



# NEXT PHASE

THE TOWN PLANNING EXPERTS

## Submission to the Planning Inspectorate

Statement of Case due to the refusal of planning permission in accordance with  
Section 78(1) of the Town and Country Planning Act 1990

Local Planning Authority: Kirklees Council  
Application No: 2021/62/91724/E

Statement of Case to the Planning Inspectorate for the erection of raised decking with  
balustrade, new door opening and 3 giant umbrellas to rear (listed building within a  
conservation area) at Smith's Arms, 1 Town Gate, Highburton, Huddersfield,  
HD8 0QP

## STATEMENT OF CASE

On behalf of Mr T Reynolds

October 2021



0959/01

Statement of Case – 2021/62/91724/E

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Mr T Reynolds

October 2021

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## 1.0 INTRODUCTION

- 1.1 This Statement of Case has been prepared for the attention of the Planning Inspectorate in accordance with Section 78(1) of the Town and Country Planning Act 1990 on behalf of the appellant, Mr T Reynolds.
- 1.2 This report provides a statement of case against the refusal of planning permission issued by Kirklees Council (*"The Council"*) on 27<sup>th</sup> July 2021 in accordance with the Town and Country Planning Act 1990 and the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 1.3 Planning permission is sought for the erection of a raised decking with a balustrade, a new door opening and 3 giant umbrellas to the rear of the property known as Smith's Arms, 1 Town Gate, Highburton, Huddersfield, HD8 0QP.
- 1.4 This statement provides a clear explanation of the statement of case and directly responds to the reasons for refusal brought forward by the Council within their Decision Notice.
- 1.5 This appeal has been prepared with the intention of appealing via the written representations route and refers to documentation throughout that formed part of the application submission and is noted in the appeal submission documentation list where appropriate.
- 1.6 It should be noted that the planning decision was made by Kirklees Council's Planning Committee who have refused the application despite a recommendation for approval being presented to them by Local Planning Authority officers.

- 1.7 A separate Listed Building Consent appeal has been submitted to the Inspector under separate cover (reference 2021/65/91725/E) and is requested that the cases are linked for the benefit of efficiency.

## 2.0 STATEMENT OF CASE

### 2.1 Reasons for Refusal

The Council refused the application for two reasons which are contested by the appellant and as such the statement of case against these reasons for refusal are outlined within this chapter.

### 2.2 Reason for Refusal 1 Detail

*“The proposed alterations to the building, by virtue of the loss of the window and its replacement with a door, would form an incongruous feature, which would not respect or enhance the character of the host building. To permit such alterations to the building, which would be harmful to visual amenity, would be contrary to Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework”.*

### 2.3 Reason for Refusal 2 Detail

*“The proposed decking and umbrellas would, by reason of their proximity to residential properties, result in noise nuisance associated with their use, whereby it has not been demonstrated that suitable and sustainable mitigation measures which reduce the associated noise nuisance to an acceptable level to protect the quality of life and well-being of neighbouring occupants, can be implemented. To permit the proposals would be contrary to Policies LP24 and LP52 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework”.*

2.4 It was the Local Planning Authority’s Planning Committee’s assertion that the proposal by way of its introduction offered harm to the fabric of the building by way of the proposed change of the window to a door and there was a harmful impact provided by way of the inclusion of outdoor space.

- 2.5 The appellant's assertions are consistent with that presented by the Local Planning Officer's recommendations to their committee, in that the scheme is proportionate and reasonable within the context of its locality and against the expectations of the Development Plan.
- 2.6 The principle of development is considered acceptable, insofar as the proposal seeks to extend and make alterations to a building for the beneficial socioeconomic impacts of that building in accordance with the expectations of Policy LP24 of the Kirklees Local Plan.
- 2.7 Furthermore, as outlined in section 4.2 of the Kirklees Local Plan, the proposal brings forward the opportunity for increased socioeconomic gain for the business associated with the public house, providing direct investment into an area that will provide direct and indirect economic improvements as a by-product of its implementation. In giving consideration to 4.2 of the Kirklees Local Plan, the socioeconomic impacts associated with the proposal need to be balanced against the identified heritage asset, and visual and residential amenity and highway safety.
- 2.8 The site is located within the Highburton Conservation Area and the Smith's Arms building itself is Grade II listed. As such taking into consideration the expectations of the Framework and Policy LP35 of the Kirklees Local Plan, consideration needs to be given to the impact of the proposal and its effect on the historic character of the building.
- 2.9 In this regard the Council's Conservation and Design Team have fully assessed the proposed development and its implications to the Grade II listed building in the conservation area. The Conservation Department considered that the proposal would offer minimal harm to the conservation area as a by-product of its implementation and
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- the replacement of a window with a door alters a late 19<sup>th</sup> century addition to the public house and as such provides no measurable impact on the proposed development in heritage terms.
- 2.10 With regard matters associated with amenity; the proposal seeks to bring forward decking and canopies associated with outdoor use, and it is considered that the use in this regard offers a negligible impact on adjacent neighbouring property in accordance with the expectations of Policy LP24 part c) of the Kirklees Local Plan.
- 2.11 The proposal brings forward a decking platform approximately 0.6 metres above the existing ground level and as a result would offer no measurable impact on privacy; reinforced by way of the adjacent dwelling, 39 Far Dene, being located at a lower topographic level and, with the access provision in between, would minimise any potential impacts. The most immediate neighbour to the rear at 5A Town Gate is distinctly separated from the site and as such the proposal offers no measurable overlooking and the most immediate neighbour to the east 1A Town Gate has existing substantial screening together with an access lane which will minimise any potential impacts of overlooking from the decking.
- 2.12 With regard noise impacts it is accepted that the introduction of outdoor socialising within the public house will provide an increased level of noise, however this has to be measured against the potential impacts associated with the baseline acoustic levels of a public house and can reasonably be controlled by way of noise mitigation measures including the restriction of outdoor use of the space by customers until 10:00pm. It is considered that such matters, including the restriction of opening times of the outdoor space and the requirements for noise mitigation measures, can be controlled by planning condition.
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- 2.13 With regard to visual amenity the proposal brings forward works associated with the north side of the building which is distinctly separate from the main public vantage points of the area, furthermore it is a reasonable expectation for a public house for such a facility to have external provision. Insofar as amenity can be considered with regard the appeal therefore it is considered that the proposal offers a negligible impact on visual or residential amenity by way of its introduction, as such according with the expectations of Policy LP24 and Policy LP52 of the Kirklees Local Plan.
- 2.14 Overall, it can be considered that the proposal accords with the expectations of the Development Plan as can be applied and it is respectfully requested that the appeal is upheld and planning permission is granted for the proposal.

### **3.0 CONDITIONS OF PLANNING**

- 3.1 It is considered that the standardised conditions with regards to timeframes and plans should be adopted. Pre-commencement conditions to confirm the specification of facing materials is also considered to be reasonable and appropriate.
- 3.2 In addition, a condition associated with the preparation submission of a Noise Survey and Management Plan associated with assessment and mitigation of the impacts associated with the rear decking area and an associated closure of the outdoor space by way of restricting its use to 10:00pm is proposed to be incorporated as was recommended by the Local Planning Authority as part of their recommendation to their committee.

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THE TOWN PLANNING EXPERTS

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