



Appeal Decision

Site visit made on 25 July 2025

by **J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC**

an Inspector appointed by the Secretary of State.

Decision date: 11 August 2025

Appeal Ref: APP/X2410/W/25/3364976

28 Chapel Street, Syston LE7 1GN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Punch Pubs against the decision of Charnwood Borough Council.
 - The application reference is P/25/0072/2.
 - The development proposed is described on the Application Form as 'Change of use of land to external customer seating area with pergola, railings and planters in connection with The Dog & Gun Public House (retrospective).'
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Decision

1. The appeal is allowed and planning permission is granted for 'Change of use of land to external customer seating area with pergola, railings and planters in connection with The Dog & Gun Public House (retrospective);' at 28 Chapel Street, Syston LE7 1GN; in accordance with the terms of the application Ref: P/25/0072/2, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
 - 'Existing/Proposed Plans,' Drawing No.24151-301 Rev A, Dated 17/12/24;
 - 'Existing/Proposed Elevations,' Drawing No.24151-302 Rev A, Dated 17/12/24;
 - 'Site, Location and Block Plan,' Drawing No.24151-OS, Dated 17/12/24
 - 'The Dog and Gun, 28 Chapel Street, Syston, Leicestershire, LE7 1GN Operational Management Plan 'Operational Management Plan,' December 2024.

Preliminary Matters

2. As mentioned in the appeal documents, the change of use and development has already occurred, meaning the application is retrospective. I have made my decision on this basis.
3. In the Council's Reason for Refusal there is a reference to the Emerging Charnwood Plan 2021-37 (ECP) Policy DS5 which is a design policy that lists a number of design principles that are very similar to the existing Policy CS2 of the Charnwood Local Plan Core Strategy (CS). In my application of paragraph 49 of the National Planning Policy Framework (the Framework), whilst the ECP is not part of the adopted development plan, it is currently at an advanced stage in the process where the Examining Inspector is seeking further hearings with regards to the Community Infrastructure Levy. The Council has submitted details of the

upcoming main modifications which do not concern Policy DS5 with there being no objections to this policy. The policy to me seems in general conformity with the Framework; and there is a strong likelihood that the draft policy will remain unchanged. Given the advanced stage of the policy and the considerations under Paragraph 49 of the Framework, I will give significant weight to this policy.

Main Issues

4. The main issue is the effect of the development upon:

- The character and appearance of the site and the surrounding locality; and
- The living conditions of surrounding residents, with particular considerations regarding noise, disturbance and anti-social behaviour.

Reasons

Character and Appearance

5. The appeal site is a small parcel of land that forms a quasi-island/common that has Chapel Street running along the eastern boundary, Brookside running along the southern boundary, an access road to a parking area to the side of the Dog and Gun Public House to the north, and an access road to an apartment block to the west. A small grassed area with tree is located along Chapel Street, and behind this is a tarmacked area with a timber pergola structure with part polycarbonate roof. There are metal railings and timber garden planters to the sides of the pergola structure with timber benches laid out within the structure which is used as an outdoor area to the adjacent Dog and Gun Public House.
6. The appeal site lies outside of, but adjacent to the boundary of the Syston Conservation Area (CA), where the boundary of the CA follows the historic core of the settlement predominantly along the High Street and the smaller roads running off such as Chapel Street, School Street, Church Street and Bath Street. Along these roads within the CA there are a number of historic buildings, some earlier reflecting an agricultural use with a large amount of development occurring during the Georgian and Victorian periods. Whilst the Dog and Gun Public House contributes positively to the CA, the area south of the public house has much newer development such as an apartment complex to the west and new infill dwellings to the east along with expansive car parking areas to the south. Whilst there are recreation grounds further south that provide a more positive emphasis to the setting of the CA, the immediate car parking and areas of new development to the south of the CA has a neutral contribution to the character and appearance of the CA.
7. In considering the character and appearance of development, CS Policy CS2, Saved Policy EV1 of the Borough of Charnwood Local Plan (BCLP); and ELP Policy DS5 are all design policies that seeks that development achieves a number of design principles such as respecting and enhancing the character of the area, having regard to massing, height, layout, materials, heritage assets and their settings, amongst others. Paragraph 139 of the Framework also relates to design and seeks that development reflect design policies and local design codes and guidance. As the appeal site is outside of the CA, S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 does not place a duty on considering

land outside the boundary of the CA, however Paragraph 208 of the Framework seeks consideration regarding the setting of a heritage asset such as a CA.

8. The pergola that has been constructed appears to be of a permanent nature which is adequately secured to the ground giving a robust appearance which is not detrimental to the surrounding area. There have also been attempts to add greenery to the area such as planters, hanging baskets and such, and whilst more of this would be positive to the area and assist in improving the visual appearance, the current situation appears adequate to enhance the previously poor appearance of the car parking area, and not cause detriment to the character and appearance of the area. The use of a polycarbonate roofing material, whilst lightweight, is not a very high quality product, where glass or a similar product would be better, however when considered as a whole, the scheme does not cause adverse detriment towards the character and appearance of the site or the greater locality.
9. I can also appreciate the Council's concerns with regards to the benches and to what they perceive as being an untidy arrangement and that the seating will not be used at all times of the year. I do not share these opinions, the formalisation of the area in terms of the pergola and railings restrict the placement of the benches which are not placed haphazardly around the location, but in a formalised layout which reflects the pergola and railings. These types of seating within beer gardens are quite common, and the use of timber is a more sustainable product which has benefits over plastics and so forth which have a poorer appearance. With the advent of heating systems for outdoor buildings with a roof there may be ways of enabling the usage of the area during colder times of the year.
10. In conclusion of this matter, despite the roof being of a poor quality material, when considered as a whole the proposal would not cause adverse detriment to the character and appearance of the site and the greater locality, and would have a neutral impact upon the significance of the CA from development within its setting. As such the proposal would be compliant with CS Policy CS2, BCLP Saved Policy EV1 and ELS Policy DS5. The scheme would also be compliant with Paragraphs 139 and 208 of the Framework.

Living Conditions, with regards to noise, disturbance and anti-social behaviour

11. Noise and disturbance are subjective issues to assess, as each neighbour will have different thresholds over what might harm their living conditions. In this particular scenario, the additional noise generated would not be constant and would vary between patrons talking (sometimes loudly); and the comings and goings of patrons between the pub and the appeal site and from the appeal site.
12. A Patron Noise Impact Assessment¹ has been submitted with the appeal which measured noise on a Friday and Saturday night which is likely to be the busiest times of the week. The assessment found that increased noise levels whilst increased, would be within an acceptable level. The Assessment also recommended limiting hours of use, a management plan as well as restricting the number of patrons that could utilise the outdoor area at any one time.
13. The appeal documents contain an Operational Management Plan which formalises how the Public House intends to operate the structure, such as restrictions over the times that the structure can be utilised which is closed on a Monday, 12:00-22:00

¹ By RBA Acoustics, Reference:13982.RP01.NIA.2, 19 December 2024

on a Sunday and Tuesday to Thursday and from 12:00-23:00 on a Friday and Saturday. Along with this a door host is on site each evening and there is monitoring of the site by staff to make sure that patrons are behaving appropriately which aims to limit excessive noise, with no music being played at the appeal site, appropriate presentation/collection of litter and CCTV installed.

14. These measures in this case do appear adequate for striking a balance between enabling the public house to have the benefit of outdoor seating, as well as to manage the site in a way that avoids adverse detriment to neighbouring residents. Whilst I note comments from the Noise Assessment and the Syston Town Council around limiting the occupancy, I agree with the Council Officer Report that this would be difficult to enforce and would unlikely meet the test for conditions.
15. I note discussion in the Planning Officer's Report that they do not believe that limiting the hours of the seating area can be adequately enforced, however limiting the hours of usage is a very common form of condition utilised with public houses and retail premises which does meet the tests of conditions. The operational management plan does enable the adequate use of the outdoor seating area without causing adverse detriment to the living conditions of surrounding residents in terms of noise, disturbance and anti-social behaviour.
16. In conclusion of this matter, I do not consider that adverse detriment to living conditions as a result of noise, disturbance and anti-social behaviour will occur. As such the proposed scheme would be compliant with CBLP Saved Policy EV1 and Saved LP Policy CS2 which both seek that development not cause adverse detriment to living conditions of surrounding residents.

Other Matters

17. I note that there are comments from interested parties with regards to loud music, litter and drug use from the venue itself. Whilst I did not receive any evidence to support these claims, these matters are not specifically associated with the appeal structure; but more related to the functioning and operation of the spaces in the existing public house building itself. As such, I cannot afford weight to these matters that are outside of the scope of the appeal site under assessment.
18. I note comments within the Planning Officer's Report with regards to the use of the access to cross from the Public House to the external seating area. There were no reasons for refusal on highway safety grounds, however the access is to the car parking area where traffic is infrequent and slow moving. The presence of the structure and patrons using the structure should also deter vehicles from travelling quickly as they approach the parking entrance. As such, I do not consider that the use of the access to the car parking area for patrons to go from the Public House to the outdoor seating area will cause health and safety concerns.

Conclusion and conditions

19. I conclude that the proposal is generally appropriate and would be compliant with the development plan on the basis of the reasons discussed and subject to the conditions listed at the beginning of this letter.
20. I have had regard to the context of the Framework and the National Planning Practice Guidance (NPPG) which advises that conditions should only be imposed where they are necessary, relevant to planning and to the development to be

permitted, enforceable, precise and reasonable in all other respects. The Council has forwarded a list of proposed conditions should the appeal be allowed.

21. Condition 1 is a standard condition setting out the approved plans in the interests of proper planning and for the avoidance of doubt. I have also included the approval of the Operational Management Plan within Condition 1 which governs how the site will be managed to avoid detriment to the surrounding area. I have reworded the suggested condition to comply with the tests of conditions. I have not included the Council's wording to the condition which seeks that there are no further extensions to the seating area unless further consent is approved. This component of the wording is unnecessary as the need for planning permission would be triggered in this case. As such the suggested wording would not meet the tests of conditions. As discussed previously, I have not included an occupancy condition as it would be difficult to enforce and would therefore not comply with the tests of conditions as per the Framework and NPPG.

J Somers

INSPECTOR