

- a) **DOV/15/0707 – Change of use of land to allow additional benches in connection with the use of the adjacent land as a public house - Land fronting The Zetland Arms Public House, Wellington Parade, Kingsdown**

Reason for report: Number of contrary views.

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policies and Guidance**

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (The 1990 Act) requires that in granting planning permission the planning authority should pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

Core Strategy (CS) Policies

- DM1 – Development will not be permitted in the countryside unless specifically justified by other development plan policies, or it functionally requires such a location or it is ancillary to existing development or uses
- DM15 - Protection of Countryside
- DM16 – Landscape Protection

National Planning Policy Framework (NPPF)

- The NPPF has 12 core principles which amongst other things seek to secure high quality design and a good standard of amenity for all existing and future residents.
- NPPF – is relevant as the proposal should seek to be of a high design quality and take the opportunity to improve the visual quality and character of the area. Paragraphs 17, 56-59 and 64 seek to promote good design and resist poor design.
- Paragraph 134 of NPPF requires an assessment of the impact of the proposal on the character and appearance of the conservation area weighed against the public benefits.
- Section 8 of NPPF promotes healthy communities to enhance the sustainability of communities and residential environments.
- Section 11 of NPPF seeks to conserve and enhance the natural environment.

d) **Relevant Planning History**

DOV/09/0550 – for the change of use to external seating area. Granted subject to conditions.

e) **Consultee and Third Party Responses**

Parish Council: Objects to the additional benches on the land as the proposal impacts upon the access, use and nature of the beach area. Further comments that have been received from the Parish Council oppose the increase in use of the land.

Environmental Health: No observations. There have been no noise complaints made with reference to the use arising from the public house and the area in front.

PROW Officer: It has been observed on site that the right of way becomes obstructed by car parking. An objection to the application is made unless the applicant can demonstrate that obstructive parking would be prevented by the applicant. Should permission be granted, conditions are recommended.

Kent Wildlife Trust: No comments have been received from the Kent Wildlife Trust. Should these be received, Members will be updated at the Planning Committee.

Ecology Officer: No comments have been received but should a response be received this will be reported to the Members at the Planning Committee.

Heritage/Conservation Officer: No comments.

There are 42 letters of objection against the proposal. In summary, these letters of objection raise the following concerns:

- 1) The public house already has benches outside
- 2) The further increase in the number of benches would detract from the open and accessible use of the beach area and would harm its overall character and appearance
- 3) The build-up of car parking gives rise to concerns over safety and amenity
- 4) The public house is within the Conservation Area, AONB, SSSI and areas of nature conservation and protection. This sensitive setting would be harmed through the proposed use of the land
- 5) Additional use of the land would give rise to noise and general disturbance, more litter and dog fouling
- 6) The existing right of way and slipway already becomes obstructed. This proposal would make this worse.
- 7) The area would be over congested and overdeveloped
- 8) The proposal affects the availability of public open space

f)

1. **The Site and the Proposal**

Site

- 1.1 The Zetland Arms is a two storey public house located at the end of the development along Wellington Parade before the development returns along South Road. A public footway runs across the front of the building. The Public House (PH) is therefore in a prominent location. The PH building and the location for the additional seating are within the Conservation Area. To the south of the site the land falls within the Site of Special Scientific Interest. Further south, there is the Area of Outstanding Natural Beauty. The location of the seating area falls within a Site of Nature Conservation Interest.
- 1.2 The surrounding land to the west is almost entirely in residential use comprised of terraced and semi-detached Victorian cottages along North Road and South Road and Victorian and later housing development along Wellington Parade. To the south the land is open with the shingle/pebbled beach stretching towards the cliffs at Kingsdown.
- 1.3 Immediately in front of the PH is a small terrace on which a few tables and chairs are located. The area further in front of the PH is shingle/pebble and crosses a Public Right of Way. The land in front of the small terrace is also used for access and parking with cars mostly parked facing in an east to west direction. Representations that have been received suggest that the terrace of the public house also crosses over public land.
- 1.4 Beyond this parking area to the east there are public seats/benches located to look out to sea and the slipway. Six PH benches which were granted permission in 2009 are located in a square parcel of land to the east of the right of way.
- 1.5 North of the proposed additional seating area is a collection of beach huts. To the south, the coastline is more open in appearance allowing clear views towards the Kingsdown coastline.

Proposal

- 1.6 The proposal is to locate a further 6 benches within an extension of the area already set aside for the approved 6 benches. The proposal would extend the area further south within an area of land some 7.8m x 5.5m.
- 1.7 The benches (12 in all) are shown to be in a regimented arrangement in four rows of three benches. The benches would not be fixed to the ground so are not development as such. It is the change of use of the land that requires planning permission. The entire bench area is proposed by the applicant to be roped off. Details of the stands (which would not be fixed) and roping can be required by way of a condition.
- 1.8 The Council has granted a licence for 6 benches which expires in November 2017. The applicant will be seeking an additional licence

from the Council's Licencing Section for the extended area.

## 2 Main Issues

2.1 The main issues are:

- The impact upon the existing character and appearance of the area, including the conservation area and nature conservation designations
- The additional harm to residential amenity and highway safety
- Other Matters

### The impact upon the character and appearance of the area, Conservation Area and Nature Conservation Designations

2.2 The land surrounding the public house is open to the east and south, with unhindered views to and along the coastline. It is a location that has an open, coastline setting and makes a positive contribution to the character and appearance of the area and the surrounding environs. The site itself forms part of the beach and comprises pebbles/shingle on a flat area before the beach slopes towards the sea. To the north of the site is a row of beach huts.

2.3 The proposed change of use would not involve any permanent physical change to the land (i.e. there would be no concrete foundations laid or other operational development involved). The benches would be sited on the land and would be moveable. The proposal would not therefore result in any permanent change to the beach or the setting of the area.

2.4 The use of the land would be effectively an extension to the existing area and as an extension of the location of the 6 existing benches granted permission in 2009. The benches are proposed to be set out in a more regimented way within rows, whereas the existing benches are more 'informally' laid out without any uniform or arranged pattern. At a recent site visit there were only 5 benches within the existing licenced area (and not the granted 6) There were 8 public benches all fronting the sea further east of the application site. The slipway is unimpeded by the location of the PH benches and the public benches. This would not change.

2.5 The increased area of land to accommodate the additional 6 benches is approximately 10 sq. m. This area would be roped off, and with bins provided for customers. At a recent visit, there was already a bin close to the existing seating area.

2.6 In view of the limited expansion of area and with no permanent change to the beach, I do not consider that the proposal would result in undue harm to the existing character and appearance of the conservation area. Paragraph 134 of NPPF requires an assessment of the harm to be weighed against the public benefits arising from the proposal. Although the land would not be publically accessible open space – the space would still remain as accessible to the public – albeit under the

control of the PH. The site's appearance would not change physically aside from the setting out of the additional benches and roping off. The changes to the land would also not appear permanent. On balance, due to the limited area of space involved and the likely economic benefits to a rural pub and the wider community it serves it is considered that the benefits outweigh the limited harm. As such, the proposal meets the assessment requirements of Paragraph 134 of the NPPF and the proposal satisfies the statutory tests set out in Section 72 of the 1990 Act.

- 2.7 In respect of the nature conservation designations with the small increase in site coverage and in view of the existing public and PH related uses of the land, it could not be demonstrated that the proposal would result in undue harm. However, should comments be received from Kent Wildlife Trust these will be reported to the Committee.
- 2.8 In addition to the considerations raised above, the proposed use would affect the amount of open space provided by the beach, enjoyed by the public and made available for the public benefit. However, the use referred to only amounts to some additional 10 sq. m. The loss of publically available and accessible open space represents an erosion of a small area of land to the public benefit that needs to be weighed against the benefit provided by the public house to its patrons and the wider economic and social benefits the public house provides.

#### Impact upon residential amenity

- 2.9 With an encouragement for more people to sit outside there is concern that the increased number of tables may give rise to increased noise and general disturbance affecting the nearby local residents.
- 2.10 There have been no formal complaints recorded by the Council's Environmental Health section with regard to the existing benched area in front of the PH. Objections have been received regarding the noise from the extraction system. Complaints have been made with regard to unauthorised camping, BBQs and pop up tents in the vicinity of the PH.
- 2.11 The PH has a small rear garden area and a small front terrace. It appears to be mainly used by patrons for eating, as well as drinking.
- 2.12 It is considered that it would be extremely difficult to demonstrate that an additional 6 benches will give rise to a material change in the existing levels of activity and noise emanating from and around the public house during evenings. There is no detailed evidence of existing complaints and therefore it would be unsustainable to put a case that another 6 benches will give rise to a material change in circumstance.
- 2.13 The existing concerns also centre around the inconvenience from parking in the nearby areas, patrons obstructing the right of way and slipways and generally over-crowding and congesting the beach area. However, it does not follow that the additional benches will make this materially or demonstrably worse.

- 2.14 Many concerns expressed by local residents and those others that have submitted responses to the application consultation raise non planning issues and issues that are or that should be addressed under separate legislation such as dog fouling, unauthorised camping, obstruction of the highway. These are matters for licencing or other sections of the Council.
- 2.15 Some representations concern breaches of planning control that do not involve the location or the number of the benches, granted in 2009. These include the ownership of land and the permission to use land, or existing extensions to the building that cross over the right of way and obstruct the highway. These representations have been forwarded to other sections of the Council.

#### Highway Safety

- 2.16 There are issues around indiscriminate parking in the vicinity of the PH and across the right of way. The local roads do not appear to be maintained or enforced by the Highway Authority. It is within the remit of the Highway and Rights of Way Authority to seek to keep the public footpaths and rights of way clear of obstructions. Although it could happen, it does not follow that the additional 6 benches will give rise to additional excessive traffic activity. In the light of the comments from the PROW Officer a condition with regard to how the areas in front of the PH will be managed is suggested.

#### Conclusion

- 2.17 The principal issue is very much an on balance decision, where the addition of a further six benches needs to be weighed against the harm to the open space and character and appearance of the conservation area and other countryside, ecological and landscape designations
- 2.18 It is the officers view on balance that the proposal which would have limited visual and physical impact, would not result in undue harm if any to the character and appearance of the conservation area, the SSSI and SNCI. The loss of a small area of public open space to for the public is relatively small scale. The proposal does not involve any permanent physical or operational development and seeks to expand the existing seating area by some 10 sq. m and another 6 benches.
- 2.19 The expectation arising from the proposal is that the improvement in the facilities available to the wider public provided by the PH would enhance the attractiveness of the PH as a destination. This can only support the economic and social viability of this rural pub and the wider community that it serves. Planning permission should therefore be granted.

g)

#### Recommendation

- I PLANNING PERMISSION BE GRANTED, subject to conditions set out in summary to include: i) commencement within 3 years, ii) carried out in accordance with the approved drawings, iii) No permanent works or operational development, iv) A management regime to control the

areas in front of the PH to be submitted, v) Only 6 benches shall be sited and no other ancillary function or use of the land shall take place, vi) details of the detail and arrangements for the roping off and stands.

- II Powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer:

Vic Hester