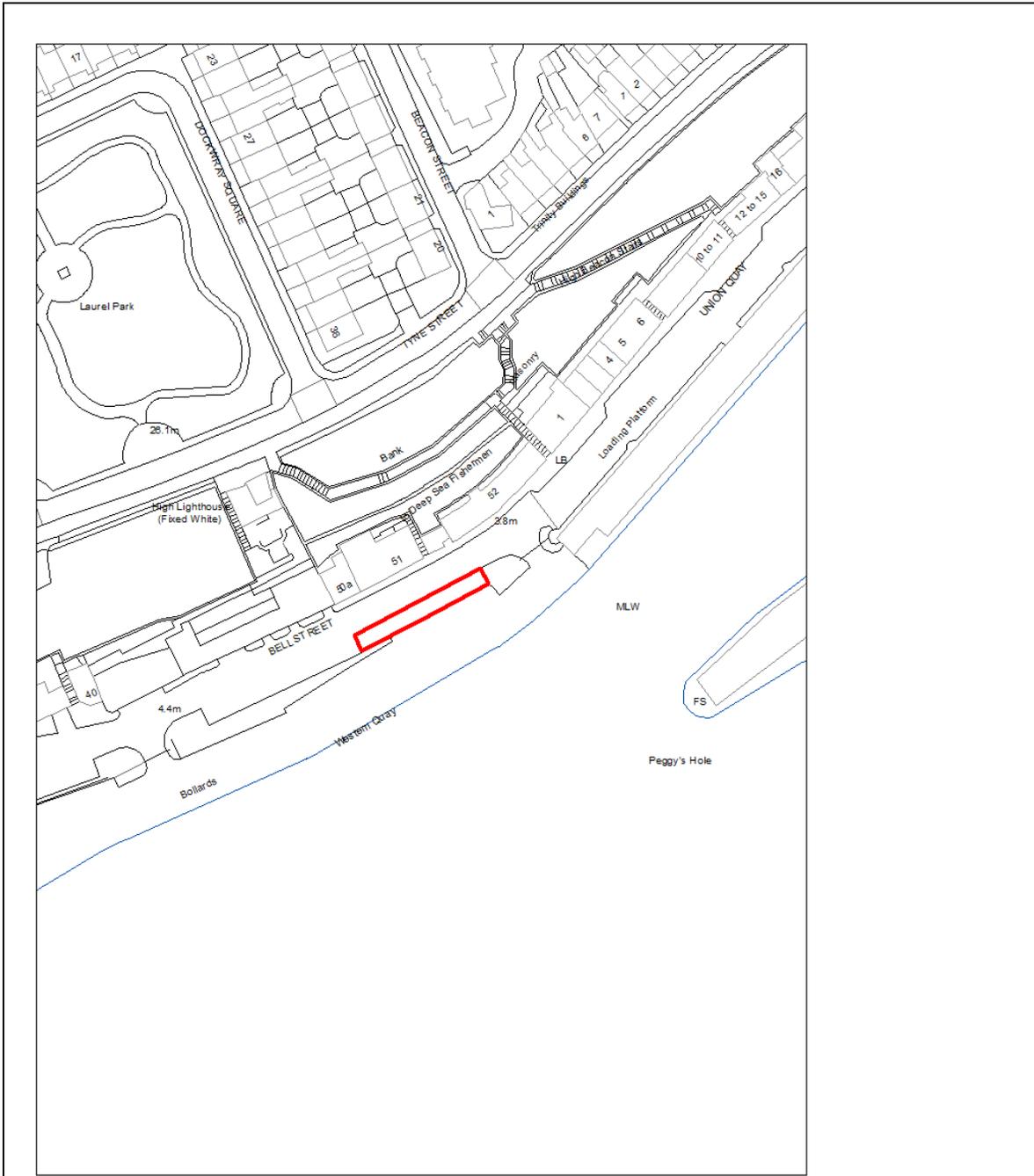
1. The proposal would lead to an unacceptable increase in noise and disturbance resulting in significant harm to the amenity of surrounding residential occupiers; contrary to the NPPF and Policies S1.4 and DM5.19 of the North Tyneside Local Plan 2017.

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

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was not therefore possible to approve the application. The Local Planning Authority has therefore implemented the requirements in Paragraph 38 of the National Planning Policy Framework.

Informatives

All features should be fixed in position and any electrical points set at a height so as to not to be impacted by flooding from the River Tyne.



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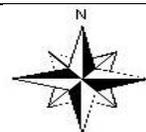
Location: Parking Bays Opposite, 50 And 50B, Bell Street, North Shields

Proposal: Proposed use of part of the parking area opposite The Quay Taphouse, River Cafe and Dodgins Yard, to be used as additional external seating for customers of these businesses. External seating is to provide socially distanced amenity space and will feature a roadside barrier and waiter/waitress table services

Not to scale

Date: 22.07.2021

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**Appendix 1 – 21/01029/FUL
Item 1**

Consultations/representations

1.0 Internal Consultees

1.1 Highway Network Manager

1.2 This application is for the proposed use of part of the parking area opposite The Quay Tap house, River Cafe and Dodgins Yard, to be used as additional external seating for customers of these businesses.

1.3 There are two main issues to consider when determining this application on highway grounds:

1.4 Loss of parking:

The Fish Quay has undergone significant transformation in recent years with a number of leisure uses emerging in the area. Whilst this proposal results in the loss of a relatively small number of parking spaces, the wider parking offer in the area is considered to be adequate to meet the needs of the Fish Quay and the temporary loss of these spaces is not considered to be severe in line with guidance in the National Planning Policy Framework, however this permission could only benefit from a temporary approval, as pressures on parking may change as the area evolves.

1.5 Pedestrian safety:

A Road Safety Audit (RSA) was required and as subsequently carried out by the applicant. Improvements were made to the original layout which included removing two sections of hedge to increase pedestrian visibility and including a central buffer zone in which no seating is present for a safe, off-road waiting area, with a chicane of stainless steel posts with horizontal wires, as protection from passing vehicles. In terms of pedestrian's crossing Bell Street, it is noted that it is an existing situation and that when the area was being utilised as parking spaces, pedestrians were crossing the road from between parking vehicles. This proposal limits the crossing points and feature wires in order to maximise visibility.

1.6 For these reasons and on balance, temporary approval is recommended.

1.7 Recommendation – Conditional Approval

1.8 Conditions:

Notwithstanding the details submitted, the development shall not be occupied until a means of securing the proposed coverings to address the risk of high winds lifting them onto the operational highway has been submitted to and approved in writing by the Local Planning Authority. This scheme shall be implemented in accordance with the agreed details and retained thereafter.

Reason: In the interests of highway safety

Notwithstanding the details submitted, the development shall not be occupied until a scheme for safely servicing the site and preventing staff & customers

conflicting with adjacent traffic has been submitted to and approved in writing by the Local Planning Authority. This scheme shall be implemented in accordance with the agreed details and retained thereafter.

Reason: In the interests of highway safety

The use hereby permitted shall be discontinued on or 01 March 2022

Reason: In the interests of the long term parking management of the wider Fish Quay area

1.9 Informatives:

I12 - Contact ERH Erect Scaffolding on Rd

I13 - Don't obstruct Highway, Build Materials

I46 - Highway Inspection before dvlp

2.0 Manager of Environmental Health (Pollution)

2.1 The premises are located in an area that has residential properties adjacent to the site at Waterville Apartments and I would be concerned about potential noise impacts of this development on the residential apartments. There are already existing limited external seating areas provided at the restaurants. This additional seating area will subject the residential premises to increased levels of distinctive and sporadic noise from crowds using the seated area which will be difficult for premises to control particularly as not in within close proximity to the premises. Complaints are frequently received by Environmental Health regarding customer noise from similar premises and are being received from its current use.

2.2 I have viewed the noise assessment for the development. I disagree with the noise levels utilised in the predictions as they do not represent the actual noise exposure levels currently experienced by residents within the Waterfront apartments and I consider would border statutory nuisance when compared to general ambient noise in area. The noise levels detailed within the report have been calculated over a 1 hour period based on 100 customers occupying the seating area. Nuisance would consider the sporadic and distinctive nature of the noise. The noise issues experienced related to raised voices, shouting and singing. The noise assessment has considered community noise guideline values which considers annoyance from anonymous traffic noise. This assessment therefore is comparing values from anonymous traffic noise rather than distinctive noise from people. The noise assessment has determined that the internal noise levels will be just slightly elevated above the World Health Organisation community noise guidelines for internal noise based on open window, with ESR2 given as 38 dB LAeq 1 hr and ESR1 and ESR3 calculated as 36 dB LAeq 1hr. Environmental Health have carried out noise monitoring at ESR 1 residential apartments at the Water Front Apartments. The internal noise monitoring carried out at the Waterfront Apartments has shown that voices of customers gave rise to noise levels peaking up to 68 dB, internally, with patio door partially open, and overall noise levels from loud voice ranged between 45-55 dB and LAeq 1 hour internally was in the region of 51 dB, suggesting noise levels at the facade will be significantly higher than those outlined within the noise assessment.

2.3 The real time noise monitoring has shown that it will be difficult to mitigate noise from customer voices. The voices were elevated with evidence of customers singing, cheering, whistling and shouting. There was also one occasion where customers using the seating area were playing loud music and the noise monitoring data would suggest that it would be difficult for the applicant to control the volume of noise from patrons using this area. The noise report indicates that the ambient noise level within the area will already be elevated from patrons of the other licensed premises. I would agree with this statement, however if planning consent is given for this seating area this will exacerbate the noise levels in the area resulting in more noise disturbance for local residents. Occupants from the adjacent residential apartments should not be obliged to have to close windows and doors to mitigate against patron noise from this area, especially on warm summer evenings when the seating area use is likely to be busier.

2.4 The proposed use of 1.2m high fencing around the seating area will provide no or limited acoustic screening of customer voices or amplified music played within the area. The use of external lighting around the seating area will extend its use during the hours of dusk. NPPF Paragraph 180 states that any 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. I continue to have concerns that if this development is given planning consent then the noise from customers using the seating area will give rise to significant adverse impacts for neighbouring residents. There will be additional noise from the increased seating and external space from customers who in crowds will have raised voices particularly when it is predominantly used as a drinking area serving the licensed premises, I would therefore recommend refusal of this planning application as the proposed external seating area will give rise to significant adverse impacts and affect the amenity of neighbouring residential properties.

3.0 Local Lead Flood Authority

3.1 I have carried out a review of the proposals in the application 21/01029/FUL, I can confirm I do not have any concerns over these proposals. This area does suffer from fluvial flooding from the River Tyne so I would advise the applicant will need to consider the impact flooding will have in this area and that all features are fixed in position and any electrical points for the proposed lighting features are set at a height as to not to be impacted by flooding from the River Tyne. I would also advise that all features must be positioned as to not restrict access into the existing manhole chambers, highway gullies and slot drainage channel located within the highway.

4.0 Biodiversity Officer

4.1 The above scheme is for the use of part of the existing car parking area opposite The Quay Taphouse, River Cafe and Dodgin's Yard to be used as additional external seating for these businesses. The site is located within a wildlife corridor and is adjacent to the River Tyne Local Wildlife Site.

4.2 I have no objection to this application as the conversion of car parking spaces to external seating associated with the adjacent businesses will not have an adverse ecological impact.

4.3 However, the site is within a wildlife corridor and would need to demonstrate how it will enhance the corridor as part of the scheme. There appears to be little opportunity for landscaping associated with the scheme, therefore, I would, recommend the provision of bird and bat boxes on the buildings of the businesses associated with this scheme.

4.4 It is not clear whether lighting will be required for this scheme. This has the potential to impact adjacent habitats such as rivers which can provide valuable habitat for foraging and commuting bats. It is acknowledged that the site is located in a built up industrial area with existing lighting, however, the scheme is within 20m of the River Tyne and adjacent to the River Tyne LWS, therefore, any lighting associated with the scheme should be low level and low lux to minimise light spill.

4.5 In addition, in order to ensure that the provision of an external seating area does not contribute to and increase litter issues, particularly so close to the River Tyne, it is recommended that a condition is attached to the application for a Litter Management Strategy to be submitted for approval to ensure there is no pollution of the estuarine environment.

4.6 Conditions

- A Litter Management Strategy will be submitted to the LPA for approval prior to use of the external seating area
- External lighting will be low level and low lux, avoiding use of high intensity security lighting. Details of lighting will be submitted to the LPA for approval prior to installation.
- 2no. bird boxes will be provided in a suitable location associated with the development site. Details of bird 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. bat box will be provided in a suitable location associated with the development site. Details of bat 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

5.0 Heritage and Design

5.1 Following comments made on 6th May 2021, revised plans and further information has been submitted. The portable toilet facilities have now been removed. Other features over 1200mm high have also been removed to avoid the area being overly dominant within the street scene and to maintain views of the River Tyne.

5.2 Boundary treatments have been amended and are now proposed to be stainless steel posts with wire rope railings. This would be a contemporary boundary treatment which allows views through them.

5.3 There are some areas of landscaping identified, although the detailed appearance of these areas is unclear.

5.4 Overall, the revised plans address the previously identified concerns and the revised scheme is acceptable. The detailed design of the landscape areas should be conditioned to ensure they contribute towards the character and appearance of the area.

6.0 External Consultees

7.0 Northumbria Police (response to original consultation)

7.1 Northumbria Police have a number of comments around this application:

- We do have concerns around intoxicated people crossing Bell Street from the seating area to the three bars and vice versa. Alcohol can reduce the ability to make coordinated decisions, make people react more solely and can lead to a reduction in concentration, therefore potentially making those who are intoxicated and crossing Bell Street vulnerable.
- We can see the portable toilet facilities becoming an issue for anti-social behaviour on busy nights, especially if sufficient are not provided, which in turn could lead to persons using the artificial hedges to urinate against.
- As there are a number of residential dwellings in close proximity of the proposed application, we can envisage an increase in calls to Police, especially around ASB.

7.2 Northumbria Police (response to 2nd consultation)

7.3 Our formal observations regarding this amended application are included below.

1. Since our previous response we have been made aware of at least one incident whereby several customers from the Beer Garden have jumped into the Tyne. You will appreciate that as a tidal river this sort of behaviour is very risky and in recent years there have been notable fatalities. We are therefore cautious of development that brings intoxicated people even closer to the water's edge particularly when the relevant licensed premises is across a roadway from the hazard.
2. Since our previous response we have been approached by Tyne & Wear Fire & Rescue Service to join with them to develop a more robust approach to water safety assessment and response on developmental sites alongside Tidal rivers in our Force Area. This work stems from an approach taken by the Port of London a copy of which I attach for Planning information.
3. The intention to provide toilet facilities in the Beer garden area has now been removed from the plan and we would therefore stress once again our concerns regarding the safety of people crossing and re-crossing the road, which sadly we aren't convinced is adequately addressed by the internal one way system.
4. The expressed plan for this to be a form of Family Zone is undoubtedly well intentioned but this in of itself creates additional stress on the lack of onsite toilet facilities and a potential increase of foot traffic crossing the road. We consider that is serious enough to require a wholesale re-design of the crossing facilities and the road lighting scheme in Bell Street.
5. We note that the agent stresses that the facility would not be in use after 9pm, which we welcome, but the provision of lighting would suggest that there would

be an intention to use it into hours of darkness. It may be more in keeping to restrict the operating hours to normal shop opening times.

6. Our final point is a more generic observation regarding a developing phenomenon, we have noted since the lifting of lockdown that behaviours in outside licensed premises is becoming more challenging, and there appears to be a social shift in the Night Time Economy, which may turn out to be temporary, that sees an increase in local drinkers rather than them travelling to the more traditional city centre venues. This is of a concern to Northumbria Police.

7.4 In conclusion, we recognise the desirability of extending the footprint of a public house and the role that has in the viability of the business in the current atypical times, but we would ask at what cost to residential amenity and increase risk to people using the area. We are therefore sceptical about the proposal and with due consideration of the Neighbourhood Plan we consider that the nature of the application is neither desirable or in keeping with the Supplementary Planning Document for the Fish Quay area.

8.0 Port of Tyne

8.1 The area within this application is jointly owned by the Port of Tyne and North Tyneside Council; in an area currently leased to the North Shields Fish Company.

8.2 Currently the area is not used operationally by either the Port or Fish Quay and therefore in principle the Port has no objections to the application. However, the Port wish to make the following points for consideration:

- The applicant has completed this development without advising or requesting permission of us as landlord.
- Ownership of this area may be the Port of Tyne but also maybe North Tyneside Council. The title deeds are not clear.
- Concerns over this being a piecemeal bit of development ahead of a more strategic piece of work for Western Quay and the wider area.
- H&S concerns over serving this area over an adopted highway.

9.0 Folks Interested in Shields harbour (FISH)

9.1 FISH would like to have their objection to this application noted and would request that this application be rejected.

1. The proposal does not meet the aspirations of the Local Neighbourhood Plan. We already have more than enough bars, eateries, drinks outlet on the Fish Quay, which are slowly changing and disturbing the character of the area. The noise, mess and anti-social behaviour of some of those using the existing facilities is getting unacceptable.

2. The Fish Quay was envisioned as a mixed retail area, to support local businesses, residents and visitors. If it is allowed to become a one offering area, namely food and drinks, this will more than likely cause the area to suffer, which will impact on the possible upcoming developments being planned. For example, who will want to get off the ferry surrounded by unsavoury behaviour, will visitors be able to get on to the quay side if the already restricted parking areas are further reduced.

3. Parking is already in short supply, as well as access along the quayside. This will not help or improve matters with customers and staff lining the edges of the street and crossing the road to server customers.

4. Allowing seating on the pavements was not meant to be a full-time solution. As a stop gap during COVID, maybe, but not as a full-time feature.

5. The new housing development is also suffering, rowdy people sitting across the road from your new home, the noise and constant visibility to drinkers will inhibit any desire to spend time out on your balcony.

6. The Fish Quay Company has plans to improve and develop the quayside, this area is part of 'The Port of Tyne' and not land suitable for retail offerings and has already been allocated as part of reduced parking arrangements. It would be a tragic blow if this application were to lead to the future possibility of the erection of barriers to prevent access to the quayside due to people's behaviour, it getting too crowded, or health and safety issues.

9.2 Allowing developments like this to be approved before all details and offerings likely for the Master Local Plan are known is likely to cause further problems further down the track when conflicts with intention and existing usages begin. This application should be rejected.

10.0 Representations

10.1 A total of 25no. objections have been received. 16no. of these were in response to the original consultation and 9no. were received in response to the consultation on the amended proposal. They are summarised below.

- Affect character of conservation area.
- Impact on landscape.
- Inappropriate design.
- Loss of privacy.
- Inappropriate in special landscape area.
- Loss of residential amenity.
- Loss of visual amenity.
- None compliance with approved policy.
- Not in accordance with development plan.
- Nuisance – disturbance, noise, fumes, dust/dirt.
- Precedent will be set.
- Will result in visual intrusion.
- Out of keeping with surroundings.
- Poor traffic/pedestrian safety.
- Traffic congestion.
- Inadequate parking provision.
- Loss of view.
- The cafe/restaurant culture is at risk of being subdued by a culture of 'boozing'.
- While the area is currently well managed this could change in the future.
- Permission should be given on a temporary basis.
- The seating is not contained and cannot be adequately supervised.
- Social distancing is not being adhered to.

- Danger due to the proximity to the river.
- Noise can be heard in the adjacent apartments.
- Windows cannot be opened and balcony cannot be used.
- The area has a seating capacity of 240.
- Loss of parking spaces.
- Are there plans to introduce a zebra crossing?
- Impact on privacy of residents.
- Drunken and anti-social behaviour.
- Devaluation of property.
- Safety risk from people spilling onto the adjacent road and staff having to cross the road with food and drinks.
- The portable toilets are an eyesore.
- Unfair for the other bars who do not have outside seating.
- Huge investment has been put into regenerating the Fish Quay.
- Out of character with the conservation area.
- Intrusive noise and anti-social behaviour.
- Detrimental impact on physical and mental well-being.
- Will lower the tone of the whole area.
- People urinating in the street and adjacent to the apartments.
- Plastic trees and shrubs are unsightly.
- Fencing has been erected at the rear of the Tap House.
- Could set a precedent and result in further similar developments.
- Noise disturbance late into the evening.
- Far too many alcohol outlets on the Fish Quay
- North Tyneside Hackney carriage Association object to this application as they have been in discussion about siting a TAXI Rank in this location.
- The Authority has obligations under the Equality Act to foster good relations.
- Does not reflect the regeneration aims of the Council.
- Against the Fish Quay Neighbourhood Plan, which clearly advises against mixing developments that clash.
- Will add to the late-night drunkenness, rowdyism and noise.
- Too close to people's homes.
- There are enough drinking establishments on the Fish Quay.
- The seating was meant to be temporary.
- The Road Safety Audit report recommends a Buffer Zone be created between the seating area and the carriageway and reducing traffic speeds.
- The Port of Tyne have allowed additional seating on Western Quay.
- The noise audit is flawed and does not take into account that adjacent properties have balconies.
- The noise report states that at parts of the day the noise may exceed the guidelines.
- The revised fence would increase noise levels.
- The traffic survey was not conducted at a busy period.
- The traffic report suggests removing hedging, instructing the Local Authority to discourage parking along the fence line and that the bus timetable should be reviewed and the bus stop relocated.

10.2 1no. representation has been received. This is summarised below.

- I have no objection to the fenced areas on the road, but I object to drinking on the Western Quay.

- I understand that it against Council policy to drink alcohol under normal circumstances on Western Quay.
- I agree with that view and believe that the stance against drinking alcohol on Western Quay should be maintained and policed.

10.3 58no. letters of support have been received in response to the original consultation. These are summarised below.

- The facility is well thought out and operated.
- It is much needed for the area and this is more evident during the Covid restrictions.
- The management operate and regularly police the facility and ensure the compliance of patrons.
- The area being fenced protects users from the passing traffic.
- Greatly enhances the area.
- Has increased the safety of the public while drinking and eating outdoors.
- Good to see the parking being used to help a local company.
- Noise and nuisance has been negligible.
- Good for local families and residents.
- The area also helps support the fish quay and the heritage.
- Positive addition to our fish quay and community.
- Current area not being fully utilised by being used as car park.
- Need to encourage footfall rather than cars.
- Good for the economy and local business.
- Will increase visitor numbers.
- Provides easy disabled access.
- Over 800 years, dwellings and commerce have worked in harmony.
- Should have reasonable closing time and safety measures in place.
- Will help to regenerate area.
- Gives a greater element of control to outdoor drinking.

10.4 A letter from North Shields Fish Quay Company has been submitted by the applicant. This states that they have no objections and that they would be happy to facilitate the development by issuing a License to Operate.

10.5 Alan Campbell MP

Given the locality of this planning application I ask that the decision on this application is taken by the Planning Committee rather than delegated to Planning Officers.

