
Site Address: The Swallow, 500 Dunsbury Way, Havant, PO9 5BL
Proposal: Retrospective application for pergola structure to front of pub with alterations.
Application Type: Retrospective Planning Permission
Application No: APP/23/00032 Expiry Date: 07/03/2023
Applicant: Mr Bett
Agent: Ms Cannon Case Officer: Arleta Miszewska
Ward: Battins

Recommendation: **GRANT PLANNING PERMISSION IN RETROSPECT**

1 Site Description

The Swallow, 500 Dunsbury Way, Havant, PO9 5BL. This is an established Public House located in its own grounds at the junction of Dunsbury Way and Middle Park Way in Leigh Park.

2 Planning History

98/63542/000 - Proposed Single Storey Extension to form Entrance Lobby, PERM,08/09/1998
07/63542/001 - Change of use from car park into beer garden including formation of lean to pergola, ramp and steps access and door opening., REF,03/05/2007
08/63542/003 - Enclosed garden shelter to front elevation including alterations to fenestration for access to bars. (Revised submission.), PERM,17/03/2008
APP/14/01121 - Construction of a canopy over existing paved external area to provide a smoking shelter., PERM,15/12/2014

3 Proposal

The application seeks a retrospective planning permission for a pergola to the front of the existing public house to provide further seating area. The planning agent has confirmed that the proposal would result in the increase of employee number from the equivalent of 6 full-time staff to the equivalent of 8 full-time staff.

4 Policy Considerations

National Planning Policy Framework
Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011
CS16 High Quality Design
CS17 Concentration and Distribution of Development
DM2 Protection of Existing Community Facilities and Shops
DM10 Pollution
DM14 Car and Cycle Parking on Development

Listed Building Grade: Not applicable.
Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Councillor Amy Redsull - Warren Park

No response received.

Councillor Kristine Tindall - Battins

No response received.

Councillor T Moutray

No response received.

Councillor Tony Denton

No response received.

Crime Prevention -Minor Apps

No response received.

Environmental Health Manager, Community Group

Initial response - 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 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 further information is provided.

Interim response - The applicant has now provided the Fire Risk Assessment (FRA) that includes an assessment of the new structure. The new structure does not have an unacceptable impact on fire safety so the Planning Application can be approved.

Interim response - recommends condition limiting the use of the pergola until 2100 hours due to noise impacts on nearby residential properties.

Final consultation regarding proposed lighting scheme - no response within a statutory consultation period.

Hampshire Highways

The Highway Authority are satisfied that, subject to parking being acceptable, that the proposals would have no significant impact on the operation or safety of the local Highway Network. Having regard to the above comments the Highway Authority, subject to parking being agreed, would recommend no objection (no conditions).

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 19

Number of site notices: 4

Statutory advertisement: Not applicable.

Number of representations received: 0

7 Planning Considerations

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Impact upon the character and appearance of the area
- (iii) Impact upon residential amenity
- (iv) Other considerations

(i) Principle of development

7.2 The application site is situated within an urban area where further development is considered acceptable subject to compliance with relevant planning policies safeguarding, inter alia, quality design, residential amenity and highways safety.

(ii) Impact upon the character and appearance of the area

7.3 The pergola is positioned within the frontage of the building and visible from public vantage points alongside Dunsbury Way and Middle Park Way. The pergola is a single storey height, wooden structure with a clear polycarbonate roof finish to the front and felted section of flat roof to the rear, where it connects with the existing building. The submitted proposed block plan shows that a corner of the existing pergola would be cropped to reduce its size, footprint and move it away from the public footpath. The planning agent has confirmed the agreement for the pergola to be dark stained.

7.4 The surrounding area is predominantly residential with some sporadic commercial uses, including a local shop to the south of the application site. There is a degree of variety within the detailed design of the surrounding buildings as well as boundary treatments.

7.5 Whilst the structure is visible from public vantage points, given its modest height and light weight construction as well as the pattern of development immediately surrounding it, it is concluded that the pergola (as amended by the cropping shown in the submitted plans) would not result in a demonstrable harm to the character and appearance of the surrounding area and is considered to be in accordance with the relevant planning policies set out above.

(iii) Impact upon residential amenity

7.6 There are residential properties directly opposite the pergola, further south in Dunsbury Way as well as on Middle Park Way. Due to the scale and detailed design

of the pergola, it is not considered to result in a harmful impact on the adjacent properties, in terms of light, outlook or privacy.

- 7.7 The Council's Environmental Health Officer has commented on the application, in respect of noise and light pollution. No objection has been raised, subject to a series of conditions, including a condition restricting amplified music or voices, limiting the time when the pergola can be in use, and requesting details of external lighting.
- 7.8 Additional comments have been received from the Environmental Health Officer following a receipt of a noise complaint and subsequent investigation which confirmed the noise disturbance amounting to a statutory nuisance. A condition limiting the use of the pergola until 2100 hours every day has been requested by the Environmental Health Officer.
- 7.9 It is noted that a condition of the Premises Licence states:

"No sales of alcohol will take place in the outdoor area before 10:00 and after 21:00 Monday - Sunday (area specified on the plan submitted)."

Therefore, this condition does not prevent the use of the outside area by patrons - it simply prevents the sale of alcohol in the external area outside of these hours. Under the Licensing Act the Environmental Protection Team are required to comment on the 'Prevention of Public Nuisance' licensing objective, whilst under the planning regime impact on amenity must be considered. Amenity and prevention of public nuisance are clearly different considerations. The Licensing Act guidance states that "Licensing committees are not bound by decisions made by a planning committee, and vice versa". On this basis, it is concluded that this condition is necessary.

- 7.10 In terms of lighting, details of lighting have been provided by the applicant and the Environmental Health Officer was consulted on the submitted detail. However, no comments have been made. It is noted that Festoon Lights are proposed to be installed on the pergola. These are unlikely to give rise to concerns over lighting pollution, given their design and distance from the nearest neighbouring property. Therefore, it is considered that there is no basis to refuse this application on the grounds of light pollution. However, should there be any complaints about artificial light from premises causing a 'statutory nuisance' then this could be dealt with under separate legislation, namely the Environmental Protection Act 1990, by the Environmental Health Team.

(iv) Other considerations

- 7.11 The Local Highway Authority confirmed that the proposals would have no significant impact on the operation or safety of the local Highway Network. The Authority does not raise objection, subject to adequate car parking provision.
- 7.12 The Council's car parking standards for food and drink establishments require the provision of 1 space per 5sqm dining area/bar area/dance floor. However, it is recognised that the provision of moveable external tables and chairs would not require planning permission in and of themselves on the site. It is the pergola that does require planning permission. Therefore, Officers conclude that the proposed development requiring planning permission does not trigger the requirement for a further car parking provision. Therefore, the proposal is considered acceptable, in terms of car parking.

- 7.13 The Council's Environmental Health Officer has raised concerns over fire risk and in particular how the pergola affects the means of escape from the main building. Whilst this falls beyond the scope of the material consideration of this application, a revised Fire Risk Assessment has been submitted to demonstrate that the pergola does not have an unacceptable impact on fire safety. The Environmental Health Officer concurs with this conclusion.

8 Conclusion

- 8.1 The principle of the proposed development is acceptable. Minor details of the development have been revised to reduce its impact on the character and appearance of the area. Further lighting information has been submitted to which no objection from the Environmental Health Team has been received within the statutory consultation period. Appropriate conditions are recommended to avoid any harmful impact on residential amenities, in particular in terms of noise. Fire risk concerns have been satisfactorily addressed. In light of the above, the application is considered to comply with the relevant policies of the development plan and is recommended for a conditional approval.

9 RECOMMENDATION:

That the Head of Place be authorised to **GRANT PLANNING PERMISSION IN RETROSPECT** for application APP/23/00032 subject to the following conditions:

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

23.TH.01-002 REV A PROPOSED PLAN AND ELEVATIONS FESTOON LIGHTING, REVISION A
23.TH.01-003 LOCATION PLAN
23.TH.01-005 PROPOSED BLOCK PLAN

Reason: - To ensure provision of a satisfactory development.

- 2 Within 3 months of the date of this planning permission, the pergola shall be:
(i) altered to accord with the layout and appearance of the structure as shown on approved plan 'Proposed Plan and Elevations, Festoon lighting, Revision A, Drawing No. 23.TH.01 - 002 Rev A'; and
(ii) stained in a dark brown colour;
and shall be maintained as such at all times thereafter.

Reason: In the interests of the visual amenity in accordance with the aims and objectives of the National Planning Policy Framework 2023 and Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011.

- 3 The development hereby permitted shall not be used for any performance, including of music or showing of televised events, before midday or after 7pm. At no times shall speakers be fixed to the structure of the development hereby permitted.

Reason: In the interests of residential amenity of nearby residential properties in accordance with the aims and objectives of the National Planning Policy Framework (2023) and Policies DM10 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011.

- 4 The pergola structure hereby approved shall not be used after 2100 hours Monday to Sunday.
Reason: In the interests of residential amenity of nearby residential properties in accordance with the aims and objectives of the National Planning Policy Framework (2023) and Policies DM10 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011.
- 5 Within 1 month of the date of this planning permission, 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; such signage shall remain in place at all times thereafter.
Reason: In the interests of residential amenity of nearby residential properties in accordance with the aims and objectives of the National Planning Policy Framework 2023 and Policies DM10 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011.
- 6 Unless otherwise agreed in writing with the Local Planning Authority, the development hereby permitted shall be carried out in accordance with the details shown on the Proposed Plan and Elevations, Festoon lighting, Revision A, Drawing No. 23.TH.01 - 002 Rev A.
Reason: In the interests of the character of the area and residential amenity of nearby residential properties in accordance with the aims and objectives of the National Planning Policy Framework 2023 and Policies DM10 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011.