KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 70

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No:	**2022/62/91787/W**
Site Address:	The Old Wire Works, 75, Acre Street, Lindley, Huddersfield, HD3 3DZ
Description:	Erection of covered timber pergolas with fixed booths, formation of raised decked area and installation of outdoor furniture and lighting
Recommending Officer:	Ellie Worth

DECISION – Conditional Full Permission

I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Stuart Howden

AUTHORISED OFFICER

Date: 18th August 2022

Site description
The Old Wire Works, 75 Acre Street, Lindley is a two storey Public House. The property is constructed from stone walls, stone slate roof tiles and timber painted windows and doors. To the front is an area of outdoor seating with a formal beer garden to the rear (this appears to have into what was previously a car park serving the use). Pedestrian access can be taken from the front elevation, with an area of designated on-site parking to the northern side of the building. Access is taken onto Acre Street. To the rear, boundary treatment consists of timber fencing and stone walling.

The site is unallocated on the Kirklees Local Plan and is situated within a mixed use area, as it is surrounded by residential and commercial properties. There are also a number of Listed Buildings and gate piers within close proximity to the site. These include Acre Mills (to the south), Calderdale and Huddersfield NHS building (to the northwest) and the entrance to Acre House (southwest).

Description of development
Planning permission is sought for the erection of covered pergolas with fixed booths, the formation of a raised decked area and the installation of outdoor seating and lighting.

The pergolas to the left hand/south side of the building would be ~8.4m in depth by 2.2m in width with an overall height of ~2.2m.

The raised decked area to the rear of the site would be ~14.5m in overall width by ~3.7m in depth with an overall height of ~0.6m (1.6m to include post balustrade).

The pergolas to the right hand/north side of the building would be ~14m in depth by ~3m in depth with an overall height of ~2.3m.

The pergolas would be constructed from horizontal boards with a simple polycarbonate sheet roof sloping back to the existing fence with a new gutter. Inside the pergolas, artificial lighting will be hung for each booth.

The decked area would be constructed from existing stone to face up to the decking. A fixed handrail at 1.05m would be installed around the edge.

The central beer garden area and pergola area to the north is to have a resin floor

The outbuilding to the south side is proposed to have a window replaced with openable shutters.

History of negotiations/amendments sought
No negotiations or amendments have been sought as part of the application process.

Relevant Planning History

At the application site:

- 2016/90377 Formation of enlarged beer garden to front and revised beer gardens to rear with internal alterations – Granted.
- 2001/92539 Erection of replacement roof – Granted.

Neighbouring properties:

- 2017/90438 Formation of car park and erection of security cameras and lighting – Granted (Acre Mill)
- 2019/91933 Alterations to existing building to form 6 apartments and 4 dwellings and erection of four dwellings – S106 permission (Acre House)
- 2019/91934 Listed Building Consent for alterations to existing building to form 6 apartments and 4 dwellings and erection of 4 dwellings (Listed Building) – Granted (Acre House)

Representations

The application has been advertised via site notice, neighbour notification letters and the press.

Final publicity expired: 29th July 2022.

As a result of the above publicity, one representation has been received objecting to the application. A summary of the concerns raised are as follows:

- No objection to the additions/alterations, however, there has been a problem with loud music and noise from this venue since it has re-opened. This has been passed onto Environmental Health. My fear is that the proposed works will encourage more people out into the beer garden and cause more late night noise.

Consultation responses

KC Environmental Health: In support of the scheme subject to conditions regarding Noise Mitigation, Entertainment Noise Inaudibility and the Hours of Use being attached to the decision notice.

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is unallocated on the Kirklees Local Plan but is adjacent to a number of listed buildings/structures.

Kirklees Local Plan (LP):

- LP 1– Achieving sustainable development
- LP 2 – Place shaping
- LP 21 – Highways and Access
- LP 22 – Parking
- LP 24 – Design
- LP 35 – Historic environment

- LP 48 – Community facilities and services
- LP 51 – Protection and improvement of local air quality
- LP 52 – Protection and improvement of environmental quality

National Policies and Guidance:
National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 2 – Achieving Sustainable Development
- Chapter 4 – Decision Making
- Chapter 6 – Building a Strong, Competitive Economy
- Chapter 8 – Promoting Healthy and Safe Communities.
- Chapter 9 – Promoting Sustainable Transport
- Chapter 12 – Achieving Well-Designed Places
- Chapter 15 – Conserving and Enhancing the Natural Environment
- Chapter 16 – Conserving and Enhancing the Historic Environment

Other:

- Kirklees Highways Design Guide (2019)

Assessment
The following matters are considered in the assessment below:
1. Principle of development
2. Impact on visual amenity
3. Impact on residential amenity
4. Impact on highways
5. Other matters
6. Representations
7. Conclusions

1. Principle of development
Paragraph 7 of the National Planning Policy Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 goes onto note that achieving sustainable development has three overarching objectives (social, environment and economic), and these are interdependent and need to be pursued in mutually supportive ways.

In line with the National Planning Policy Framework, Policy LP1 of the Kirklees Local Plan declares that:

"…the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF."

Community facility

Policy LP48 of the Kirklees Local Plan states that "proposals will be supported for development that protects, retains or enhances provision, quality or accessibility of existing community facilities that meets the needs of all members of the community".

In addition, Paragraph 93 of the NPPF states that provide the social recreational and cultural facilities and services the community needs, planning decisions should plan positively for the provision and use of community facilities such as public houses to enhance the sustainability of communities and residential environments.

In this case, the alterations to the existing beer garden would help the public house enhance its quality for its visitors and local residents. As such, the scheme is considered to meet the aims of Policy LP48

Therefore, the principle of development on the application site could be acceptable subject to it being assessed against other material planning considerations below.

2. Impact on visual amenity and the setting of the Listed Building:

Policies LP1, LP2 and LP24 of the Kirklees Local Plan are all relevant, as these policies seek to achieve good quality design that retains a sense of local identify, which is in keeping with the scale of development within the area and is visually attractive.

These aims are also reinforced within Chapter 12 of the NPPF (Achieving well-designed plans) where paragraph 126 provides an overarching consideration of design stating that: *"the creation of high quality buildings and places are fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'."*

In this case, given the level of development proposed, the works are not considered to result in the overdevelopment of the site.

The design of the pergolas has been considered acceptable, as they would be retained at a height no greater than the existing boundary treatment with a flat roof. Their light weight (timber) design and limited size and scale as well as their siting away from the Acre Street would also minimise the impact upon the wider area.

Therefore, such type of outdoor arrangement is typical for public houses and therefore no objection is raised.

To the rear of the site, a decked area is proposed. This would be ~50 sq. m and would be positioned where the existing raised flower bed is and is considered to be relatively modest, even including the fixed handrail. It would

also be sighted away from the main road of Acre Street. The materials for this are also considered acceptable.

The change to alter the hardstanding to resin is considered to have a negligible impact upon the character and appearance of the area as is the replacement opening in the side wall of the building.

Therefore, it has been assessed that the application would not result in detrimental harm to the visual amenities of the locality, with an assessment upon the setting and significance of the nearby Listed Buildings below.

As stated above, there are also a number of Listed Buildings and gate piers within close proximity to the site. These include Acre Mills (to the south), Calderdale and Huddersfield NHS building (to the northwest) and the entrance to Acre House (southwest). Therefore, Section 66 of the Planning (Listed Building & Conservation Areas) Act 1990 introduces a general duty in respect of listed buildings. In considering whether to grant planning permission for development which affects its setting, the Local Planning Authority should shave special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses. This is reiterated within Policy LP35 of the Local Plan.

In this instance, the development would be mostly obscured by the existing boundary treatment at the pub and the scale of the works is considered to be relatively modest. It is therefore considered that the proposal would not harm to the significance of the nearby listed buildings. Even so, there are considered to be public benefits associated with the proposed development, i.e. enhancing the site's existing beer garden would ensure the pubs longevity and would attract more custom to the local community facility.

Therefore, having taken into account the above, it has been considered that the proposal would harmonise, to an acceptable degree, with the host property, the character of the area and the wider street scene, as well as preserve the significance of nearby listed buildings complying with Policies LP24 and LP35 of KLP and Chapters 12 and 16 of the NPPF.

3. Impact on residential amenity

Section B LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings

Further to this, Paragraph 130 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Paragraph 185 of the NPPF outlines that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on living conditions. In addition to this, Policy LP52 of the Kirklees Local Plan states that proposals which have the potential to increase pollution from noise, vibration, light, dust, odour and other forms of

pollution must be accompanied by evidence to show the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level or have unacceptable impacts on the environment.

In this case, the nearest residential properties to the site are the row of terraces at no.s 5 -27 Union Street. Given the development proposed, officers have noted that the new outdoor seating areas, including the pergolas and raised decking would not have a detrimental impact upon these neighbours, in terms of overbearing, overshadowing and overlooking, with sufficient separation distances of at least 35m being retained.

KC Environmental Health have also been formally consulted as part of the proposal, as the development has the potential to increase noise levels outside of the Public House.

In this instance the Environmental Health Officer (EHO) has noted that no consideration of noise generated from the use of the area or hours of use has been put forward in the application's Design and Access Statement and the applicant is reminded that a current licensing condition for the premises requires the outdoor areas to close at 22:00.

Furthermore, the EHO has requested a condition for a Noise Management Plan, however, permission is not considered to be required to use this area as a beer garden, which it already is, or expand this garden area of the beer garden like this, and the proposal mainly looks to re-design this beer garden area, thereby Officers do not consider the outdoor space would result in materially greater levels of noise over and above the existing situation or what could be undertaken under permitted development. It could be noted that the covered area could result in more activity outside during inclement weather, but it is also noted that the inclusion of a moveable structure for a pub does not necessarily require planning permission too (Class G, Part 2 of the GPDO). Therefore, it is not considered reasonable or necessary to attach this condition.

On the other hand, the EHO have requested a noise audibility condition. This would ensure that any noise from televised entertainment and from the users of the beer garden, is inaudible from nearby residential premises. This condition is considered necessary and reasonable, as development seeks to retain a high level of amenity at nearby noise sensitive properties. Therefore, this condition will be attached to the decision notice to accord with Policies LP24 and LP52 of the Kirklees Local Plan.

Lastly Environmental Health officers also have requested that the hours of use for the outdoor area is conditioned to 11:00 to 22:00. However, given the reasons outlined above and that the hours of use are covered by licencing, it is not considered reasonable or necessary to attach this condition to the decision notice.

In conclusion, officers consider the development to retain an acceptable level of amenity at nearby residential properties, subject to the inaudibility condition. This is to accord with Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the NPPF.

4. Impact on highway safety

Given the nature of the proposal and the fact that the development would not result in the loss of any existing parking at the site, no objection is raised from a highways perspective.

The site is also situated within a sustainable location as it is within 200m from Lindley Local Centre and 250m from New Hey Road Local Centre and has good public transport links.

Bin storage will remain located within the car park and the waste collection arrangement will be as existing.

As such, the development would have an acceptable impact upon highway safety and would accord with the aims of Policies LP21 and LP22 of the Kirklees Local Plan, Chapter 9 of the NPPF and the Council's Highways Design Guide SPD.

5. Other matters

Climate change

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

In this case, due to the nature of the proposal, it is not considered reasonable to require the applicant to put forward any specific resilience measures. However, the decked area and pergolas will be constructed from timber which is considered to be a natural material that can be locally sourced. Furthermore, should the outdoor seating areas be no longer required, the development could be removed and the land restored as existing.

6. Representations

As a result of the above publicity, one representation has been received. A summary of the concerns raised, along with officer correspondence are as follows:

- No objection to the additions/alterations, however, there has been a problem with loud music and noise from this venue since it has re-opened. This has been passed onto Environmental Health. My fear is

that the proposed works will encourage more people out into the beer garden and cause more late night noise.
Comment: This concern has been noted, however, officers have concluded that the majority of the area is already used as a beer garden and that the works to expand the beer garden could potentially be done without planning permission. Nonetheless, a condition will be attached to the decision notice to state that any noise produced should be inaudible to nearby residential premises, along with the pubs licencing agreement being that the beer garden can only be used until 22:00.

7. Conclusion

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other materials considerations. It is considered that the development would constitute to sustainable development and is therefore recommended for approval.

Recommendation Approve

Decision Authorisation - Delegated Powers
Application Number: 2022/91787
Officer Recommendation: Approve

Conditions and Reasons
1. The development hereby permitted shall be begun within three years of the date of this permission.
Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2,LP21, LP22, LP24, LP35, LP48, LP51 and LP52 of the Kirklees Local Plan and Government guidance contained within the National Planning Policy Framework.

3. Noise from amplified and non-amplified televised entertainment and speech at the proposed development shall be controlled so as to be inaudible inside nearby residential premises. Inaudibility being defined as:

- if the LAeq, (1min) (of the music etc. noise) is not greater than the LA90 (of the background with no music etc. noise); and
- if the L10 (5min) (of the music etc. noise) is not greater than the L90 (of the background with no music etc. noise) in each 1/3rd octave band between 40Hz and 160Hz.

Reason: To ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, in the interest of residential amenity and to comply with Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

NOTE: A simple “sound check” can be carried out outside the nearest noise sensitive property by listening to the television noise etc. coming from the application premises. If the television noise etc. is clearly audible, then it is likely that this condition is being breached. Therefore, steps should be taken to reduce the level that the television etc. is being played at.

NOTE: Noisy construction related activities shall not take place outside the hours of:

- 07.30 to 18.30 hours Mondays to Fridays
- 08.00 to 13.00 hours, Saturdays
- With no noisy activities on Sundays or Public Holidays.

Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act

1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists, or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

Plans and specifications schedule:

Plan Type	**Reference**	**Version**	**Date Received**
Location plan	10	A	21st June 2022
Existing block plan	10	-	24th May 2022
Existing site layout plan	00		24th May 2022
Proposed site layout plan	01	A	21st June 2022
Proposed elevations	02	-	21st June 2022
Design and access statement	Dated 17/05/22	-	24th May 2022

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. In this instance, no negotiations or amendments have been sought as part of the application process as the application was considered acceptable as submitted.

Dated: 18th August 2022