

5f 3/12/0076/FP – Retrospective consent for the erection of outdoor play equipment within the existing pub garden and external alterations to pub building including an outdoor storage building at The Catherine Wheel, Gravesend, Albury, SG11 2LW for Mr S Haslam

Date of Receipt: 17.01.2012

Type: Full – Minor

Parish: ALBURY

Ward: LITTLE HADHAM

RECOMMENDATION:

That planning permission be **GRANTED** subject to the following conditions:

1. Within three months of the date of this decision the monkey bars and the climbing nets as shown in green on drawing No. 10-051-09 A shall be permanently removed from the existing play structure.

Reason: In the interests of the appearance of the development and relationship with neighbour amenity in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

2. The play equipment hereby permitted shall not be used between the hours of 20:30 and 09:00.

Reason: In the interests of neighbour amenity in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

3. Within three months of the date of the decision details of soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out, as approved, during the next available planting season. These details shall include details of planting plans and schedules of plants, noting species, planting sizes and proposed numbers/densities and a timetable for implementation for planting to the northern and eastern boundary of the application site.

Reason: To ensure the provision of amenity afforded by appropriate landscape design, in accordance with policy ENV2 of the East Herts Local Plan Second Review April 2007.

4. All soft landscape works shall be carried out in accordance with the details approved pursuant to Condition 3. Any trees or plants that, within a period of 5 years after planting are removed, die or become damaged or defective shall be replaced with others of the same species, size and number as originally approved unless the local planning authority has

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given written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscaping in accordance with the approved designs, in accordance with policy ENV2 of the East Herts Local Plan Second Review April 2007.

5. Approved plans (2E103) – ‘11-051-25 A; 10-051-09 A;10-051-00;11-051-02 A; 10-051-07 A; 10-051-08 A’
6. No external lighting (2E26)

Directive:

1. Other Legislation (01OL)

Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and the 'saved' policies of the East Herts Local Plan Second Review April 2007 and in particular saved policies GBC2, GBC3, ENV1, ENV2, ENV11, BH6, OSV8) and the National Planning Policy Framework. The balance of the considerations having regard to those policies; the viability information submitted by the applicant and the retention of the public house as a community facility, is that permission should be granted.

_____ (007612FP.MP)

1.0 Background:

- 1.1 The application site is shown on the attached OS extract.
- 1.2 The pub building subject of this planning application is located on the southern edge of the settlement of Gravesend, adjacent to the main road which runs through the village. The public house is a relatively new building which was re-built following the destruction of the previous pub from a fire. The building presents an attractive and well articulated building to the frontage with differing roof forms, appendages and materials of construction. Access to the pub car park is gained off the main road to the south of the building onto a large parking area which is adjacent to the road. Further to the east is a grassed 'overflow' parking area.

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1.3 To the north of the building is the principle vehicular access to the small settlement of Patmore Heath. Along that road is mature soft landscaping, including hedgerow and mature trees which obscure views into the site. To the east of the public house are two existing timber sheds which are enclosed by a 1.8m close boarded fence. Beyond those structures is a sandpit and small play equipment. Beyond that and at a distance of over 50metres from the public house is the main play equipment. That equipment has five large towers which are interlinked with various slides and climbing structures. This application seeks retrospective consent for that play equipment and the other smaller play equipment.

1.4 The application follows from the refusal of planning permission for a similar retrospective development at the site within LPA reference 3/11/1401/FP which was refused planning permission for the following reasons:

The change of use of the land to pub garden and the outdoor play equipment constitutes inappropriate development in the Rural Area. The height, scale, design, and associated activities related with the play structures and the change of use of the land causes harm to the open, rural character of the site and surroundings. The development is therefore contrary to policies GBC3 and ENV1 of the East Herts Local Plan Second Review April 2007.

The siting of the play structures results in harm to the amenity of nearby neighbouring properties in terms of noise and general disturbance, contrary to policy ENV1 of the East Herts Local Plan Second Review April 2007.

1.5 Submitted with this application is further information relating to the viability of the pub amongst other matters. The application seeks retrospective consent for the alterations to the public house building and the provision of the play equipment.

2.0 Site History:

2.1 The planning history relevant to the development is as follows:

- 3/03/0424/FP – Rebuilding of outbuilding following fire damage to incorporate 3no. letting bedrooms and associated stores (approved with conditions).
- 3/06/1753/FP – New building public house on site of former burnt down public house (a/c),

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- 3/06/1754/AD – Fascia signs / projecting sign (a/c)
- 3/11/1401/FO – as set out above, the refusal of planning permission for ‘Retrospective consent for change of use of land to pub garden and provision of outdoor play equipment and external alterations to pub building.’ That application was however, only refused planning permission for the larger play equipment on the site – no objections were raised by the Council with regards to the smaller play equipment or to the alterations and outbuilding serving the public house itself.

3.0 Consultation Responses:

- 3.1 The Council’s Conservation Officer recommends that planning permission be refused. The changes to the principle building on the site will have little or no impact on the immediate and wider character and appearance of the Conservation Area.
- 3.2 However, they state that the overall height of the play equipment results in the equipment projecting over the boundary which addresses the main thoroughfare between Albury and Patmore Heath and as such interrupts the immediate character of undeveloped land with established vegetation separating the built form of Gravesend and Patmore Heath.

4.0 Parish Council Representations:

- 4.1 No comments have been received from Albury Parish Council.

5.0 Other Representations:

- 5.1 The application has been advertised by way of press notice, site notice and neighbour notification.
- 5.2 Nine letters of objection which can be summarised as follows:
- Inappropriate development in the Rural Area contrary to policy GBC3;
 - Development causes harm to the rural character of the site and Conservation Area;
 - Causes harm to amenity of neighbouring properties in terms of noise and general disturbance.
- 5.3 Two letters have been submitted in support of the play equipment, one of which is written on behalf of local residents.

6.0 Policy:

6.1 The relevant 'saved' Local Plan policies in this application include the following:

- GBC3 Appropriate Development in the Rural Area Beyond the Green Belt
- ENV1 Design and Environmental Quality
- BH6 Development in Conservation Areas
- OSV8 Village Shops, Community and Leisure Facilities

6.2 The National Planning Policy Framework is also of relevance to the determination of the application.

7.0 Considerations:

7.1 As set out above, planning permission was previously refused only in respect of the large outdoor play equipment rather than any of the alterations proposed to the public house itself. This report will, therefore, focus on that matter.

7.2 Members will note that the previous application proposed, and was refused planning permission for, the 'change of use of the land to pub garden. This was the development that the applicant had sought consent for and the Council determined the application on that basis accordingly. However, during the process of the current application, it has become apparent that permission already exists for the use of the land wherein the play equipment is sited for pub garden space.

7.3 The plans attached to the planning permission for the replacement public house in 2006 (LPA reference 3/06/1753/FP) and the application for an extension to the car park show the land to the rear of the public house building as 'pub garden'. Some representations on the application contend that the land to the rear of the public house has historically consisted of meadow and agricultural land. Whilst the land may well have had the appearance of open grassed meadowland prior to the development the subject of this application, it is a material consideration that consent has already been granted for the use of the land as pub garden. Accordingly, Officers have amended the description of this application to omit any reference to the change of use of the land.

7.4 This change in circumstances materially impacts on how the Council considers the current application as the land may already lawfully be used as a pub garden. The determining issue in this application,

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therefore now relates to the appropriateness of the play structure itself, and not to any change of use of the land.

- 7.5 The site is located within the Rural Area beyond the Green Belt wherein there is a presumption against inappropriate development. Criteria b) of that policy allows for 'essential small scale facilities for outdoor sport and outdoor recreation' and criteria h) allows for 'other essential small scale facilities, services or uses of land which meet a local need, are appropriate to a rural area and which assist rural diversification'. It should be noted that the applicant has not made any submissions within the application with regards to these elements of policy GBC3.
- 7.6 Having regard to the scale of the development and the nature of the use to which the development serves (public house) Officers do not consider that the proposal accords with criteria b) of policy GBC3. For those reasons also, Officers do not consider that the provision of a play area for the public house can be considered as an *essential* facility which is appropriate to the rural area. The development involving the construction of outdoor play equipment represents inappropriate development within the rural area, contrary to policy GBC3 of the Local Plan and accordingly weight should be attached to the inappropriateness of the development.
- 7.7 The Council also considered this to be the case within the recently refused planning application – LPA reference 3/11/1401/FP and the Council's reason for refusal of the aforementioned application also stated that "*The height, scale, design, and associated activities related with the play structures and the change of use of the land causes harm to the open, rural character of the site and surroundings*".
- 7.8 The plans submitted in the application now before Members are identical to that previously refused consent. The applicant has however, during the process of the application, committed to remove two elements of the existing play equipment (the monkey bars and scrambling net), to help reduce the impact of the development.
- 7.9 Whilst the omission of those two elements of the play structure is welcomed, such a proposal does not, in Officers opinion, fully overcome the concerns previously raised with the height, scale and design of the structure and the impact on the rural character of the site.
- 7.10 The development remains an inappropriate form of development which is considered to be harmful in terms of the physical appearance of the play structure and its relationship with the rural surroundings. It should be noted that representations received on the planning application raise similar concerns and the Conservation Officer has raised concern with

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the impact of the development on the surroundings. Significant weight can, in Officers opinion, be attached to those considerations together with the conflict with policies GBC3 and ENV1 of the Local Plan.

- 7.11 Local Plan policy considerations extend further than matters relating to the appropriateness of the development and the visual impact of the development.
- 7.12 Within the previously refused planning application concern was also raised by the Council with regards to the impact of the development in terms of neighbour amenity. The Council's reason for refusal related to the siting of the play structures and their impact in terms of harm to the amenity of nearby neighbouring properties through noise and general disturbance.
- 7.13 It is now evident, however, that the use of the land as a pub garden has previously been granted consent and it is a material consideration that the lawful use of this piece of land as a pub garden would also be likely to result in some degree of noise and disturbance. However, the presence of a play structure would, in itself, provide a dedicated source of activity which may result in noise associated with the development. Officers acknowledge that the use of the play equipment is likely to be focused around the spring and summer months when the weather is more likely to allow for the use of the play equipment. That time also coincides with the period when nearby residential properties may wish to enjoy their garden space.
- 7.14 There is therefore a conflict between the provision of the play equipment and the relationship with the residential gardens of nearby neighbouring properties. Indeed, neighbours have objected to the current planning application on those grounds.
- 7.15 In accordance with those considerations, Officers are of the opinion that the development does result in some harm to the amenity of neighbouring properties in terms of noise and general disturbance. Policy ENV1 of the Local Plan seeks to protect against significant impact to neighbour amenity and the development is considered to be in conflict with that policy also.
- 7.16 The applicant has, however, submitted further information and detailed proposals which, in the applicants view, outweighs any harm caused by above policy conflict and can be summarised as follows;-
- The submission of additional financial information demonstrating that, the provision of the play equipment for children is a significant

feature which will draw trade to the pub and ensure that it remains financially viable;

- The submission of additional information to demonstrate that other features to enhance the pub business, including bed and breakfast accommodation, a high end restaurant and other 'add on's' would not be viable and would not ensure the vitality of the pub;
- Reference to other permissions for other similar forms of development in other settlements outside of East Herts which have been considered by those Authorities to be acceptable.
- The removal of certain elements of the play structures to help improve the visual appearance of the play structures and reduce noise levels;
- The provision of additional landscaping and screening structures to help reduce the visual and noise impact of the development;
- A time limit on the hours of operation of the play equipment until 20:30PM;

7.17 The principle argument put forward by the applicant is that the provision of the play equipment is required to make the public house a financially viable business.

7.18 The applicant sets out that the main benefit of the site is the large pub garden associated with the site, which presents an opportunity to provide an activity which will draw trade in. The applicant has used such a business model in other public houses across the east of England which has proven to be successful.

7.19 The applicant has provided some financial information and the accounts of the business to show that, during the summer months of last year, the pub drew trade from young families and children who visited the pub to use the play equipment and the make use of the pub for drinks and food. The income during those summer months is considered by the applicant to be directly attributable to the ability for children to use the play equipment.

7.20 During the winter months the applicant provides information to show that trade is very much reduced and, in some cases fairly significant losses have been made.

7.21 The applicant argues that the losses made during the winter months are sustainable on the basis that summer trade is good and will balance out the overall trading of the pub over the financial year. The applicant's position is that, without the play equipment to draw trade in during the summer months, the business would not provide sustainable income

levels and this may cause the pub to cease trading.

- 7.22 From the information submitted, Officers consider that significant weight should be given to the way in which the provision of the play equipment supports the financial viability of the pub.
- 7.23 Other ways to attract additional trade to support the pub have been considered by the applicant but not progressed with. For example, the provision of a high end restaurant or bistro as part of the pub was dismissed owing to the location of other nearby similar pubs and the need to build such a business and customers over an extended period of time. The provision of additional accommodation at the pub in the form of bed and breakfast was also dismissed, owing to the high initial capital investment in such a feature, and given the proximity to other such accommodation associated with the Stansted Airport development. By contrast, the applicant considers that the provision of the play equipment is a 'tried and tested method' of drawing trade in and is crucial to the financial viability of the pub.
- 7.24 Officers are mindful of the need to support and encourage community facilities in the villages within the District and the advice contained within the National Planning Policy Framework (NPPF) also supports this aim. It contains a strong commitment to promote the rural economy by, inter alia, promoting the retention and development of local services and community facilities in villages, such as public houses.
- 7.25 The retention of the public house should therefore, in Officers opinion, be viewed as a priority for the Council, the Parish Council and the local community. The pressures on local community facilities have been shown to be significant in the current economic climate and the Local Planning Authority continue to receive applications seeking forms of development to either help assist the viability of such facilities or to permit their change of use into other non-community based uses, such as dwellings. Representations received on this application have identified the need to retain the public house as a community facility – their concerns relate to whether this is the only option and that fact that the development causes harm to visual amenity in the area.
- 7.26 The harmful impact of the development has already been set out in this report, as has the conflict with Local Plan policies. Of equal weight, however, is the need for the Council to encourage the retention of the community facilities. Whilst mindful of the various concerns of third parties who do raise valid concerns, Officers are of the opinion that the applicant has put forward robust, cogent and reasonable arguments in support of the development. Furthermore, the Governments priority in

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encouraging economic development in rural areas must also be weighed into the balance of considerations.

- 7.27 In addition, Officers consider that the harm to the locality can be mitigated by the reduction in the size of the play equipment - the applicant has agreed to the removal of part of it – together with the provision of additional landscaping at the site and by limiting its hours of use.
- 7.28 With regards to the provision of screening and landscaping, limited information has been submitted in respect of these proposals. The screening proposed by the applicant was in the form of a physical structure to be sited adjacent to the boundaries with the neighbours and for ‘climbing’ plants to be planted to grow over the structure to act as a noise buffer. Officers do not consider that such a proposal has significant merit and may well prove to be visually intrusive and incongruous within the setting.
- 7.29 There is however some merit in the provision of additional planting. As set out above, the premises do benefit from a fairly generous boundary treatment to the road to the north of the site which leads to Patmore Heath. This, to some extent, screens the visual impact of the development, more so in the summer months when foliage cover is more significant. There are however some gaps in that boundary screening which could benefit from additional planting to assist in screening the site further. Such planting would assist in reducing the visual impact of the development from the road frontage and may well assist in muffling the degree of noise impact to properties to the north and north east – namely Gravesend Farm.
- 7.30 Furthermore, planting to the east of the application site – in between the western edge of the play structure and the application site - appears fairly limited, and there is potential for additional planting in that area also. Such planting would, in Officers opinion, help to address the visual impact of the development from the west and help reduce the degree of impact on those neighbouring properties to the west.
- 7.31 Turning to the hours of use of the play equipment, the applicant has proposed the closure of the play equipment at 8:30pm and Officers consider that this would assist in reducing the degree of impact on neighbour’s amenity. A condition is also suggested to restrict the provision of lighting to the equipment as this may otherwise encourage later use of the equipment.
- 7.32 In accordance with the above considerations, Officers are of the opinion

that the planning considerations relating to this application are finely balanced. There is some degree of harm caused by this play equipment. However, this needs to be balanced against the benefits of supporting the viability of the business and ultimately the retention of the public house as a valuable community facility. Having regard to this, and the ability to mitigate the degree of harm to the area through suitable conditions, it is considered that the provision of the play equipment should be viewed favourably in this case.

Alterations to building

- 7.33 The application also seeks consent for alterations to the pub building which have already been undertaken. As noted above, planning permission was not previously refused for these elements within LPA reference 3/11/1401/FP.
- 7.34 This element of the proposal involves alterations to the fenestration serving the building at ground floor. From the west elevation, this involves replacement of louvered windows with glazed windows on the south elevation, the replacement of double doors serving the basement with double patio doors, and on the north elevation the replacement of a louvered window with a glazed window. In addition, the proposals involve the provision of a modest timber framed building to the rear of the building to provide a walk in refrigeration unit.
- 7.35 Policy GBC3 criteria c) allows for the provision of limited alterations to community facilities in accordance with policy OSV8. In principle, the alterations are therefore acceptable.
- 7.36 In Officers opinion, the proposed alterations are modest and do not result in a significant change to the character or appearance of the building. The new building to the rear of the public house does adopt differing materials and does not replicate the high standard of design of the existing pub. However, it would generally appear to be of modest proportions and scale and does not significantly detract from the character and appearance of the existing building or its surroundings, in my opinion. Those elements of the proposal therefore comply with policy GBC3, OSV8 and ENV1 of the Local Plan.

8.0 Conclusion:

- 8.1 The play equipment is recognised to represent an inappropriate form of development within the rural area and does cause some degree of harm to neighbour amenity. However, it is considered that the benefits of the scheme, together with satisfactory mitigation measures, are sufficient to

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outweigh this harm.

- 8.2 The alterations to the building are considered to be of an appropriate size, scale, form and design to the existing building, and are of an appropriate siting such that they will not lead to significant harm to neighbour amenity.
- 8.3 In accordance with the above considerations I therefore recommend that planning permission is granted subject to the conditions set out at the head of the report.