

Memo

To: Ms Arleta Miszewska

From: Daniel Bayles

Date: 20 March 2023

Re: The Swallow, 500 Dunsbury Way, Havant, PO9 5BL
Retrospective application for pergola structure to front of pub with alterations

Planning Ref: APP/2300032

EH Ref: CONS 23 00221

SUMMARY

A household has contacted Environmental Health twice about noise from this development but, has to date failed to pursue these complaints. The structure will give no attenuation of the noise from customers, Noise will be particularly noticeable at night when the background noise level has reduced. Conditions are requested to mitigate and the impact of noise.

The development will require a variation of the existing Premises Licence. An informative is requested.

Conditions are requested to ensure lighting is adequate and does not harm neighbouring amenity.

Fire safety is a concern as the development increases the distance and time from inside the building to a place of safety. As no details of fire safety have been provided it is recommended the application is not approved until they are provided as they may require amendments to the design.

COMMENTS

Smoke Free

The Health Act 2006 introduced smoke-free premises, places and vehicles. This banned smoking pubs. As a result, pubs built smoking shelters. To be compliant these must be 50% open. This pergola will be used as a smoking shelter.

The structure complies with this requirement.

Licensing

In addition to Planning the applicant needs to submit a licensing application to vary the current Premises Licence.

The Swallow's current Premises Licence, reference HPR0174, is attached. It does not currently cover the pergola.

The opening hours of the current permitted by the premises Licence are:

Monday - Wednesday 10:00am 11 :30pm

Thursday - Saturday 10:00am 12:30am

Sunday Noon Midnight

The applicant is requested to contact Licensing to discuss varying the current Premises Licence. Licensing's email address is: licensing@havant.gov.uk

An informative is requested.

Noise

The application contains no noise report. A suitable report would cost approximately £2,000 so is probably prohibitively expensive for this development.

Law and guidance are that residents living near to a public house should expect some reasonable disturbance as the public house is part of the nature of the area. However, a residential public house must also take steps to ensure any disturbance is reasonable and controlled.

Complaints

The application states the work started on the pergola on 18/07/2022 since then Environmental Has received the following complaints:

Date	Details	Outcome
20/11/2022	ASB and noise from customers.	No further contact from customer
3/8/2022	Customer noise in smoking shelter and customers loitering after closing	Diary sheets not returned

Both complaints are from occupiers of the same household near to the premises. I expect they will be made aware of this Planning Application and have had the opportunity to comment.

Structure

The structure will give no attenuation of noise from the pergola. Noise from traffic on Dunsbury Way and Middle Park Way will mask the noise of voices in the Pergola. However, this effect will reduce as traffic volumes reduce into the night.

The sound of music, singing and televised sporting events in the pergola late in the evening or night are almost certain to cause unacceptable harm to the amenity of neighbouring residents. A condition restricting the hours of these activities is requested.

From the complaints problems occur when customers loiter in the area after closing. This is usually controlled by management and signage asking patrons to leave the area quickly and quietly. A condition requiring this requested.

I have considered a hour of use condition, but is difficult. In addition to the hours for Premises Licence public houses can use Temporary Event Notices to extend their opening hours. The government also extends hours for national events such as the Jubilee and probably the Coronation.

Fire Safety

The pergola is a wooden structure. The pergola will increase the distance and time it will take for customers to exit the building to a safe area. As a minimum the Fire Risk assessment must be updated. There are no details in the application of how this may impact on fire safety including means of escape from the main building.

Compliance with Fire Safety requirements may require amendments to the design which could require a further planning application.

I recommend the applicant consults with Building Control and Hampshire Fire and Rescue Service to ensure fire safety is adequate and this Planning Application is not determined until this clarification has been obtained.

Lighting

From the details supplied the lighting in the pergola is inadequate. It needs suitable lighting to ensure safety and prevent it causing a harming the amenity of neighbours. Lighting can be agreed as a condition.

Nuisance / Licensing and Planning Overlap

Planning deals with the more stringent standard of protection of amenity. Environmental Health and Licensing enforce the less stringent standard of nuisance. A development can cause unacceptable harm to the amenity but not be a nuisance. Planning cannot rely on Licensing or Environmental Health to protect the amenity.

The advantage of Licensing is that a Licence can be reviewed, although this is not a simple process.

CONCLUSION

With management by the landlord and suitable conditions the development should not cause unacceptable harm to the amenity.

Concerns about the developments impact on fire safety need to be resolved before the application is determined.

RECOMMENDATION

REFUSE – Insufficient Information

Confirmation the structure does not have an unacceptable impact on fire safety is required before the application is determined.

Regards

Daniel Bayles BSc (Hons) AKC MCIEH CEnvH MIOA MCMI CMgr
Interim Pollution Team Leader

CONDITIONS

These conditions and informative are provided in the event the recommendation cannot be followed or when the reason for recommending refusal is resolved.

1. No Amplified Music or Voices

The development hereby permitted shall not be used for any performance, including of music or showing or televised events, before midday or after 7pm.

No speakers shall be fixed to the structure of the development hereby permitted.

2. Development Only to Be Occupied When the Premises is Open

The development hereby permitted shall only be occupied by customers when the premises is open. Upon closing all customers shall vacate the development hereby permitted.

For the purposes of this condition the opening hours shall be the same as those authorised by the Premises Licence or Temporary Event Notice or national licensing extension.

3. Signage

Within 1 month of the development hereby permitted signs at the exit of the development hereby permitted (the pergola) shall be prominently displayed reminding customers to leave the area promptly, quietly and not to disturb residents.

4. Lighting to Be Agreed

Within 3 months of the development hereby permitted details of lighting shall be submitted to the Local Planning Authority (LPA) in writing for the agreement of the LPA in writing. Once agreed the details shall not be altered without the written consent of the LPA.

A. Licensing Informative

In addition to Planning Permission this development requires a variation of the Premises Licence.

The applicant must contact Licensing to vary the Premises Licence on email licensing@havant.gov.uk