

Application No: 22/4758M

Location: 4, WAREHAM STREET, WILMSLOW, SK9 1BT

Proposal: Variation of condition 1 and removal of condition 3 on approval 21/3436M for retrospective application for external drinking & dining area in connection with restaurant with proposed decking and canopy

Applicant: Ms A Mott, Sotto

Expiry Date: 01-Apr-2023

SUMMARY

This application seeks consent to vary Condition 1 (approved plans) and remove Condition 3 (temporary permission) attached to the approved application in April 2022 for retrospective permission at 4 Wareham Street in Wilmslow. The approved application granted temporary permission for an external drinking and dining area in connection with the restaurant, with proposed decking and canopy.

The site is located within Wilmslow Town Centre and is an area of protected open space.

The current approval restricts the use of the outdoor external area for a period of 18 months, which is due to expire on 22nd October 2023. The submitted Planning Statement states the development would encourage longevity for the existing business and would have a positive impact on Wilmslow Town Centre.

The temporary permission includes 3 pergolas, two on the proposed decking and one within existing parking spaces to the east of the site and protected open space. The application seeks to vary the approved plans, which would remove the pergola within the existing parking area and would result in the introduction of planter beds around the decked area.

The development is not considered to comply with the relevant local plan policies which relate to protected open space, and the proposed materials would not be appropriate for a permanent structure.

SUMMARY RECOMMENDATION

Refuse

REASON FOR REFERRAL

Application 22/4758M was referred to the Northern Planning Committee at the request of Cllr Jefferay (Wilmslow East Ward) for the following reasons:

“Whilst it was the case officer's view that the application contravened open space policy and it was therefore only appropriate for the structure to be temporary to support the business during the pandemic, as open space the grass actually provided minimal amenity value to Wilmslow's residents and its development has attracted widespread support amongst residents. It has been used far more since the structure was built than it ever was before and therefore it is my belief that the economic benefits of the business should outweigh the benefits provided as open space.

Further, the justification for the condition relied heavily on saved MBC local plan policies which, with the adoption of the SADPD, have now been superseded.

Noting that approval would potentially require a deviation from policy (and it is my opinion that this deviation is justified) the application should be considered by the Northern Planning Committee”

DESCRIPTION OF SITE AND CONTEXT

The application site is located on the edge of the Wilmslow town centre boundary, within an area that comprises a mix of uses including shops, cafes, public houses and residential properties.

DETAILS OF PROPOSAL

The application seeks to vary condition 1 and remove condition 3 on approval 21/3436M - Retrospective planning permission for external drinking and dining area in connection with restaurant, with proposed decking and canopy.

The application seeks to vary the approved plans, by removing the bar proposed in the existing parking area, providing a main entrance to the proposed external area with sliding doors, and the introduction of planter beds around the decked area

The application also seeks to remove condition 3, which granted temporary permission of the external dining area. The application seeks permanent consent for its retention.

Approved application 21/5769M is a like-for-like approval of the application seeking to be varied.

RELEVANT HISTORY

21/3436M – Approved with conditions 22-Apr-2022

Retrospective planning permission for external drinking and dining area in connection with restaurant, with proposed decking and canopy

21/5769M - Approved with conditions / 12-Aug-2022

Proposed decking and canopy

71559P – Advertisement Consent - Approved / 16-Sep-1992

Illuminated projecting sign

71050P – Full Planning - Approved / 01-Jul-1992

Use of premises for a2 purposes professional and financial services

72424P – Full Planning - Approved / 18-Nov-1992
Change of use from retail to hot food take-away/ restaurant

68867P – Full Planning - Approved / 28-Nov-1991
New shop front

33483P – County Matter Development -Approved / 06-Oct-1983
For an eight-space car park to be used by shopkeepers (and their customers) in Wareham Street and that part of station road Wilmslow

POLICIES:

Cheshire East Local Plan Strategy (CELPS):

EG5 – Promoting a Town Centre First Approach
MP 1 - Presumption in Favour of Sustainable Development
PG1 – Overall Development Strategy
PG2 – Settlement Boundaries
SD 1 – Sustainable development in Cheshire East
SD 2 - Sustainable Development Principles
SE1 - Design
SE2- Efficient Use of Land
SE5 – Trees, Hedgerows and Woodlands
SE6 – Green Infrastructure
Appendix C Parking Standards

Site Allocations and Development Policies Document (SADPD) (Adopted December 2022)

PG9 – Settlement Boundaries
ENV6 – Trees, Hedgerow and Woodland Implementation
GEN1 – Design Principles
HOU12 – Amenity
HOU13 – Residential Standards
RET1 – Retail Hierarchy
RET5 – Restaurants, cafes, pubs and hot food takeaways
RET7 – Supporting the vitality of town and retail centres
INF3 – Highway Safety and Access
REC1 – Open Space Protection

Wilmslow Neighbourhood Plan (adopted 2019)

Policy CR4 – Public Open Space
Policy LSP1 – Sustainable Construction
Policy TC4 – Retail Development

Other Material planning policy considerations

National Planning Policy Framework (The Framework)
National Planning Practice Guidance
Cheshire East Design Guide

CONSULTATIONS (External to Planning)

Wilmslow Town Council – No objection

Conservation and Archaeology (CEC) – No comment received

REPRESENTATIONS

In response to the original consultation exercise, representations were received from 1 residence. This consultation response supported the proposal for the following reasons:

The terrace gives great character to the area and is perfect business and casual meeting spot. It also creates employment and business opportunities.

OFFICER APPRAISAL

Relevant Considerations

When considering variation or removal of condition applications (known as Section 73 applications), it must be recognised that the development will have previously been found to be acceptable in principle. With regards to this application, the development was considered to be acceptable only on a temporary basis.

Condition 1 – Approved Plans

Condition 1 outlines the plans in which the previous approval was based upon. As currently worded, it states:

The development hereby approved shall be carried out in total accordance with the approved plans:

Drawing No. 0167-P30 (Proposed Plan and Section)

Drawing No.0167-P35 (Proposed Elevations)

Pergola Information

received by the Local Planning Authority on 10th December 2021 and:

Drawing No. 0167-P05 (Proposed Site Plan)

Site Location Plan

received by the Local Planning Authority on 24th June 2021 except where varied by other conditions of this permission.

Reason: For the avoidance of doubt and to specify the plans to which the permission/consent relates.

The applicants seek to amend the approved plans, by removing the proposed pergola in the existing parking area and by adding planter beds to the boundaries of the decked area.

Policy SD2 of the CELPS states that all development will be expected to contribute positively to an area's character and identity, creating or reinforcing local distinctiveness in terms of:

- Height, scale, form and grouping
- Choice of materials
- External design features
- Massing of the development (the balance between built form and green/public spaces)
- Green infrastructure; and

- Relationship to neighbouring properties, street scene and the wider neighbourhood

Policy GEN1 of the SADPD sets out that development proposals should create high quality, beautiful and sustainable buildings and places and should reflect local character.

Policy LSP1 of the Wilmslow Neighbourhood Plan relates to sustainable construction. Applicants should seek to incorporate the following features as part of their applications:

- The use of sustainably sourced and energy efficient materials as part of the building's construction, which seek to reduce the overall carbon footprint of the building
- The use of innovative design techniques which reduce the demand for energy including, the incorporation of passive solar gain, passive cooling and ventilation and neutral design
- The use of on-site energy generation technologies to reduce the demand for energy
- Where appropriate, the inclusion of electric vehicle charging points

The positioning of the proposed external dining area would be visible from Manchester Road and would be positioned between existing built form and viewed against the backdrop of buildings on Wareham Street. No objection is raised to the removal of the bar within the existing parking area and the introduction of planter beds around the decking. The planter beds would provide some softening of the appearance of the external dining area from the surrounding street scene to a limited degree, and the removal of the bar would re-introduce the parking spaces the bar currently occupies and reduce the number of structures on the site.

The development is however a prominent addition to the surrounding area due to its close proximity to Manchester Road. Further to this, the structure is made up of retractable flexible translucent plastic screening between pergola posts. This material is not considered to be suitable for a permanent structure. It would not weather well, and would deteriorate rapidly, which will be to the detriment of the character and appearance of the area. The structure does not positively contribute to the character and identity of the area and is therefore contrary to policy SD 2 of the CELPS. It is also not clear how the proposal complies with policy LSP1 of the Wilmslow Neighbourhood Plan.

The proposed development would result in a detrimental impact upon the character of the surrounding area contrary with policies SD2 of the Cheshire East Local Plan, Policy GEN1 of the SADPD, Policy LSP1 of the Wilmslow Neighbourhood Plan and the NPPF.

Condition 3 – Temporary permission to October 2023

The applicant seeks to remove Condition 3. Condition 3 restricts the use of the external dining area for 18 months, expiring in October 2023. As currently worded, it states:

The building/structure and use hereby permitted is acceptable for a temporary period only. The use shall cease and all structures shall be removed from the site, and the site returned to its former condition on or before 22th October 2023 unless in the meantime a further application has been submitted to and approved by the Local Planning Authority. The land shall be restored in accordance with a scheme of work submitted to and approved by the Local Planning Authority.

Reason: To enable continued control and appraisal of the development proposed having regard to the particular circumstances and nature of the development, and to comply with policies SE1 and SE6 of the Local Plan, RT1 and RT2 of the Macclesfield Local Plan and the NPPF.

It should be noted that saved policies in the Macclesfield Local Plan have now been replaced by policies within the SADPD and therefore cannot be used within the determination of planning applications. Therefore, the below outlines the development in relation to relevant policies, including the newly adopted Site Allocations and Development Policies Document.

The amenity open space is identified as an area of protected open space on the adopted policies map. The amenity open space is included within the current CEC Open Space Assessment and listed as Amenity Greenspace and is protected under CELPS policy SE6.

Policy REC1 of the SADPD states development proposals that involve the loss of open space will not be permitted unless:

- i. an assessment has been undertaken that has clearly shown the open space is surplus to requirements; or
- ii. it would be replaced by equivalent or better open space in terms of quantity and quality and it is in a suitable location; or
- iii. the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss.

The criteria set out under Policy REC1 of the SADPD mirrors Paragraph 99 of the NPPF with regards to when existing open space should not be built upon. The open space referred to in REC 1 relates to *“existing areas of open space shown on the adopted policies map, such as formal town parks, playing fields, pitches and courts, play areas, allotments and amenity open space; other incidental open spaces, which are too small to be shown on the adopted policies map, but which are of public value for informal recreation or visual amenity; and open spaces provided through new development yet to be shown on the adopted policies map.”*

The area is a piece of amenity open space in the centre of Wilmslow Town Centre. Situated on a busy highway junction, it forms part of a larger area of Green Infrastructure in this area and helps soften the urban/built environment as well as contributes to the public realm for the benefit of the wider community and urban air quality. The amenity open space and its trees also help improve microclimate, biodiversity and reduce peak flow rainfall. With the ever-growing awareness around the green agenda, the importance of these areas is increasingly recognised as being critical for the contribution they make on a number of levels.

The application as proposed removes the area from the public realm and prevents the open access previously enjoyed by the local community. The bench situated at the rear of the amenity open space is now isolated and enclosed. The decking and canopies urbanise the space, transform it into part of the built environment and remove the softening and openness once provided by the amenity green space. Taking each point within REC 1 in turn:

Assessment to show the open space is surplus to requirements

No updated assessment of open space has been provided with the current application with the applicant relying on the assessment submitted with the previous application. The conclusion of the previous assessment was that the area is so small it would not cause any material harm to the supply of amenity space in Wilmslow Town Centre. This argument was not accepted previously, and no additional reasons have been provided for it to be accepted now. The supporting information to Policy REC 1 is clear where it states that the policy relates to *“other incidental open spaces, which are too small to be shown on the adopted policies map, but which are of public*

value for informal recreation or visual amenity". This description covers a wide range of sizes and types of open spaces, and this policy seeks to protect them in a robust and consistent manner. The applicant's previous assessment stated that the Open Space Strategy makes no mention of a lack of amenity space in the Town Centre. Whilst this is acknowledged, it is considered that approving developments such as this could result in continuous, harmful changes to the amenity open spaces within the Town Centre, and other areas, thereby reducing the supply of amenity space. No evidence has been provided to suggest that there is a surplus, and the approval of the development could result in more harmful impacts to the town centre's open amenity space over time and become more damaging as incremental changes are added. The submitted assessment therefore does not clearly show the open space is surplus to requirements.

Replaced by equivalent or better open space in terms of quantity and quality in a suitable location
No proposals for replacement open space have been put forward. The development would therefore not provide the replacement of equivalent or better provision.

Development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss.

The development is not for alternative sports and recreational provision.

The development is therefore not considered to comply with the exceptions to development on existing open spaces and would be contrary to Paragraph 99 of the NPPF and Policy REC1 of the SADPD.

The application therefore leads to the loss of amenity open space, contrary to Policy SE6 of the Local Plan, Policy REC1 of the SADPD and Paragraph 99 of the NPPF.

It is understood that the applicants required the proposed development so that they could and can continue to keep their business operating throughout the COVID 19 pandemic. Under the previously approved application, the agent stated the applicant would accept a condition regarding a 3-year temporary permission.

At the time of the original application officers were sympathetic to this position and the Council granted a temporary permission to allow the applicant more time to review their options. Whilst the proposed development was considered contrary to policies of the adopted local plan and the justification for permanent permission was very limited, it was considered that a temporary permission could be justified in order to aid the security of the financial future of the restaurant after difficulties experienced during the pandemic, helping the business to adapt after lockdowns. The work would enable additional trade on a temporary basis following the lifting of restrictions.

Therefore, it was clearly outlined under the previously approved application as to why a temporary permission was appropriate at that time, and no significant changes to the scheme have been made or additional information provided that would justify a permanent permission being granted now.

Other Material Considerations

There are no concerns with regards to residential amenity from the proposal by virtue of separation distance to surrounding properties. The proposed development has been amended from the previously approved application and no longer results in the loss of parking spaces. The site is

situated within the town centre and is in a sustainable location. There are no highway implications associated with the proposal as parking provision would not be altered nor would access to the public highway.

The trees are not protected by a Tree Preservation Order or lie within a designated Conservation Area, however the group present a relatively attractive and decorative feature; visible from Manchester Road on the approach to the controlled junction. The Arboricultural Officer is satisfied that the structure is unlikely to cause any long- term damage to the trees.

CONCLUSION

In summary, the changes to the proposal are not significant to allow the development to be considered acceptable on a permanent basis. The use of plastic screening between pergola posts would not be appropriate for a permanent structure and the development continues to result in the loss of protected open space. The proposed development is contrary to Policies SD2 and SE6 of the Local Plan, Policy REC1 and GEN1 of the SADPD, Policy LSP1 of the Wilmslow Neighbourhood Plan and Paragraph 99 of the NPPF.

RECOMMENDATION

Refuse for the following reason:

- 1. The materials to be used in the proposed development would not be appropriate for a permanent structure and the development would be contrary to policies regarding the protection of open green spaces. The proposal would therefore be contrary to policies SD2 (Sustainable Development Principles) and SE6 (Green Infrastructure) of the Cheshire East Local Plan Strategy, GEN1 (Design Principles) and REC1 (Open Space Protection) of the Site Allocations and Development Policies Document, LSP1 (Sustainable Construction) of the Wilmslow Neighbourhood Plan and Paragraph 99 of the National Planning Policy Framework.**

In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add Conditions and/or Informatives or reasons for approval prior to the decision being issued, the Head of Planning has delegated authority to do so in consultation with the Chairman of the Northern Planning Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

