

# 19/00914/FUL

**Applicant** Mr Jeremy levins

**Location** The Unicorns Head Main Street Langar Nottinghamshire NG13 9HE

**Proposal** Construction of serving kiosk (retrospective) (resubmission).

**Ward** Nevile And Langar

## THE SITE AND SURROUNDINGS

1. The application concerns the retention of an outbuilding for use as an outdoor bar. The outdoor bar is currently unlicensed and as such cannot be used for serving alcohol.
2. The application relates to the Unicorns Head Public House, a grade II listed building which has been in use as a public house since 1717. The site also sits within the Langar Conservation Area with a K6 telephone Kiosk (also grade II listed) which sits to the south west of the Public House along the Main Street roadside.
3. The structure in question sits 28 metres into the site from Main Street and 19 metres from the norther boundary, it also sits immediately north of a large pole barn style canopy structure with decorative iron columns, and a pantile roof with dark stained timber cladding to its gables, this open sided structure first appears on the c.1900 OS mapping.
4. The surrounding area is predominantly residential in character.

## DETAILS OF THE PROPOSAL

5. The building to be retained is a lightweight timber structure stained black and measuring 3.25 by 2.5 metres, with substantial roof overhang on all sides with the monopitch roof measuring 3.65m by 3.65m. The building is 2.55 metres high along the front elevation and 2.50m at the rear. The structure has an openable serving hatch on its front elevation and a solid access door on the rear.
6. The application details that the outdoor bar will be used for the serving of food, snacks and soft drinks and will be in use only during events held under a temporary events licence (a site may only hold 12 such events in a year) with opening house between noon and 9pm.
7. The facility is intended to relieve pressure on the main bar during busy periods during occasional events. The closing time of 9pm coincides with the end of food service at which time pressure on the main bar reduces.

## **SITE HISTORY**

8. The site has a long history of use as a public house dating back over 2 centuries.
9. Recent planning history concerns works undertaken following a fire in 2015 and subsequent works of repair and refurbishment, most relevant to this proposal include:
  - 16/01568/FUL and 17/01208/NMA – External landscaping and decking area (approved)
  - 18/02574/FUL – Construction of serving kiosk (retrospective - withdrawn)

## **REPRESENTATIONS**

### **Ward Councillor(s)**

10. The Local Ward Councillor (Cllr T Combellack) has indicated that she wishes her comments from the withdrawn 2018 application to stand, being, *“Given the information to hand I object to this application. I am aware of a number of complaints regarding the use of this facility which have caused an adverse impact upon the amenity of surrounding residents. It is not appropriate in this location. I agree with the comments made [sic] by both environmental health and the Parish Council [referring to their respective comments on the 2018 application].”*

### **Parish Council**

11. The Parish Council has made comments objecting to the application, the full text of which is available via the Rushcliffe Planning Portal website for this application. In summary the parish raise objections on several grounds including:
  - a. Suitability within the setting of a grade II listed building.
  - b. Use of the kiosk will exacerbate anti-social activity.
  - c. Concerns the proposal will attract children leading them to play unsupervised near to a road.
12. In addition the parish council raise a number of areas of concern regarding the proposed noise management plan and its suitability in terms of safeguarding neighbouring amenity.

### **Statutory and Other Consultees**

13. The Environmental Health Officer initially made comments seeking further clarification and detail on the submitted noise management plan, leading to submission of a revised document.

14. In response to the revised documentation it was confirmed that Environmental Health did not object subject to some comments intended to inform noise assessments undertaken, namely:
- a. That neighbours will have an expectation of being able to open windows, assessment should not be undertaken on the basis that neighbours will have windows closed but this could be factored into assessments (if an event is taking place in winter for example).
  - b. Boundaries are in some cases only a few metres from residential facades or coincident with boundaries of private amenity space, these properties could be affected more than others and should be afforded more attention when monitoring.
  - c. Proposed monitoring criteria (speech interference) is subjective and represents a quite high threshold relative to ambient noise in a rural village location and could still have a significant impact on neighbours. Noise at this level within the courtyard area (as opposed to at the site boundary) may indicate off-site adverse impacts are likely.
  - d. The plan should be reviewed and amended in the light of operational experience.
15. Licencing have also made comments reiterating that there is no alcohol licence for the structure and confirming they would support restrictions on hours from noon until 9pm as detailed within the submission.

### **Local Residents and the General Public**

16. 10 local residents and near neighbours have made comments objecting to the proposal raising the following points of concern:
- a. Concern that the proposal would exacerbate pre-existing issues with noise and anti-social behaviour.
  - b. Concern that what is effectively a shed is inappropriate within the context of the listed building and conservation area.
  - c. Concern that the kiosk will attract children into the vicinity of the car-park and road.
  - d. Concern that a facility to serve children outside and near the play area will lead to reduced supervision by parents.
  - e. Concern that the proposal would impact upon parking provision/that existing parking provision is already inadequate.
  - f. Concern that the structure restricts access to the bin storage area leading to bins not being appropriately stored away detracting from amenity within the site.
  - g. Lack of hedging along the Main Street frontage enhances visibility of the proposed structure within the public realm and noise impacts from its use.

## PLANNING POLICY

17. The Development Plan for Rushcliffe consists of The Rushcliffe Local Plan Part 1: Core Strategy and the 5 saved policies of the Rushcliffe Borough Local Plan 1996. Other material planning considerations include the National Planning Policy Framework (NPPF), the National Planning Practice Guidance (NPPG), the Rushcliffe Borough Non-Statutory Replacement Local Plan (2006) and the Planning (Listed Buildings and Conservation Areas) Act 1990

### Relevant National Planning Policies and Guidance

18. The National Planning Policy Framework (NPPF) (updated in 2019) includes a presumption in favour of sustainable development. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. There are three dimensions to sustainable development, economic, social and environmental.
19. As such, the following national policies in the NPPF with regard to achieving sustainable development are considered most relevant to this planning application:
  - Section 6 Building a strong, competitive economy para 83-84
  - Section 8: Promoting healthy and safe communities
  - Section 12: Achieving well designed places
  - Section 16: Conserving and enhancing the historic environment
20. The Planning (Listed Buildings and Conservation Areas) Act 1990 contains two statutory duties which apply to local authorities when considering applications for planning permission where a proposal affects listed buildings, or their settings, and conservation areas.
21. Section 66 requires that, *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*
22. Section 72 requires that, *“In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

### Relevant Local Planning Policies and Guidance

23. The Rushcliffe Borough Non-Statutory Replacement Local Plan (RBNSRLP) is a material consideration. Whilst not part of the Development Plan, the Borough Council has adopted the RBNSRLP for development management purposes

in the determination of planning applications and Policy GP2 (Design and Amenity) is used frequently. Of particular relevance, Policies EN2 (Conservation Areas) and EN4 (Listed Buildings) are relevant when considering applications for development in Conservation Areas and within the setting of a Listed Building.

24. The following policies in the Rushcliffe Local Plan Part 1: Core Strategy are relevant:
- Policy 1 - Presumption in Favour of Sustainable Development;
  - Policy 2 - Climate Change;
  - Policy 5 - Employment Provision and Economic Development;
  - Policy 10 - Design and Enhancing Local Identity;
  - Policy 11 - Historic Environment; and
  - Policy 12 -Local Services and Healthy Lifestyles;

## **APPRAISAL**

25. The application has attracted significant local comment and objection. In several cases the objections relate to concerns over pre-existing issues in regard to noise, alleged anti-social behaviour and car-parking as well as the potential for the retention of the outdoor serving kiosk to exacerbate these issues. Pre-existing issues are not matters to seek to resolve through determination of this application, however measures to ensure that existing issues are not exacerbated are reasonable.
26. In relation to concerns over car parking the kiosk structure is not within the parking area of the public house and does not prohibit use of any spaces within the parking area. The intention is that the facility be used only in connection with occasional events held under the terms of temporary events licences of which only 15 can be sought per year.
27. Events under a temporary events licence must not exceed 7 days in duration for any one event, with a minimum one day break between successive events, and applications within any year can involve events totalling no more than 21 days. As an example a premises could use its 15 applications per year to host one 7 day event and fourteen single day events.
28. The absence of the kiosk would not result in increased parking capacity and, given its small scale, it is unlikely that the kiosk itself would attract greater custom on the dates of these events.
29. There is some suggestion that provision of outdoor service facilities will encourage less adult supervision of children. The pub already has a children's play area and the kiosk is in close proximity to this, allowing service without the need for patrons, adults and children alike, to walk across the car park. It is equally likely that being able to purchase food and drink without entering the main pub building could effectively increase parental supervision of children within the play area rather than decreasing it, as well as reducing trips across the car park decreasing the likelihood of vehicle/pedestrian conflicts.
30. The kiosk is located along the existing pedestrian route between the play area and the public house and it is not considered that this will entice children nearer to the car park than would be the case if they were traveling between the main

pub buildings and the play area, the kiosk is a similar distance from the main road as the play area (some 28 metres) and as such it seems unreasonable to suggest that the kiosk will entice children into the vicinity of the road.

31. Concern has also been expressed in terms of the impact of the retention of the kiosk on the setting of the public house as a listed building. The public house on the site dates, in its oldest parts, to 1717 with a series of later extensions to both east and west and more modern extensions to the north side to provide additional seating space for diners at the pub (history of extensions in 1986 to form toilets and 2000 to form dining room/conservatory and link).
32. Beyond the main building the site also had detached structures which pre-date 1948 and are thus protected as 'part of' the listed building via section 1(5)b of the Planning (Listed Buildings and Conservation Areas) Act 1990. These include a series of outbuildings in poor condition along the north eastern site boundary and a large open sided canopy structure to the north of the main pub building, immediately adjacent to the kiosk.
33. The location of the proposed kiosk effectively squares the corner between the north-south alignment of the covered canopy structure and the range of outbuildings along the northeast boundary. In views from the west along Main Street the building would thus be seen in the immediate foreground of the gable ends of dilapidated outbuildings and as something of a continuation of the open sided canopy structure. From the north, to the limited extent views exist, the kiosk has the backdrop of the black timber boarding forming the northern gable end of the canopy structure.
34. Whilst black timber boarding is something of an atypical feature within southern Nottinghamshire there is some precedent for its use on this site, and the structure which sits immediately to the south of the kiosk utilises black stained timber as a cladding material. Given this precedent its use here is difficult to view as objectionable, whilst the relatively lightweight nature of the structure effectively limits its long-term retention and future-reuse.
35. It is considered that the small scale, use of materials and siting of the structure all help to minimise any impact upon the special architectural and historic significance of the public house insofar as it's setting contributes towards that significance or the ability to appreciate/understand that significance. The use would be entirely in keeping with a site, which has hosted a public house since the early 18<sup>th</sup> Century. The proposal would therefore achieve the 'desirable' objective described within section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
36. In terms of the impact upon the special architectural and historic character and appearance of the conservation area the proposal would preserve that special character and appearance for many of the same reasons as detailed above, within consideration of the impact upon the significance of the public house as a listed building. The impact upon the public realm should be considered in two ways, firstly from the roadside as viewed across the car-park and seen in context with the adjacent covered canopy structure, where the structure would have little visual presence, particularly when the car-park is in use. The dark materials would help the building to further recede into the shaded area between the canopy structure and former outbuildings to the northeast.

37. Some consideration could be had to views within the site as the public house grounds could be considered to form part of the public realm owing to their use, however again the kiosk structure would have limited presence within the site owing to its small scale and is not considered to have any notable impact upon the special architectural and historic character and appearance of the conservation area, thus the desirable objective detailed within section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 would be achieved.
38. When first erected the kiosk had been decorated in a 'Tikki Bar' theme, decorative additions such as dried grass fringes have since been acknowledged by the applicant as inappropriate within the historic context of the site and have been removed. The proposal does not include the reinstatement of such features and any future alteration to the external appearance of the structure would require planning permission in its own right.
39. Concern has been raised that the position of the kiosk restricts access to a bin store. Having reviewed the recent planning approvals for the site none appear to indicate any specific bin storage area and no conditions have been applied in connection with refuse storage, likely relating to the fact that the use of the site as a public house entirely pre-dates the planning system. Historic aerial photography shows bins stored along the site frontage in an area of the car park hatched with yellow surface markings. These marking have now been removed, however it is highly unlikely that there is any more publically prominent location within the site that bins could be stored. The submitted design and access statement clarifies that access to the bin store area in an adjacent barn would not be compromised, and whilst bins have occasionally been left out after collection day in the past this has now been addressed.
40. The main source of concern amongst residents relates to impacts on amenity by way of noise. The earlier 2018 application for the kiosk had been withdrawn following concerns raised by Environmental Health Officer and the resubmission represented an opportunity to address these concerns, mostly relating to the inadequacy of the submitted noise management plan.
41. Several neighbours have made comments relating to fears of exacerbating existing noise issues associated with the public house. It should be noted that whilst it is legitimate to seek to avoid making existing issues worse, it is not the role of determining this application to address existing issues with a site, but that the additional facility could intensity use of outdoor spaces and as such reasonable measures to limit the impacts of intensified use have been proposed.
42. A noise management plan has been submitted as part of the application in an effort to allay concerns over increased noise from the operation of the kiosk.
43. It should be noted that the kiosk is proposed to be opened only during events held under a temporary events licence, which could only occur on no more than 21 days each calendar year, and that on such occasions the kiosk would be in use only between the hours of noon and 9pm. This would provide some restriction on the impacts associated with the proposal, with the noise management plan seeking to apply additional control.

44. This includes closing the external courtyard area to customers after 10pm together with closing of the outdoor play area after 10pm and ceasing use of a bouncy castle after 9pm, and closing all doors and windows at the pub after 10:30pm. Some commenters have highlighted the play area proposed closing time is too late as young children have much earlier bedtimes, however the opening times need not create any obligation for the play area to be used beyond children's bedtimes.
45. The Environmental Health Officer has considered the revised monitoring plan and has concluded that they are generally supportive of the plan and do not object to the proposal on that basis, but have made comments intended to assist with the implementation of the plan and the plan has been further modified to take into account these comments, particularly making provision for future review of the management plan.
46. On the basis of the recommendation from Environmental Health it is considered that sufficient measures would exist and the kiosk operations sufficiently limited throughout the year that the proposal would not exacerbate noise and amenity impacts arising from the use of the site and that as such the proposals would not conflict with policy intended to safeguard residential amenity such as those within policy GP2 of the RBNSRLP and policy 10 of the Rushcliffe Local Plan Part 1: Core Strategy
47. An enforcement investigation was commenced after the kiosk structure was installed on site without planning permission having been obtained. Negotiations were undertaken and the applicant was minded to seek planning permission retrospectively and was willing to make modifications to the external appearance of the structure to improve its appearance in relation to its context and setting. During consideration of the application the applicant has been willing to revise documents, most notably the noise management plan, leading to a recommendation that planning permission be granted.

## **RECOMMENDATION**

It is RECOMMENDED that planning permission be granted subject to the following condition(s)

1. The kiosk building shall only be used in connection with events occurring within the grounds of the Public House on occasions covered by a temporary events licence.

[To accord with the submitted Design and Access Statement and to limit use of the building and potential intensification of use of outdoor spaces and to comply with Policy GP2 (Design and Amenity Criteria) of the Rushcliffe Borough Non-Statutory Replacement Local Plan and Policy 10 of the Rushcliffe Local Plan Part 1: Core Strategy].

2. The kiosk shall be open for the service of customers on such occasions only between midday and 9pm.

[To accord with the submitted Design and Access Statement and Noise Management Plan and to limit use of the building and potential intensification of use of outdoor spaces in the evenings and to comply with Policy GP2



(Design and Amenity Criteria) of the Rushcliffe Borough Non-Statutory Replacement Local Plan and Policy 10 of the Rushcliffe Local Plan Part 1: Core Strategy].

3. When in operation events involving the use of the kiosk shall be subject to monitoring and control as outlined in the submitted noise management plan.

[To ensure that the appropriate monitoring and management of the use of external spaces and the approved kiosk is implemented to avoid exacerbating noise impacts upon neighboring property and to comply with Policy GP2 (Design and Amenity Criteria) of the Rushcliffe Borough Non-Statutory Replacement Local Plan and Policy 10 of the Rushcliffe Local Plan Part 1: Core Strategy].