

Change of use of garden land (class C3) to beer garden (sui generis) and associated works (including new fencing and seating)

Report Item No
A3

Railway Tavern 5 Tamworth Road Ashby De La Zouch
Leicestershire LE65 2PW

Application Reference
22/01177/FUL

Grid Reference (E) 435534
Grid Reference (N) 316151

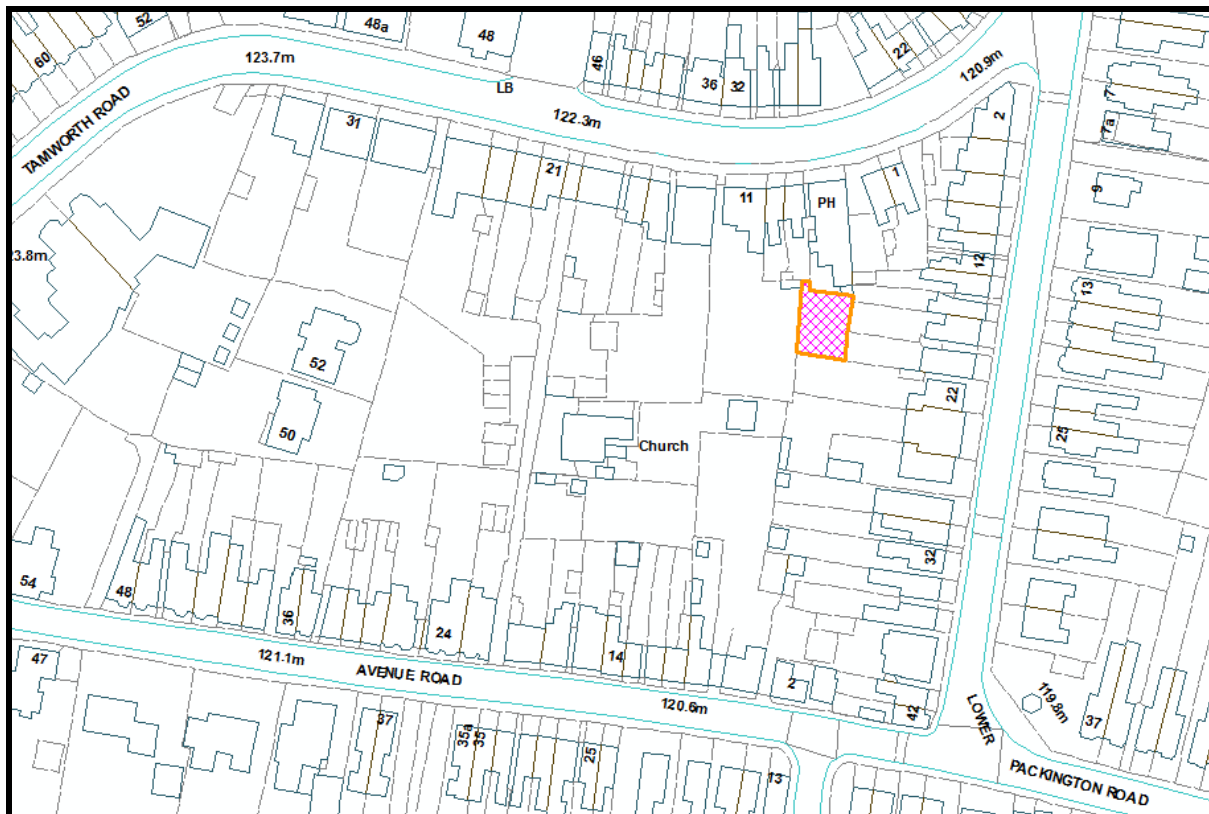
Date Registered:
11 March 2023
Consultation Expiry:
25 July 2023
Determination Date:
3 June 2023
Extension of Time:
17 August 2023

Applicant:
Caroline Funnell

Case Officer:
Chris Unwin-Williams

Recommendation: Permit, subject to conditions

Site Location - Plan for indicative purposes only



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Reason the case is called to the Planning Committee:

The application is brought before the Planning Committee due to a call-in request from Cllr Bigby. The following reasons were provided for the call-in request:

- Impact of the beer garden on adjacent neighbours in terms of noise nuisance and disturbance and this is contrary to policies D1 and D2 of the Local Plan.
- The land is to be changed to an employment land use which is contrary to policy EC2 (2)c of the Local Plan.

RECOMMENDATION - PERMIT subject to the following conditions: -

- 1 Time limit – 3 years
- 2 Plans List
- 3 Materials
- 4 Acoustic boundary treatment scheme as set out on plan numbers SSA.2023.128-002 REV C and SSA.2023.128-004 REV C received by the Local Planning Authority on 03.08.2023 (to specifications outlined in noise assessment report) to be provided prior to first use of beer garden.
- 5 Development shall be in accordance with noise management plan.
- 6 Full details of landscaping scheme for submission and approval prior to first use of beer garden.
- 7 Beer Garden Hours Restriction as follows:
 - 17:30-21:30 Monday – Thursday
 - 15:00-21:30 Fridays
 - 14:00-21:30 Saturdays
 - 12:00-21:30 Sundays and Bank Holidays
- 8 External Lighting scheme to be submitted for approval prior to first use of beer garden (Details shall include the position, height, luminance and type of lights and maximum lux levels).

MAIN REPORT

1. Proposals and Background

The application seeks planning permission for the proposed change of use of garden land (class C3) to a beer garden (sui generis) and associated works (including new fencing and seating) at Railway Tavern, 5 Tamworth Road, Ashby De La Zouch.

The land subject to the change of use proposals (outlined in red below) would be located behind the existing southern boundary of The Railway Tavern, Tamworth Road and would be sited adjacent to the rear boundaries of properties located on Lower Packington Road on the eastern and southern boundaries of the land, whilst would be sited adjacent to the rear gardens of neighbouring properties along Tamworth Road to the west.

Site Location Plan



Amended plans were received following updated comments received by Environmental Protection to lower the height of the acoustic fencing (to 1.8m from 2.4m) and ensuring this would be sited on all main boundaries of the beer garden (the western, eastern and southern boundaries). Given the minor alterations and that fencing at this height could be installed without the need for planning permission, an additional consultation period was not carried out.

Precise measurements of the proposal are available to view on the submitted plans.

The site is located within Limits to Development as defined by the adopted Local Plan.

Recent Planning History

- 02/01614/FUL - Erection of front porch and replacement bay window roof and windows (Application Permitted 13.01.2003)
- 05/00417/FUL - Erection of single storey rear extension and new pitched roof (Application Permitted 06.05.2005)

2. Publicity

16 Neighbours have been notified.
Site Notice displayed 6 April 2023.

3. Summary of Consultations and Representations Received

- **Ashby Town Council** – Objects to the application on grounds of overlooking, noise impacts and disturbance resulting from the proposals and highways issues. Additionally, objections are raised on health and safety grounds and impacts on local ecology. The proposal would also be contrary to Policy H3 in respect of Windfall sites and would not accord with Local Plan Policy D2 (amenity)
- **Ward Member** – Requests that the application be called-in to committee as this would not accord with Policies D1, D2 and EC2.
- **Environmental Protection** – No objection subject to conditions.
- **Conservation Officer** – Identifies less than substantial harm.
- **Tree Officer** – No objections.
- **LCC Minerals** – No comment.
- **LCC Ecology** – No objections but note that the proposals do not meet the requirement to provide Biodiversity Net Gain (BNG)
- **LCC Highways** – No objections.
- **Natural England** – No objections.

All responses from statutory consultees and third parties are available to view in full via the Council website. Only comments which raise material planning issues can be considered.

Neighbouring properties were consulted on an initial and revised consultation period (which included a noise assessment and responses to objections), and a site notice was posted and 9 no. objections were received.

Comments received through both the initial and revised consultation period are summarised below:

Grounds of objection	Description of impact
Residential Amenity Impacts	The proposals will negatively impact quiet enjoyment of neighbouring outdoor amenity space
	The change of use would result in

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	overlooking impacts and a loss of privacy
	The proposals would result in unacceptable noise impacts from use of the garden, general background noise associated with the use as well as the playing of music.
	The proposals may result in an increase in anti-social behaviour due to the intensified use.
	Concerns that any limits imposed on hours of use could not be appropriately enforced
	Concerns that the proposed acoustic fencing would result in exacerbation of noise impacts to the west and north as this would only be located on the eastern and southern boundaries.
	The proposals would be contrary to Neighbourhood Plan Policy H3 (Windfall Sites) and would not accord with Local Plan Policy D2.
	The proposals could result in Health and Safety issues with an intensified use of a small area
	The proposals could result in further development or expansion of the business resulting in further impacts to surrounding residents
Ecology	The proposals would reduce habitats for local wildlife
	Concerns regarding the proposed removal of boundary hedgerows to facilitate the works
Highway safety	The proposals would result in parking issues on Tamworth Road and subsequent impacts on surrounding residents
Heritage Impacts	The proposals would result in impacts on nearby heritage assets (Grade II Listed Buildings)
Flooding	The proposals may exacerbate flooding issues in the area through an increase in impermeable surfacing
Other Matters	Concerns regarding the accuracy of the noise report and its conclusions commissioned by the applicant.
	Concerns the proposals would result in a lowering of property values
	Concerns some neighbours have been omitted from consultation process.
	The proposals may negatively impact upon the overall use of the nearby church as a community facility and use as a space for community events.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (2021)

The following paragraphs of the NPPF are considered relevant to the determination of this application:

Paragraphs 8 and 10 (Achieving sustainable development);
Paragraphs 11 and 12 (Presumption in favour of sustainable development);
Paragraphs 38, 47, 55, 56 and 57 (Decision-making);
Paragraphs 81 and 83 (Building a strong, competitive economy);
Paragraphs 86, 87, 88, 90 and 91 (Ensuring the vitality of town centres);
Paragraphs 92 and 93 (Promoting healthy and safe communities);
Paragraphs 105, 107, 108, 109, 110, 111 and 112 (Promoting sustainable transport);
Paragraphs 126, 128, 130, 131, 132 and 134 (Achieving well-designed places).
Paragraphs 159 and 167 (Meeting the challenge of climate change, flooding and coastal change)
Paragraphs 180, 185 and 187 (Conserving and enhancing the natural environment)
Paragraphs 199, 200, 201 and 202 (Conserving and Enhancing the Historic Environment)

Adopted North West Leicestershire Local Plan (2021)

The following policies of the adopted Local Plan are consistent with the policies in the NPPF and should be afforded weight in the determination of this application:

Policy S2 - Settlement Hierarchy
Policy D1 - Design of New Development
Policy D2 – Amenity
Policy IF2 – Community and Cultural Facilities
Policy IF4 - Transport Infrastructure and new development
Policy IF7 - Parking Provision and New Development
Policy En1 - Nature Conservation
Policy En2 - River Mease Special Area of Conservation
Policy En3 - The National Forest
Policy He1 – Conservation and Enhancement of North West Leicestershire’s Historic Environment.
Policy Cc2 - Water - Flood Risk
Policy Cc3 – Sustainable Drainage Systems

Ashby De La Zouch Neighbourhood Plan (2018)

Policy S1: Presumption in Favour of Sustainable Development
Policy S2: Limits to Development
Policy S4: Design
Policy E2: Small and Start-Up Businesses
Policy T1: Traffic Management
Policy NE4: Nature Conservation
Policy NE5: Trees and Hedgerows

Other Policies and Guidance

Planning Practice Guidance

Leicestershire Highways Design Guide

Good Design for North West Leicestershire SPD - April 2017

The Habitats Regulations (The Conservation of Habitats and Species Regulations 2017)

Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System

River Mease Water Quality Management Plan - August 2011

Natural England - advice for development proposals with the potential to affect water quality resulting in adverse nutrient impacts on habitats sites - March 2021

5. Assessment

Principle of Development

In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the development plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2021).

The site is located within the Limits to Development as defined by the adopted Local Plan. The proposed development is located within the Key Service Centre of Ashby which is defined under Policy S2 as “Smaller than the Principal Town in terms of population and also the range of services and facilities they provide, they play an important role providing services and facilities to the surrounding area and are accessible by some sustainable transport. A significant amount of development will take place in these settlements but less than that in the Principal Town.”

The proposals seek permission for a proposed change of use of garden land (class C3) to a beer garden (sui generis) and associated works (including new fencing and seating) at Railway Tavern, 5 Tamworth Road, Ashby De La Zouch.

Whilst the proposal would not be located within the Town Centre, the proposal would result in the expansion of an existing business which corresponds to the aims and objectives of Local Plan Policy IF2 which outlines that:

“Community and cultural services and facilities should be retained and wherever possible improvements facilitated to the quality, accessibility and levels of provision by:

b) Allowing the expansion or enhancement of existing community and cultural facilities to assist continuing viability, particularly in areas where new development will increase the demand for facilities.”

Comments were received by Councillor Bigby relating to the proposals lack of compliance with Policy EC2 which provides guidance on new employment land allocation. It is noted that paragraph 8.12 of the Local Plan provides a definition of employment land which includes use Classes B1 (now Class E), B2 and B8 of the Use Classes Order 2015 only. Therefore, given that the proposals would be for an extension of a beer garden (Sui Generis) for an existing business, and would not fall under one of the applicable use classes, no further assessment of this policy is required. Further, the overall residential amenity impacts of the scheme are assessed in the following sections.

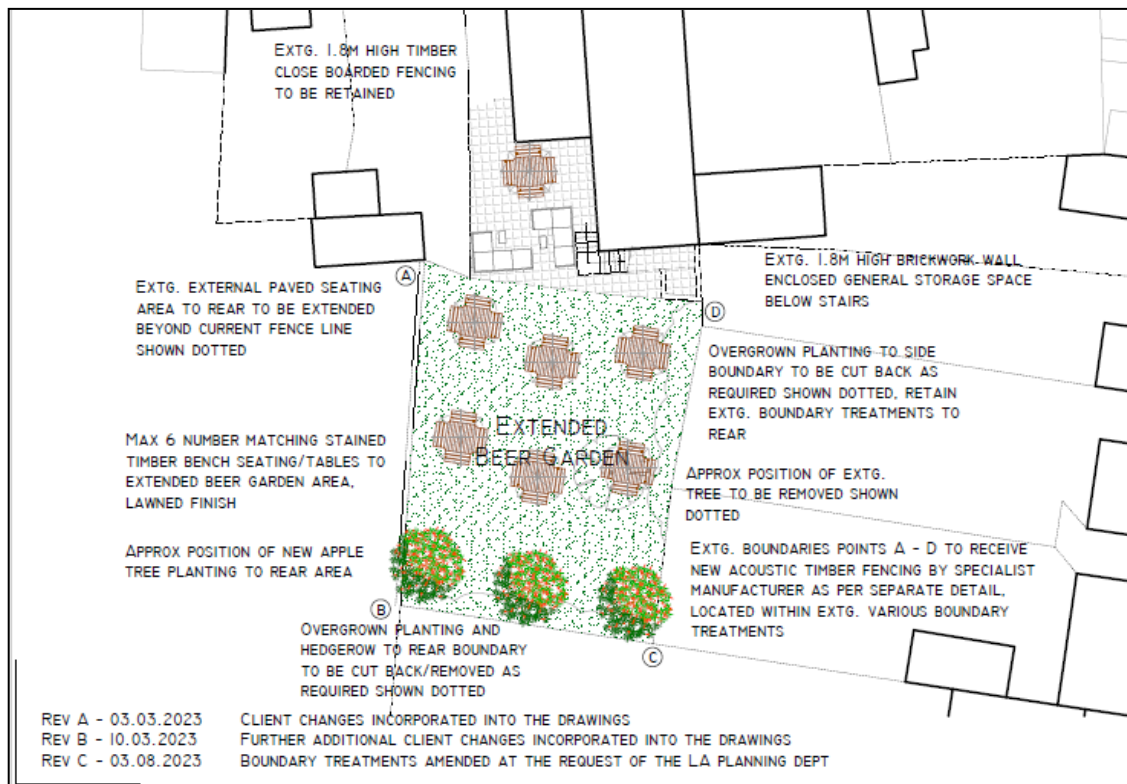
Given the above, it is considered the principle of development would be acceptable and the proposal would comply with Local Plan Policies S2 and IF2. The principle of development is therefore considered acceptable subject to acceptable design, heritage, amenity, highways, and other relevant considerations.

Design, Character and Heritage impacts

The application seeks planning permission for the change of use of garden land (class C3) to a beer garden (sui generis) and associated works (including new fencing and seating) at Railway Tavern, 5 Tamworth Road, Ashby De La Zouch. The application site is not located within a Conservation Area and the application property is not Listed. However, the proposed land subject to the change of use is sited nearby to the Grade II Listed Properties, Nos. 18 and 20 Lower Packington Road.

The proposals (as demonstrated on the below plan) would involve the removal of 1 no. tree and the cutting back of the hedgerow on the eastern boundary of the site as well as the siting of 6 no. picnic benches on the land. Additionally, there would be boundary alterations including the erection of new acoustic fencing (specified as 1.8m in height on the western, eastern and southern boundaries) and the planting of replacement trees.

Proposed Site Plan



Paragraph 197 of the NPPF states that planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. It further indicates (at paragraph 199) that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Policy He1 of the Local Plan states that in order to ensure the conservation and enhancement of the historic environment, proposals for development should:

- a) conserve or enhance the significance of heritage assets within the district and their settings;
- b) retain buildings, settlement patterns, features and spaces, which form part of the significance of the heritage asset and its setting;
- c) contribute to the local distinctiveness, built form and scale of heritage assets through the use of appropriate design, materials and workmanship; and
- d) demonstrate a clear understanding of the significance of the heritage asset and of the wider context in which the heritage asset sits.

Given the minor nature of the alterations, which would include the removal of vegetation (which could be carried out on the site without the need for planning permission) and the introduction of seating and new fencing (which could be installed without the need for planning permission up to 2m in height) to surround the site, and given that the fencing would fall below limits allowed under relevant permitted development rights, it is not considered the proposals would result in harm to the setting of the nearby Listed Buildings.

Further, the Conservation Officer was verbally consulted throughout the course of the application who confirmed that, although the proposal would result in less than substantial harm to the setting of the nearby Listed Building, this harm would be to a limited degree. As per paragraph 202 of the NPPF, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. It is considered that in this instance the harm can be outweighed by the public benefits of the scheme which in this case would be the continued viability of an existing business and the continued operation of a community facility.

Whilst comments were received throughout the course of the application relating to the loss of the green nature of the application site to facilitate the proposals, it is noted that any decision on the application would be subject to a condition to ensure hard and soft landscaping details would be submitted for approval to the Local Planning Authority. Further, it is noted in the applicant's responses to objections that *"Changes to vegetation would be minimal and new trees would also be planted. The garden will be grassed where it is currently grassed, and paved where currently paved. The plan is simply to site picnic benches in the garden for use of customers."*

Overall, subject to conditions, it is considered the proposals would comply with Local Plan Policies D1, EN3 the guidance set out within the Council's Good Design Guide, Ashby Neighbourhood plan policy S4 and the advice set out within the NPPF subject to the imposition of appropriately worded conditions.

Assessment of objections regarding impacts on design, character and heritage impacts

Objection	Response
The proposals would result in impacts on nearby heritage assets (Grade II Listed Buildings)	The above assessment concludes that given the minor nature of the proposals, including garden furniture and fencing, the proposals would result in less than substantial harm. However, this harm is outweighed by the public benefits of the proposal.

Impact upon Residential Amenity

The land subject to the change of use proposals would be located behind the existing southern boundary of The Railway Tavern, Tamworth Road and would be sited adjacent to the rear boundaries of properties located on Lower Packington Road on the eastern and southern boundaries of the land, whilst would be sited adjacent to the rear gardens of neighbouring properties along Tamworth Road to the west.

Third party letters of objection have been received relating to the impact of the proposal on residential amenity, by way of overbearing impacts, noise, overlooking/loss of privacy among other things. Of principle concern within the objections was the impact of the proposed development on noise levels and the subsequent disturbance to surrounding occupants.

In relation to noise impacts and resulting conflict between new development and existing businesses or facilities, the Planning Practice Guidance notes that:

“The agent of change (in this instance the applicant) will also need to define clearly the mitigation being proposed to address any potential significant adverse effects that are identified. Adopting this approach may not prevent all complaints from the new residents/users about noise or other effects, but can help to achieve a satisfactory living or working environment, and help to mitigate the risk of a statutory nuisance being found if the new development is used as designed.”

The Planning Practice Guidance goes on further to specify that this mitigation could include *“engineering solutions, layout optimisation, the use of planning conditions and obligations or through the use of noise insulation.”* In noise sensitive areas, the Guidance goes on further to state that *“noise barriers can be an effective solution”*.

Throughout the course of the application, Environmental Protection were consulted on the proposal who requested further information in the form of an acoustic report as well as requesting additional details on the acoustic barrier. Following a review of the submitted noise report, Environmental Protection confirmed they have no objections to the application subject to the imposition of conditions including an operational hours restriction for the beer garden (limited to no later than 21:30), the conditioning of the noise management plan and a condition to secure an acoustic boundary treatment scheme of a minimum 1.8m high to the eastern, southern and western boundaries of the beer garden to the specifications as outlined in the noise assessment report.

These comments were forwarded onto the applicant who subsequently provided revised plans to ensure acoustic fencing at 1.8m above ground level would be applied to the southern, western and eastern boundaries of the proposed beer garden which is considered to have addressed the need for the submission of a further details on a boundary treatment scheme. As such, it is recommended that a compliance condition for an acoustic boundary treatment scheme is attached to the decision. Further, updated comments have been sought from Environmental Protection which shall be included in the subsequent committee update sheet.

Further, following a review of the proposals and objections by Officers, an additional condition is recommended to be added in respect of lighting details.

Whilst a condition relating to amplified music has been considered, as per paragraph 55 of the NPPF, planning conditions should be kept to a minimum and should only be used where they

satisfy six tests which include that they are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other aspects. It is not considered such a condition would be reasonable as noise nuisance would be considered under separate legislation nor is it considered such a condition could be enforceable. Therefore, this will not be applied as part of any decision on the application.

Overall, whilst it is noted objections have been received in relation to neighbour amenity impacts (of which Officer responses are included in detail below), the above assessment has demonstrated that subject to the imposition of conditions, it is considered the application would accord with Local Plan Policy D2 and the advice contained within the NPPF.

Assessment of objections regarding impacts on residential amenities

Objection	Response
The proposals will negatively impact quiet enjoyment of neighbouring outdoor amenity space	<p>It should be noted that the proposed beer garden would seek an extension to an existing outdoor paved area to form a beer garden on land currently classified as "garden land".</p> <p>It is noted Environmental Protection have reviewed the submitted noise assessment and subject to the imposition of conditions including restrictions on operation hours, adherence to the noise management plan, the securing of acoustic fencing to the eastern, southern and western boundaries, no objections were raised.</p> <p>Further, following a review of the proposals and objections by Officers, an additional condition will be added in respect of lighting details to limit impacts on surrounding occupants.</p>
The change of use would result in overlooking impacts and a loss of privacy	<p>The site itself is relatively flat and the proposed development would only result in the installation of garden furniture at ground level.</p> <p>Proposed and existing boundary treatments would ensure there would be limited views to surrounding garden amenity spaces and ground floor habitable windows.</p> <p>Whilst there would be a line of sight to neighbouring first floor windows, it is not considered this would result in unacceptable levels of overlooking to warrant the refusal of the application given that the proposals would be located at ground level only.</p>

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The proposals would result in unacceptable noise impacts from use of the garden, general background noise associated with the use as well as the playing of music.	Please see the main text above which addresses this point in full.
The proposals may result in an increase in anti-social behaviour due to the intensified use.	<p>Adherence to the noise management plan as part of the noise assessment would be conditioned as part of any decision on the application. This plan includes specific actions for dealing with anti-social behaviour and ways to follow up with the pub management should any incidents occur.</p> <p>Notwithstanding the above, it is noted that any granting of this planning permission does not preclude statutory nuisance under the Environmental Protection Act 1990.</p>
Concerns that any limits imposed on hours of use could not be appropriately enforced	<p>As discussed in the report above, limits will be imposed on hours of use of the beer garden, and it is noted that the Environmental Protection Team recommends the closure of the garden by 21:30 at the latest.</p> <p>Adherence to this condition would be monitored by our planning enforcement team and noise issues can be reported to the Environmental Protection Team who can investigate further.</p>
Concerns that the proposed acoustic fencing would result in exacerbation of noise impacts to the west and north as this would only be located on the eastern and southern boundaries.	This is noted and as part of any decision on the application, a condition would be imposed to ensure an acoustic fencing scheme is submitted for approval to be erected on the eastern, southern and western boundaries of the site.
The proposals would be contrary to Neighbourhood Plan Policy H3 (Windfall Sites) and would not accord with Local Plan Policy D2.	<p>The above assessment has established that there would be acceptable impacts on neighbour amenities subject to conditions.</p> <p>Furthermore, policy H3 of the Neighbourhood plan does not apply as it relates to Windfall housing development and this scheme does not constitute a housing development.</p>
The proposals could result in Health and Safety issues with an intensified use of a small area	Whilst this is noted, it is not considered an extended beer garden would result in unacceptable health and safety issues and no issues were raised by Environmental Protection during the lifetime of the application.

The proposals could result in further development or expansion of the business resulting in further impacts to surrounding residents	The Local Authority is not aware of any further plans for expansion. However, should any further plans be submitted, each application would be assessed on its own merits.
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Highway Considerations

Objections have been received throughout the lifetime of the application citing concerns in relation to the potential for an increase in traffic generated by the proposals and the potential impact this could have on highway safety.

Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

During the course of the application, Leicestershire County Council Highways were consulted. The Highway Authority commented as follows:

“The LHA has checked its Personal Injury Collision (PIC) database and there have been 6 recorded PICs within a 500m radius of the existing site within the last five years. Of this, 5 were classed a slight and 1 was classed as severe. The LHA also note that there was a fatal PIC recorded 550m from the site. The LHA has reviewed the circumstances of each of these incidents and is satisfied that there is no evidence to suggest that the development proposal would exacerbate the likelihood of further such incidents occurring.

There currently is no vehicle parking provided at the site and there is no scope for such provisions to be added within the submitted application. The LHA add that for the proposed Use Class (Sui Generis), the LHA has no parking standards contained within the Highway Requirements for Development (HRfD) which is available at (<https://resources.leicestershire.gov.uk/sites/resource/files/field/pdf/faq/2022/3/22/Highway-requirements-for-development-part-4-parking-standards.pdf>) it would therefore be unreasonable for the LHA to insist on any additional parking provision for the proposals.

The site itself is located within a sustainable location which is served by several bus route and has advisory parking bays located along Tamworth Road. In addition, it is noted from the above PIC data that none of the collisions were caused by indiscriminate parking. As such the LHA would not be able to demonstrate the proposals would cause a severe impact on the highway, and as such the proposals do not conflict with paragraphs 110 and 111 of the National Planning Policy Framework (2021).”

The application is considered to be in accordance with the guidance set out within the Leicestershire Highway Design Guide and the application is considered to be acceptable when having regard to Local Plan Policies IF4 and IF7, Ashby Neighbourhood Plan Policies S4 and T1 as well as the guidance set out within the NPPF.

Assessment of objections regarding highways impacts

Objection	Response
The proposals would result in parking issues on Tamworth Road and subsequent impacts on surrounding residents	Whilst this was noted, following consultation with LCC Highways, it was concluded it would be unreasonable for the LHA to insist on any additional parking provision for the

	<p>proposals given there is currently no vehicle parking provided at the site and there is no scope for such provisions to be added within the submitted application.</p> <p>Additionally, any impact would not meet the severe threshold for refusal on highways grounds as per paragraph 111 of the NPPF.</p>
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Ecology and Trees

Paragraph 174 of the NPPF states, amongst other things, that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.

Paragraph 180 of the NPPF states that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

During the course of the application, Leicestershire County Council Ecology were consulted who raised no objections to the proposal but noted that the application at present does not meet the requirement to provide net gains as part of the scheme.

It is noted the site would remain as grassed and paved as existing but the development would involve the removal of some existing vegetation to facilitate the proposals, but the plans also include additional soft landscaping. Given the limited alterations proposed, it is considered net gain could be secured subject to a landscaping scheme to provide net gains on site.

Subject to the imposition of the above condition, the application is considered to be in accordance with ecology requirements in paragraph 180 of the NPPF.

Additionally, whilst objections were raised in relation to the removal of hedgerows onsite to facilitate the proposed works, it is noted that no objections were raised by the Tree Officer during the course of the application. The proposal would therefore accord with Policy En3 of the adopted Local plan, Ashby Neighbourhood Plan Policies NE4 and NE5 as well as the guidance set out within the NPPF.

Assessment of objections regarding ecology impacts

Objection	Responses
The proposals would reduce habitats for local wildlife	<p>The proposals would involve the cutting back of existing boundary planting and the removal of 1 no. tree and it should be noted that no objections were raised by the Council's Tree Officer.</p> <p>Nevertheless, it should also be noted that replacement landscaping is proposed (including 3 no. trees to the rear of the site) which would be conditioned as part of any</p>

	decision on the application, and this should improve habitat on site rather than reduce it.
Concerns regarding the proposed removal of boundary hedgerows to facilitate the works	The proposals would involve the cutting back of existing boundary planting, but it should be noted that such works could be carried out without the need for planning permission. Replacement planting is included within the overall scheme.

Impact upon the River Mease Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) - Habitat Regulations Assessment

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Discharge into the river from non-mains drainage systems and from surface water disposal can also result in an adverse impact on the SAC, including in relation to impacts on water quality and flow levels.

The proposal could result in an impact on the SAC, which may undermine the conservation objectives as it may result in the additional discharge of foul drainage to the treatment works / use of a non-mains drainage system and surface water drainage discharge.

In March 2022 Natural England published advice in respect of the nutrient neutrality methodology which can be used to mitigate against the impacts of additional phosphate entering the SAC from foul drainage associated with new development.

The development proposes a change of use of garden land (class C3) to a beer garden (sui generis) and associated works (including new fencing and seating).

Natural England recently issued updated advice regarding nutrients in the River Mease catchment, dated 16th March 2022. Among other things, this advice outlines that development which will not give rise to additional overnight stays within the catchment does not need to be considered in terms of any nutrient input, except in exceptional circumstances. This is a result of a likelihood that those using the development live locally, within the catchment, and thus their nutrient contributions are already accounted for within the background.

As the proposed development will not create additional overnight stays within the catchment, and this development is not considered likely to attract users from outside the catchment, it is considered that no additional foul discharge will be created; thus, it is unlikely to have a significant effect on the River Mease SAC.

In relation to surface water discharge, given that the development would be limited to a change of use, removal of hedgerows, the siting of garden furniture on the land and the erection of acoustic fencing, the proposals would be sited on existing permeable surfaces and therefore, there is not expected to be a significant change in surface water discharge from the site. As such, it is not considered reasonable to attach a surface water drainage scheme condition in this instance.

On the above basis, it is considered that the integrity of the River Mease SAC would be preserved, and the development would accord with Policy En2 (River Mease Special Area of Conservation) and Cc3 (Water - Sustainable Drainage Systems) of the adopted Local Plan and

Policy NE4 of the Ashby Neighbourhood Plan.

Therefore, it can be ascertained that the proposal on the site will, either alone or in combination with other plans or projects, have no adverse effect on the integrity of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Flood Risk and Drainage

The site is situated within Flood Zone 1, an area at lowest risk from fluvial flooding, as well as in an area not impacted by a low, medium or high risk surface water flooding, as defined by the Environment Agency's Surface Water Flood Maps.

It was noted that throughout the course of the application, comments were received citing concerns that the development would result in an increase in flooding impacts due to an increase in impermeable surfaces on the site. As outlined in the submitted application documents, there will be no change in the area of grass or hardstanding and the proposals would simply site garden furniture on the land for use as a beer garden. Given the above, it is not considered reasonable to attach a surface water drainage condition as part of any decision on the application.

On the basis of the above, the proposal is unlikely to result in an increase in flooding on the site or elsewhere and would comply with Policies CC2 and CC3 of the Local Plan and the guidance set out within the NPPF.

Assessment of objections regarding flood risk and drainage impacts

Objection	Response
The proposals may exacerbate flooding issues in the area through an increase in impermeable surfacing	There would be no proposed increase in impermeable surfaces on the site and any landscaping would be subject to condition as part of any decision on the application.

Other Matters

Throughout the course of the application, other matters have been raised which do not fall under the above categories and are assessed below:

Objection	Response
Concerns regarding the accuracy of the noise report and its conclusions commissioned by the applicant.	The proposed noise survey was commissioned by the applicant on the request of the Environmental Protection Team and was carried out by a third party. This was reviewed by the Environmental Protection Team and no issues were raised in relation to its contents, accuracy or subsequent conclusions.
Concerns the proposals would result in a lowering of property values	This is not a material consideration in the determination of this or any other planning application.
Concerns some neighbours have been omitted from consultation process.	Neighbour representations were sent out to all sites immediately adjoining the land in

	question and the application was also publicised with a site notice. Therefore, the Council met its statutory requirements for publicising this application.
The proposals may negatively impact upon the overall use of the nearby church as a community facility and use as a space for community events.	<p>Paragraph 81 of the NPPF outlines that “Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”</p> <p>It is noted the proposal would allow for the expansion of an existing business to secure its continued viability. Whilst comments are noted in relation to the nearby church, given the two facilities are currently in operation, it is not considered the expansion of a beer garden alone would lead to a detrimental impact on usage of the nearby community facility. This is also speculation on behalf of the objector and cannot be considered as material in the determination of this application.</p>

Conclusion

Whilst the application is located outside the defined centre, given the proposals would result in a change of use of garden land to a beer garden to secure the continued viability of an existing business and community facility, it is considered the proposal would be compliant in principle and would accord with Policies, S2 and IF2 of the Local Plan. Further, an assessment has been carried out on the proposals which confirms that the proposals would not fall under the requirements of Policy Ec2 (which relates to employment land). Further, the proposal is not considered to have any significant detrimental design, heritage, residential amenity, river mease, flooding, ecology or highway impacts subject to conditions.

There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is deemed to comply with Policies S2, D1, D2, IF2, IF4, IF7, En1, En2, En3, He1, Cc2 and Cc3 of the Local Plan (2021) and would accord with the guidance set out within the Council's Good Design SPD, Ashby Neighbourhood Plan Policies S1, S2, S4, E2, T1, NE4 and NE5 and the guidance set out within the NPPF. It is therefore recommended that the application be permitted.