

MC/23/2184

Date Received: 2 October 2023

Location: City Wall Wine Bar, 120 - 122 High Street, Rochester, Medway

Proposal: Retrospective application for the retention of the permanent outdoor shelter fixed to the side of the building and for the use of the areas to the rear and side as part of the wine bar's garden (removal of gazebo structure within existing planters).

Applicant City Wine Bar
Mr S Raval

Agent C.B.Wright _ Associates Ltd
Clare Wright

Ward: Rochester West & Borstal

Case Officer: Mary Smith

Contact Number: 01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 5th June 2024.

Recommendation - Approval with Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved drawings:

Received 10 April 2024

01 Rev 01-WIP Site and floor plan

02 Pub elevations

Reason: For the avoidance of doubt and in the interests of proper planning.

- 2 The use of the external areas of the site by customers and visitors shall be restricted to the areas shown in blue and green on the drawing 01 Rev 01-WIP site and floor plan hereby approved (aside from for means of access to them). The garden area shown in green on the drawing hereby approved shall only be available for use between 10:00 and 19:00 hours on any day, other than on Fridays and Saturdays where it shall only be available until 23:00 and on Sunday evenings preceding a bank holiday Monday up until 00:30, and the area

shown in blue shall only be available for use between 10:00 and 23:00 hours on any day, other than on Friday and Saturday evenings and on Sunday evenings preceding a bank holiday Monday where it shall only be available until 00:30.

Reason: In order to clarify this permission and in the interests of the amenities of local residents in this more secluded rear area of the site and with regard to Policy BNE2 of the Medway Local Plan 2003.

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order amending, revoking and re-enacting that Order with or without modification) no further permanent or temporary additions shall be made to the site or changes to the ground surfacing made other than the use of moveable seating (with tables) and associated umbrellas, which shall not be fixed to the ground.

Reason: To enable the Local Planning Authority to control any further changes in the interests of the historic setting, visual and neighbouring amenity in accordance with Policies BNE1, BNE2 BNE12, BNE14, BNE18 and BNE20 of the Medway Local Plan 2003.

For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.

Proposal

This is a retrospective application for the retention of the permanent outdoor shelter fixed to the side of the building and for the use of the areas to the rear and side of the building as part of the wine bar garden. The application was originally also for the retention of a gazebo structure within the area enclosed by planters, but this has now been removed from both the application and the site.

The shelter, providing a covered outside seating area, is to the northwest side of the building, set back from the High Street frontage and with the main area being approximately 4.2m wide by 8.6m deep, 3.2m high from the High Street frontage level. It consists of dark stained wooden columns sat on the floor (not dug in/concreted, so as to preserve any archaeological integrity) and a polycarbonate roof.

The external areas which are being used as part of the wine bar garden are firstly the existing patio area to the northeast side, enclosed by relatively recently added wooden planters to the side (area A shaded blue) and including a small play area for children and secondly the grassed area to the rear, used as an additional garden seating area (area B shaded green). A small area of fencing with a gate (internal to the site) is to be added to restrict use of the grassed area, such that it would be only available for use until 19:00 other than on Fridays and Saturdays when it will be used until 23:00 and on Sundays preceding a bank holiday Monday until 00:30. The main patio area is open for use until 23:00 other than on Fridays and Saturdays and on Sundays preceding a bank holiday Monday when it is available until 00:30.

Relevant Planning History

MC/22/1018	Retrospective application for the retention of covered outside seating area to the side and rear. Refused 22 June 2022
ENF/20/0437	Enforcement Notice – Without the benefit of planning permission, the construction of a covered outside seating area to the side and rear of the property on the land. Issued 28 June 2023 Time for compliance – by 28 September 2023
MC/14/3348	Partial demolition of rear external wall and construction of a flat roof single storey extension containing storage area and walk-in chiller. Approved 5 February 2015
MC/13/1289	Variation of condition 2 of planning permission MC/12/3015 for alterations to roof. Approved 29 July 2013
MC/12/3015	Application for a new planning permission to replace extant planning permission MC/09/1921 in order to extend the time limit for implementation. Approved 19 April 2013
MC/12/3006	Application for a new planning permission to replace extant planning permission MC/09/1924 for excavation works to enlarge lower perimeter pathway in order to extend the time limit for implementation. Approved 17 April 2013
MC/12/2041	Details pursuant to conditions 2 and 3 of planning permission MC/09/1924. Refused 31 October 2012
MC/12/2040	Details pursuant to condition 2 of planning permission MC/09/1921. Refused 31 October 2012
MC/09/1924	Excavation works to enlarge lower perimeter pathway. Approved 31 August 2010
MC/09/1921	Construction of rear extension and new roof over existing yard area to provide covered storage area (demolition of store rooms). Approved 21 May 2010
MC/09/1224	Construction of a free-standing timber planter. Refused 30 October 2009

MC/08/0755	Construction of a single storey rear extension and enlargement of entrance door. Refused 12 June 2009
MC/06/1550	Construction of a single storey rear extension. Approved 18 October 2006
MC/06/1115	Retrospective application for the construction of a detached canopy providing a storage area to the rear. Refused 25 July 2006
MC/05/2437	Installation of a covered structure to side of building. Refused 13 February 2006
MC/05/2425	Installation of 8 external lights to front and 5 to rear with 2 rope light to front and 2 rope light to rear. Refused 19 April 2006

Representations

The application has been advertised on site and in the press and by individual neighbour notification to the owners and occupiers of neighbouring properties. Historic England and KCC Archaeology have also been consulted.

Historic England have confirmed that they do not wish to offer any comments and suggest the views of the specialist conservation and archaeological advisers are sought as relevant.

Seven letters of objection were received in response to the application as originally submitted including one on behalf of Rochester Cathedral and one from a member of the Historic Rochester Residents Association. An **additional three letters of objection**, one on behalf of Rochester Cathedral has been received following receipt of amended plans. In summary these raise the following concerns:

- Contrary to NPPF and Local Plan policies.
- Harm to setting and significance of City Walls, Grade I listed and Scheduled Monument including by obscuring views of the City Wall, also to wider setting of listed buildings.
- Negative contribution to Conservation Area.
- Compromise appreciation of memorial garden and tablet behind.
- Heritage Statement is totally inadequate.
- Submissions are not clear, outside seating to the side is not approved/the baseline.
- Out of character, intrusive, poor construction/design, temporary and ugly.
- Noise and disturbance including anti-social behaviour from increased area, capacity and level of outside activity/beer garden.
- Encourages rough sleeping and use for outside lavatory.
- Smoke and smell nuisance from grill/BBQ.

- Gillingham Street Angels supporting statement is irrelevant and should be disregarded.
- Prevents/compromises public/ramp access to the land behind which is to be developed as a sensory garden for the Cathedral (in construction and for less mobile).
- Assured temporary structures put up in Covid would not stay.
- Even temporary retention causes harm to historic setting.
- The development has previously been refused and contravenes covenants on the land.
- Enforcement action needed if refused and not removed.
- Changes do not overcome concerns.

The City of Rochester Society objected to the application as originally submitted on the following grounds:

- Out of place in historic setting, need proper consideration now Covid period has passed.
- Understood this area was intended as public open space, can it be enclosed for their use?
- Impact on street scene.
- Views of Historic England should be obtained.
- Potential impact on private right of way for other properties.
- Support the objection on behalf of the Cathedral – intention of restrictive covenants to ensure public access to open space and prevent noise and disturbance to local residents.
- The charitably organisation is a worthy cause but should not influence the decision.
- A Planning Committee decision (not delegated) with a site visit is urged.

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2023 (NPPF) and are generally considered to conform. Where non-conformity exists, this is addressed in the Planning Appraisal section below.

Planning Appraisal

Background

The City Wall Wine Bar (120-122 High Street), is a public house on the ground floor of a three-storey building. It sits within the Historic Rochester Conservation Area, with part of the remains of the historic city wall both within the building and to the rear. The city wall is a Scheduled Ancient Monument and there are several listed buildings nearby.

A shelter with polycarbonate roof and sides within a white UPVC support structure was refused retrospective planning permission in 2022, reference MC/22/1018. An

Enforcement Notice was then issued against this unauthorised structure in 2023, requiring its demolition, and it was subsequently removed. The current application relates to a different structure in a similar position, smaller, without walls and being a dark stained wooden structure rather than white UPVC.

Over the years the extent of the external areas used in connection with the Wine Bar has changed and the current application seeks to clarify and regularise this.

Principle

There is no objection in principle to changes to this established commercial use within Rochester High Street. Acceptability will depend on an assessment of the details.

Design and impact on heritage assets.

The current shelter to the side of the building is significantly different to that which was previously refused planning permission and enforced against. It covers a smaller area, projecting a reduced distance to the side and set back further from the High Street frontage. The current shelter does not include walls and the materials of the shelter frame are a significant improvement, dark stained timber rather than white UPVC, encasing the polycarbonate roof and very much reducing its impact. The shelter is still within the Conservation Area and the setting of the Scheduled Ancient Monument (the city wall), however the Wine Bar and the buildings across its side garden, the block staggering back from the High Street with Don Vincenzo on the corner, are relatively modern additions in the historic High Street, and in this setting it is considered that the current form of the shelter appears innocuous, blending in rather than standing out as a discordant feature. In summary the visual and heritage impacts of this alternative structure are now considered acceptable in this sensitive location, including with regard to Policies BNE1, BNE12, BNE14, BNE18 and BNE20 of the Local Plan and paragraphs 131, 135, and Section 16 of the NPPF.

The regularisation of the use of the external areas in connection with the Wine Bar will have a limited impact on heritage assets, the main consideration of this relating to amenity impact. Most of the associated paraphernalia does not require planning permission, such as benches and umbrellas (which are not fixed to the ground) and means of enclosures under 1m in height. It is generally considered preferable to have moveable garden furniture, for example the use of table umbrellas rather than fixed gazebos, for use when required, rather than permanent additions which tend to have a greater impact.

Amenity

The site is in a central High Street location close to other pubs and restaurants. The physical presence of the shelter does not have any adverse impact on amenity, due to its location at the side of the Wine Bar and it being single storey and some distance from the nearest residential neighbours.

The use of increased areas of the adjacent land to the side and rear of the Wine Bar over the years, which the current application is seeking to regularise, does have the potential to cause harmful noise and disturbance to local residents. The area to the

side of the building, closest to the High Street, has been used a part of the Wine Bar for quite some time. It is by the public High Street frontage, where pedestrian and vehicle movements with associated noise are to be expected, including during the evening when the High Street attracts visitors for leisure activities. It is recognised that there are residents close to the site above ground floor level, however in this frontage area the impact of the use is considered acceptable in the High Street setting.

The grassed area to the rear part of the site is set back from the High Street. The flats above the commercial units to the northwest directly overlook the site at close range, and in this more secluded area, concern is raised regarding the potential for unreasonable noise and disturbance to residents. Following discussions with the applicant it is therefore proposed that the use of this area be restricted, such that it would only be used after 19:00 in the evening on Fridays and Saturdays and on the limited Sundays preceding a bank holiday Monday. These are usually the busiest days for evening activity in the High Street, when it may be reasonably expected that local residents would be impacted by such activity in a High Street locality. The area would not be used on the quieter evenings of the week, and this would be controlled by railings and security staff already on-site during business hours. The submissions include reference to previous anti-social behaviour in this area, which it says has stopped since the land was leased for use by the City Wall Wine Bar customers.

In summary, subject to the recommended condition, the amenity impacts of the development are considered acceptable including with regard to Policy BNE2 of the Local Plan and paragraph 135 of the NPPF.

Highways

No highways concerns are raised by the development. No parking can be accommodated on the site, but it is located within the centre of Rochester, which is served by public car parks and public transport links.

Conclusions and Reasons for Approval

In summary the revised proposals have removed unacceptable elements from the original submission and have sought to regularise the extent of the use of the external areas of the site. Subject to conditions it is considered that this now results in a reasonable balance between the operation of the use within its historic setting, close to local residents. Approval is therefore recommended with regard to Policies BNE1, BNE2, BNE12, BNE14, BNE18 and BNE20 of the Local Plan and paragraph 135 and section 16 of the NPPF.

The application would normally be determined under delegated powers but is being referred for Committee determination due to the number of representations received expressing a view contrary to officer's recommendation for approval.

Background Papers

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection on Medway Council's Website <https://publicaccess1.medway.gov.uk/online-applications/>