

Our Ref: W G/KN0068/23

10 November 2023

Planning
City of York Council
West Offices,
York,
YO1 6GA

via the Planning Portal

Dear Sir/Madam,

**Application for Full Planning Permission
The Ainsty, 59 Boroughbridge Road, Holgate, York, YO26 5SQ
Planning Portal Reference: PP-12572667**

We are instructed by our client, Greene King Brewing and Retailing Ltd to submit the enclosed application for full planning permission at The Ainsty in York. Specifically, the application propose:

“Erection of timber pergola with fixed seating to western elevation”.

The application has been submitted via the Planning Portal. In addition to the forms, the application comprises the following:

Drawings

- 2214 - 108A Site Location Plan
- 2214 - 103 B Existing Site Plan
- 2214 - 111 B Proposed Site Plan with Pergola
- 2214 - 112 B Proposed Elevations with Pergola
- 2214 - 113 Proposed External Fixed Seating Detail
- 2214 - 200B Existing Elevations
- 2214 - 601 B Proposed Pergola Details.

The fee for this application is £234.00 which has been paid directly via the Planning Portal.

As the application is not considered a major development, does not affect a listed building and does not exceed 100 square metres, the application does not need to be accompanied by a Design and Access Statement.



Introduction

This application seeks planning permission for the erection of a timber garden pergola within an existing external seating area directly to the west of the pub. The structure is required to provide an area of covered external seating to protect customers from inclement weather. The structure is in response to a change in trading patterns since the Covid19 pandemic and increased demand for outdoor seating as a result of customers wishing to be outdoors. In a post Covid world, customers now expect premises to provide good quality covered outdoor seating and it can be a key factor in customers decisions as to which premises to visit.

Site and Surroundings

The Ainsty is an established public house/ restaurant located in Holgate, York. The premises is owned and operated by Greene King Brewing and Retailing Ltd and trades under the Hive brand. The pub has been subject to substantial recent investment to upgrade and refurbish the interior and exterior of the premises, including significant investment in external areas to improve facilities for outdoor seating.

The Ainsty is a triple fronted building which occupies a prominent corner plot on the junction of Carr Lane and the A59 Boroughbridge Road. The site extends to an area of approx. 0.17ha. The site is also bounded by Priory Gardens to the south of the site. Access is taken via two points on Carr Lane and Priory Gardens, with parking spaces provided to the southern part of the site.

The Ainsty enjoys a generous plot and is set back a substantial distance from the highway. The building itself is substantial and prominent in the local street scene and makes a positive contribution to the amenities of the area. However, unlike most pubs it has no formal beer garden and as a result, an external seating area has been formed from what was car park at the front and to the side of the premises. This area currently comprises a raised deck area and enclosed seating area with lighting, but it lacks an area of covered seating.

In terms of surrounding uses, the neighbouring area is entirely residential. However, surrounding housing is set back from the road and is thus a significant distance from the premises.

Constraints

The site is unallocated in the City of York Local Plan 2005 and is not subject to any notable heritage or environmental constraints.

Planning History

The site has some relevant planning history, which is set out below:

23/00638/FUL - External alterations to grounds, including erection of festoon lighting, replacement of raised timber decking, resurfacing and new fencing, together with construction



of a fenced enclosure to the rear for the installation of walk-in cold store. Approved August 2023.

21/02672/FUL - Erection of timber framed pergola shelter with Festoon Lighting. Withdrawn January 2022

10/01759/FUL - Construction of areas of raise decking within car park - Approved October 2010

07/00872/FUL - Smoking Canopy to Main Side Entrance – Permitted May 2007

07/00637/FUL - Proposed Fixed Timber Canopy to Front – Withdrawn April 2007

There are a couple of applications that are of pertinent to this application. Firstly, planning permission 23/00638/FUL is relevant because it originally proposed the construction of a timber garden pergola. This element of the scheme was omitted however due to concerns about its siting and in order to avoid a delay to the issue of planning permission for the wider works due to an imminent planned closure of the pub. It was determined that this element of the scheme could be pursued separately following completion of the initial works.

Planning permission 07/00872/FUL is also relevant as this granted consent for a covered timber structure in the position of the proposed pergola. This was for the use of smokers and was introduced following the smoking ban. However, such structures are now being routinely removed from pubs due to them reaching the end of the life span and being replaced by more substantial and better-quality covered garden structures which serve multi purposes.

Proposed Development

The proposed development consists of the erection of a high-quality timber pergola with fixed seating to the western elevation of the Anisty. The structure is sited in an area of the site long established for outdoor seating which has recently received a new resin surface and replaces an area of decking and former smoking shelter which was demolished earlier this year as part of the recent refurbishment and brand refresh works. It is relevant to note that the former smoking shelter was being used as a covered outdoor seating area prior to its demolition as is the case with many former smoking shelters.

The proposed pergola will measure 5.8 metres by 13 metres and will be constructed of good quality pre-treated timber. The pergola will include fixed seating to avoid the need for loose tables and chairs to be taken in and out on a daily basis. The supporting timber posts are substantial in size to give the pergola a robustness and quality and avoid it appear flimsy and poor quality.

Planning Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that “*if regard is to be had to the development plan for the purposes of any determination to be made under the planning Act, the determination must be made in accordance with the plan, unless material considerations indicate otherwise*”.



Any issue that relates to the use of land is capable of being a material consideration, this includes government statements of planning policy.

The development plan applicable to the site is the City of York Draft Local Plan incorporating the Fourth Set of Changes (April 2005). The City of York Council is currently working on a new Local Plan for the City, which was submitted in 2018. It is currently subject to examination in public. There are a number of policies contained within these documents that are relevant to the development proposals and these are considered in turn below. Reference must also be made to the National Planning Policy Framework.

National Planning Policy Framework (2023)

The aim of the document is to ensure that there is a presumption in favour of sustainable development and that positive solutions are found to ensure economic development is brought forward. Paragraph 11 requires that decision takers “*to approve development proposals that accord with an up-to-date development plan without delay*”.

Section 6 is concerned with ‘Building a strong, competitive economy’. At paragraph 81 it s “*decisions should help create the conditions in which businesses can invest, expand and adapt*”. Paragraph 93 states that planning decisions should ensure that established facilities and services, including public houses, are able to develop and modernise and are retained for the benefit of the community.

In terms of design, paragraph 130 sets out the criteria that new development should adhere to from a design perspective. Amongst other things, it requires that development is visually attractive as a result of good architecture and layout and is sympathetic to local character and history.

City of York Draft Local Plan incorporating the 4th Set of Changes 2005

Policy S6 ‘*Control of Food and Drink Uses*.’ It states that the extension of A3 uses will be granted provided the impact on amenity to surrounding occupiers is limited and the opening hours of premises where alcohol is consumed are restricted.

Policy GP1 ‘*Design Principles*’ which are expected of development proposals. This policy requires development proposals to respect the local environment, be compatible in scale and size to the neighbouring buildings and ensure that residents are not unduly affected in terms of amenity amongst other things.

Emerging Local Plan: Draft City of York Local Plan 2018 Regulation 19 Submission

Policy DP1 ‘*York Sub Area*’ establishes the overall aims and objectives for the region. The policy expects all development to contribute to these aims. It establishes an awareness of York’s role as an economic driver within the region.

Policy DP2 ‘*Sustainable Development*’ outlines the principles expected of development in relation to new proposals. It states that development should protect and enhance the visitor economy through supporting existing facilities promoting new development.



Policy DP3 '*Sustainable Communities*' outlines the Council's principles which are expected to be followed by all types of development. The appropriate principles for this development are considered to be:

- Deliver high quality design; and
- Create a high quality, locally distinctive place which relates well to the surrounding area.

Policy DP4 '*Approach to Development Management*' echoes the NPPF in favour of sustainable development and is considered a positive approach.

Policy EC3 '*Business and Industrial Uses within Residential Areas*' outlines the Council's expectations with regards proposals for extensions to existing businesses within residential areas. The policy clearly states that these proposals will only be permitted where they will not significantly harm the amenity of the surrounding area.

Policy D1 '*Placemaking*' refers to the management of development proposals. It states that proposals will be supported where they improve poor existing urban and natural environment. It then subsequently establishes detailed design points to guide proposals.

Policy ENV2 '*Managing Environmental Quality*' states that development will not be permitted where there would be significant adverse environmental impacts. This includes noise amongst other impacts.

Assessment

The application proposal raises a number of planning issues which are considered below. These are the principle of the development, design and impact on character and impact on the amenity of adjacent neighbours.

Principle of Development

The principle of the use of external areas around the premises for outdoor seating is long established and such activities are lawful by virtue of being ancillary to the main use of the site as a public house / restaurant. The works within this application seek to improve the quality of existing outdoor space at the site and meet the urgent need for high quality covered external seating areas at the site which has arisen following the Covid19 pandemic. The premises is currently disadvantaged by not being able to offer such provision which customers now expect as part of a pub's offer.

The principle of the refurbishment of the Ainsty and an upgrade of external space has been established through planning permission ref. 23/00638/FUL, which amongst other things granted consent for a new external raised deck area, festoon lighting and new external garden surfaces. This application seeks consent for the second phase of the works and that element of the original scheme that was omitted due to timescales.



The proposed pergola is considered acceptable in principle as it replaces an existing covered structure and area of decking and is in a location long established for outdoor seating. It also receives policy support at both a local and national level by virtue of policies that support the retention of public houses and investment in their improvement and expansion, together with policies that support economic growth and the leisure and visitor economy more generally.

Notwithstanding the above, it is also important to consider the fallback position offered by permitted development rights introduced after Covid, which enable the applicant to construct a moveable pergola structure of a much poorer design in the same location without the need for planning permission. Such a structure could be installed on a permanent basis and whilst perhaps slightly smaller would have a much greater detrimental impact on the street scene than the proposed structure.

Having regard to the above, we consider the works to be acceptable in principle and to receive strong policy support from both the adopted Development Plan and the NPPF.

Design and Character

Planning application ref 23/00638/FUL originally proposed a pergola as part of the scheme. However, following concerns regarding its siting and prominence in the street scene, it was removed from the scheme.

This application seeks to address the concerns raised and proposes that the pergola be re-sited to sit directly adjacent the west elevation of the building on the footprint of the former smoking shelter and decking, that it is reorientated and reduced in scale and its design improved. The effect of these changes is that the proposed pergola is less visible and prominent in the street scene and is viewed against the building rather than as an incongruous and highly visible feature. Overall, it is of a higher quality and a more appropriate design and is more sensitively positioned.

Planning policy at all levels requires development to be of a good quality, in keeping with its context and the character of the area and use good quality materials appropriate to the locality. All elements of the scheme have been carefully designed and will be constructed using good quality materials appropriate to the building.

Accordingly, it is considered that the proposed pergola is consistent with government guidance contained in paragraph 130 of the NPPF, together with Policy GP1 of the Draft Local Plan 2005 and Policies DP2, DP3 and D1 of the Emerging Local Plan.

Impact on Amenity

The proposed pergola will facilitate the provision of covered external seating for patrons of the Ainsty, providing space for those who wish to eat and drink outdoors protection from inclement weather. As previously explained, the Ainsty historically featured an external smoking shelter located in the same location as the proposed pergola which over time had evolved into a cover outdoor seating area.



Furthermore, all areas of the site can be used for external eating and drinking ancillary to the main use of the site as a public house without the need for planning permission.

Given these facts, the proposed development will not give rise to any amenity impacts beyond what occurs now or what could lawfully occur. Furthermore, adjacent residential properties are located a significant distance from the proposed pergola and separated from areas of car parking and the public highway.

Accordingly, it is considered that there are no ground for objection to the scheme on the basis of an unacceptable impact on the amenity of adjacent residential occupiers and therefore that the proposal complies with Policies DPI, DP2 and ENV2 of the Emerging Local Plan alongside Policy GPI of the City of York Draft Local Plan 2005.

Conclusion

The application scheme has been shown to be fully compliant with planning policy at all levels. Accordingly, and having regard to paragraph 11 of the NPPF, we respectfully request that planning permission is granted for the proposed development without delay.

The applicant wishes to work with the Council in respect of these proposals and as such, should you have any queries or require any additional information, please do not hesitate to contact me as soon as possible.

Yours faithfully,



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Planner**

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Cc David Comber, Greene King Brewing & Retailing Ltd

