

REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE
15 September 2021

REFERENCE: HW/FUL/21/00320

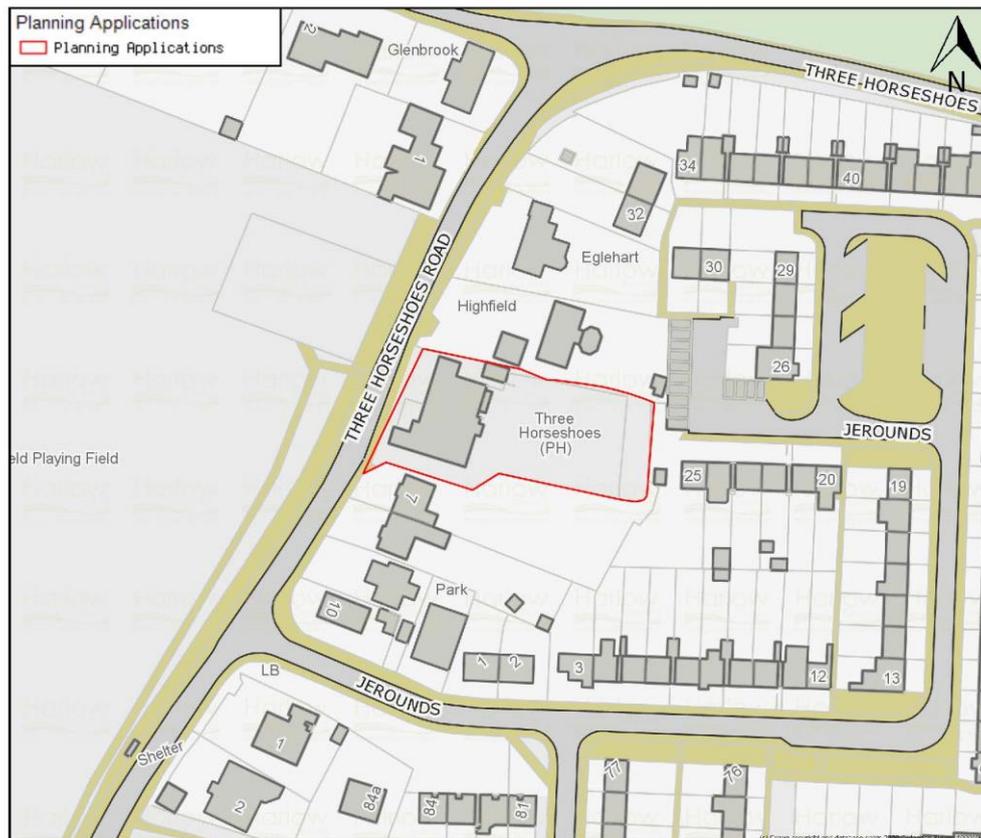
OFFICER: John Harrison

APPLICANT: Mrs Shelley Scott

LOCATION: Three Horseshoes Public House
Three Horseshoes Road
Harlow
Essex
CM19 4HB

PROPOSAL: New timber framed pergola with shingle felt roof, festoon lighting and heat lamps to existing patio area. Repositioning of the existing smoking shelter along with the removal of the drinks shelf to the existing smoking area.

LOCATION PLAN



REASON BROUGHT TO COMMITTEE – two objections have been received which are contrary to the officer recommendation.

Application Site and Surroundings

The application property is a currently vacant public house on the east side of Three Horseshoes Road to the north of its junction with Jerounds. It has a frontage of approximately 28 metres (discounting a small triangle of land providing a visibility splay and a depth of approximately 60 metres). The public house is set towards the front of the site with a small garden area with picnic benches and a small parking area in front. On the southern side of the pub is an access to the large car park to its rear and beyond that is a 6.5m landscaping strip. There is an outdoor seating area between the rear of the pub and the car park.

It is Grade II listed; the listing description being:

“C17 or earlier, timber framed range of 3 bays with ridged and gabled roof, peg tiles with eaves. Chimney stacks, one at end and one two bays along. Black weatherboards on gables, and 2 gabled dormers with 4 pairs of casements. Ground storey has a set of three matching casements either side. L-plan, due to extension of one storey with attics with matching casements in the end facing the street. Modern extension to the left and a porch set in the return of the plan.”

It should be noted that only one gable now has black weatherboarding, the building now being predominantly white with a mixture of weatherboarding and render.

The pub is surrounded by residential properties on three sides. There are three dwellings close to its boundaries. One is Highfield House, a large detached house on its northern side. This is set well back from the road, approximately 28 metres, so its front wall is behind the rear wall of the pub with its garage in front of it adjacent to the pub boundary. This is the dwelling closest to the proposed pergola. The second is 7 Three Horseshoes Road, a semi-detached house of 1960s style, on the southern side of the pub. This is quite close to the access to the pub's rear car park, approximately a metre at closest point. To the rear is 25 Jerounds, an end-of-terrace house 7.5 metres from the rear boundary with its garage between. There is also a row of garages, part of the Jerounds development, behind the public house. On the opposite side of the road is a sportsground and a children's play area.

Details of the Proposal

There are two elements to this proposal:

1. Relocation of the existing open smoking shelter, 5.5m x 1.9m which is attached to the right side of the rear elevation that is a modern extension, to the left side, part of the original building.
2. Erection of a wood-framed pergola 3m x 6m with a hipped shingle roof 3.5m high immediately behind the modern extension.

There is a related undetermined listed building consent application. As the pergola is freestanding, not attached to the listed pub, this does not require listed building consent. It is envisaged this will be determined under powers.

RELEVANT PLANNING HISTORY:

Planning Applications

<u>App Number</u>	<u>Proposal</u>	<u>Status</u>	<u>Decision Date</u>
HW/LBC/16/00359	Erection of Replacement Illuminated and Non Illuminated Signs and Repainting to the Exterior of the Building	GRANTED LISTED BUILDING CONSENT	30.09.2016
HW/LBC/16/00387	Internal & External Refurbishment Works, Including the Replacement of the Rear Extractor Unit	GRANTED LISTED BUILDING CONSENT	22.12.2016
HW/FUL/16/00389	Internal & External Refurbishment Works, Including the Replacement of the Rear Extractor Unit	GRANTED	22.12.2016
HW/FUL/19/00181	External alterations to the pub garden including new timber booths, canopy, pergola, lighting, posts, flooring and landscaping.	WITHD'N	05.06.2020
HW/LBC/19/00182	External alterations to the pub garden including new timber booths, canopy, pergola, lighting, posts, flooring and landscaping.	WITHD'N	09.06.2020
HW/LB/02/00186	Demolition of Existing Pre Fabricated Store. Single Storey Extension to Provide for New Beer Cellar and Freezer Room. Internal Alterations to Convert Existing Cellar Area into Restaurant Area. Extend and Re-pave Existing Patio Area with New Planting A	GRANTED	02.07.2002
HW/ST/02/00184	Demolition of Existing Pre Fabricated Store. Single Storey Extension to Provide for New Beer Cellar and Freezer Room. Internal Alterations to Convert Existing Cellar Area into Restaurant Area. Extend and Re-pave Existing Patio Area with New Planting A	GRANTED	02.07.2002
HW/ST/02/00089	Single Storey Rear and Side Extension for Beer Cellar and Freezers	REFUSED	15.04.2002
HW/LB/02/00087	Extension to Provide New Beer Cellar and Freezer Room and Internal Alterations to Form Additional Bar Area (Former Cellar) and Provision of Two New Windows	REFUSED	15.04.2002
93/00191	INTERNAL AND EXTERNAL ALTERATIONS INCLUDING NEW ENTRANCE LOBBY FROM REAR CAR PARK	GRANTED	
93/00190	INTERNAL AND EXTERNAL ALTERATIONS INCLUDING NEW ENTRANCE LOBBY FROM REAR CAR PARK	GRANTED	
HW/PL/85/00041	Fence crate stone area, paved patio to rear and internal alterations	GRANTED	03.09.1985

CONSULTATIONS

Internal and External Consultees

Heritage Officer Place Services

The careful removal of the drinks shelf and repositioning of the smoking shelter would raise no objections. The proposed new pergola is a small, lightweight and freestanding structure that

would not adversely impact the special interest of the building. Therefore no objection is raised.

HDC - Consultant Arborist

The proposed development will not impact on trees and surrounding vegetation.

Environmental Health Officer

Environmental Health have made the following recommendations:

1. That the new pergola is to be used for seated customers only in order to reduce more people congregating there.
2. No live or recorded music, public address system or TVs to be played outside in the pergola or in the re-located smoking area.
3. Details of how the applicant will enforce the above two conditions to be given.

Neighbours and Additional Publicity

Number of Letters Sent: 17

Total Number of Representations Received: 2

Date Site Notice Expired: 9 July 2021

Date Press Notice Expired: 8 July 2021

Summary of Representations Received

There have been two objections from neighbours raising the following concerns:

Impact on residential amenity - The development would seriously impact the quality of our family life, the pergola is close to our rear courtyard and our bedrooms, the development that would be closer to our home would increase the level of noise and disruption as it would be heated and covered so would encourage people to congregate to the rear of the pub, over recent years have had to complain to environmental health and the police as evening noise levels have sometimes been unbearable and sometimes police have had to be called.

Really against the proposals, previously lived adjacent to other licensed premises and had to call out environmental health regularly and eventually had to move, if lives affected will not hesitate to call out environmental health again.

PLANNING POLICY

The following policies from the Harlow Local Development Plan (2020) are relevant:

PL1 – Design Principles for Development

PL2 – Amenity Principles for Development

PL3 – Sustainable Design, Construction and Energy Usage

PL12 – Heritage Assets and their Settings

PR11 – Evening and Night Time Economy

PLANNING STANDARDS

National Planning Policy Framework (NPPF) (2021) - sets out the Government's key economic, social and environmental objectives and the planning policies to deliver them. These policies will provide local communities with the tools they need to energise their local economies, meet housing needs, plan for a low-carbon future and protect the environmental and cultural landscapes that they value. It seeks to free communities from unnecessarily

prescriptive central government policies, empowering local councils to deliver innovative solutions that work for their local area.

Supplementary Planning Documents/Current Planning Guidance

The Harlow Design Guide SPD (2011)

Summary of Main Issues

It is necessary to consider the appearance of the development and its impact on the listed building, impact on neighbours and Sustainable Design and Energy Use. These will be considered in turn.

Appearance and impact on the Listed Building

The impact on appearance and the Listed Building are due to the size of the structure being proposed but also from its detailed design including materials. It is considered that given that the proposals are relatively small-scale the size of the structure would not detract from the Listed Building. Furthermore, a smoking shelter and a pergola are features one could expect to see adjacent to a public house and they are not considered to detract from the Listed Building. The hipped shingle roof and open wooden posts are considered to be appropriate. Essex County Council Heritage Officer has no objection to the scheme. The proposal is therefore considered to comply with Local Plan policies PL1 and PL12 therefore.

Impact on neighbours

The impact on the amenity of neighbours is primarily from the noise and activity generated by the pergola. No details of how the pergola will be lit have been submitted and are matters that can be controlled by condition.

In terms of impact the only property likely to be significantly affected is Highfield House, the house immediately north of the pub. The pergola would be 13 metres from the side wall of Highfield House.

Noise from the pergola itself could adversely affect the residents of Highfield House. The pergola is proposed in an area where there is already customer seating and there are no planning conditions restricting the use of this area. This area is currently only likely to be used when there is daylight (and, of course, it is generally dark in the late evening when people are sleeping) and when the weather is good. Furthermore, a condition is proposed which would restrict the use beyond 10 p.m and before 9.a.m.

The provision of lighting and heating which the applicants envisage could permit its use for longer times with possible consequent detrimental impacts. Details of the proposed lighting are sought by condition to ensure that it is designed to minimise the impact on neighbours and the Listed Building.

The submitted plans show a layout with three tables under the pergola, so a maximum of up to about 12 customers would be likely to use it at any time. Thus, it is a small facility. Furthermore, two garages, one belonging to the pub and one belonging to Highfield House will provide a degree of noise attenuation.

Within this context, it is not considered appropriate to refuse the application, but rather manage the use of the pergola using conditions. The Environmental Health Officer has requested no standing and no music. It would be impractical to impose a "no standing"

condition, e.g. if somebody is passing the pergola and sees a friend there, they would be likely to want to go and talk to them and remain standing whilst doing so. The submitted plans show the provision of tables and chairs under the pergola and, if these are retained, this will minimise the area available for standing, so a condition to this effect is recommended.

Preventing the playing of music within the pergola has the obvious disadvantage that it could be played immediately outside with a similar impact. Planning conditions should not be unduly onerous and within this context a condition preventing outside music playing anywhere on the site except in the front area is recommended. In the area in front of the pub, depending on the time of day and the nature of the music, nearby dwellings would be unlikely to be affected. Should music be played here which causes problems, environmental health powers could be used to control it. A further condition is recommended preventing the use of the pergola after 10pm.

When there is a public house adjacent to dwellings there will almost inevitably be some impact on neighbours' amenity. It is considered that the proposed conditions would achieve a reasonable compromise between the desires of the pub operators and those of the residents of Highfield House. Furthermore the relationship between the new pergola, existing car parking and garages to the pub and Highfield House are such that impact of this proposal would be limited. Local Plan policy PR11 specifically provides for the use of conditions to control night time economy uses and it is considered these conditions would also make the proposal acceptable in terms of Local Plan policy PL2.

Sustainable Design and Energy Use

Local Plan policy PL3 requires new development to deliver efficient energy usage. The applicants have indicated they intend to use patio heaters in the pergola and many would consider their use not to be efficient in terms of energy use. Whether they are used or not is not an issue directly relating to the proposed development and anyway patio heaters could be used on the existing rear terrace as there are no controls preventing this. Thus refusing the application or imposing a condition preventing the use of patio heaters is not considered justifiable.

Equalities

Section 149 of the Equality Act 2010, which came into force on 5th April 2011, imposes important duties on public authorities in the exercise of their functions, including a duty to have regard to the need to:

- “(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.”

For the purposes of this obligation the term “protected characteristic” includes:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

The above duties require an authority to demonstrate that any decision it makes is reached "in a fair, transparent and accountable way, considering the needs and the rights of different members of the community and the duty applies to a local planning authority when determining a planning application.

Officers consider that the application does not give rise to any concerns in respect of the above.

CONCLUSIONS

Given the public house and dwellings, the public house will almost inevitably impact on neighbours to a degree. This is a small-scale proposal in an area where outdoor customer seating is already provided and, subject to the conditions recommended, it is considered a reasonable compromise between the pub's and the neighbours' desires will be achieved. The proposal would comply with the relevant Local Plan policies and it is recommended the planning application should be granted on this basis.

RECOMMENDATION

Grant Planning Permission subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON: In order to comply with Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The proposed pergola shall be permanently laid out with three tables as shown on the approved plans.
REASON: To minimise the prospect of large numbers of people congregating under the pergola and adversely affecting the amenity of nearby residents.
- 3 The pergola area shall not be used between the hours of 10pm and 9am. At 10pm any people using the pergola area shall vacate it and ropes or similar barriers placed round it to preclude entrance. Thereafter, the only people who should enter the pergola area should be staff who are clearing tables.
REASON: To protect the amenity of the occupiers of nearby residential properties.
- 4 Following the first use of the Pergola area, no live or recorded music, public address system or televisions shall be played within the pergola or smoking shelter or outside the public house behind the line of the public house's main front wall.
REASON: To protect the amenity of nearby residential properties.
- 5 Prior to the first use of the Pergola area, details of the proposed lighting shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
REASON: To protect the amenity of nearby residential properties and the Listed Building in accordance with policies PL2 and PL12 of the Harlow Local Plan 2020.

6. No construction works or any other associated works, including any machinery operations, in connection with the development shall take place outside the hours of 0800-1800 on weekdays and 0800-1300 on Saturdays. No works shall take place on Sundays or bank Holidays.

REASON: To minimise disruption to neighbours and obstruction of the highway in light of Policies PL2 and IN2 of the Harlow Local Development Plan, December 2020.

- 7 The development hereby permitted shall be carried out in accordance with the approved plans as shown listed in the table below.

REASON: For the avoidance of doubt and in the interests of proper planning.

Plan Reference	Version No.	Plan Type	Date Received
	--	Site Location Plan	04.06.2021
16	--	Existing Elevations	04.06.2021
16	--	Proposed Elevations	04.06.2021
16	--	Existing Site Plan	04.06.2021
16	--	Proposed Site Plan	04.06.2021

INFORMATIVE CLAUSES

1. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for Refusedusal, allowing the Applicant to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.