

Planning Committee

16 February 2012

Reference:
APP/11/01492

Area Team:
North Team

Case Officer:
Mrs S Lacey

Ward:
Hoylake and Meols

Location: Surfers Restaurant, 136-140 BANKS ROAD, WEST KIRBY, CH48 0RF

Proposal: Erection of a single-storey front extension

Applicant: Mr James Demetrios

Agent : SDA Architects & Surveyors

Site Plan:



Development Plan allocation and policies:

Tourism Development Site
Primarily Residential Area
Key Town Centre

Planning History:

APP/06/05730 Change of use of pavement to outdoor seating A/C 02/06/2006
APP/09/05794 Alterations to street café A/C 11/09/2009
APP/09/06186 Alterations to café front to move existing doors A/C 19/11/2009

Summary Of Representations and Consultations Received:**REPRESENTATIONS**

Having regard to the Council Guidance on Publicity for Applications, 16 letters of notification were sent to neighbouring properties and a site notice was displayed on the highway. At the time of writing this report two objections had been received from No.25 Church Road and No.27a Church Road, citing the following concerns:

1. Light pollution from the roof;
2. The extension will heat up during the day and require additional ventilation as opening windows will result in noise pollution to the flats above;
3. It will add to the car parking problems;
4. A car already parks on the pavement, and this may be emulated;
5. Staff of the restaurant are parking, maybe with the consent of the shops leaseholders, in private spaces;
6. It is not considered Mr Demetrois has "lifted up" the area;
7. Publicly available figures show the restaurant is making a relatively large financial loss in the past financial year;
8. Conditions were placed on the previous permission to close internal windows which are to be removed, thus any sound will come out of the single entry doors as they are opened;
9. The glazing is not specified, vibrations will result in noise disturbance;
10. The corner bedroom over Banks Road/Church Road belongs to the house on Church Road - this is a rented house and the tenants may not pass notification across to the owners
11. The visual impact on the street scene introduces an alien design to the Edwardian Verandah aspect purveyed and beloved of the tourist brochure. A clock tower, filigree fillings or elevating the model penguin outside the building would benefit the visual impact;
12. The owner should display a sign asking his customers to leave quietly in respect of occupiers in the surrounding residential properties;
13. If the restaurant failed residents would be threatened by the introduction of the late night culture of bistro drinking etc;
14. No site notice has been displayed;
15. There are no details of drainage, noise or light pollution, how the windows will be cleaned or maintained would funds be made available for future costs;
16. No.25 is a Flying Freehold with Surfers;
17. There has previously been damage to No.25 when a TV dish was erected and therefore have concerns of future developments.

CONSULTATIONS

The Director of Technical Services (Traffic & Transportation Division): No objection. External doors must not open onto the highway.

The Director of Technical Services (Highway Maintenance Division): No objection. The stopping up of the adopted footway is required as the development exceeds the area previously stopped up.

The Director of Law, HR and Asset Management (Pollution Control Division): No objection.

Director's Comments:

REASON FOR REFERRAL TO PLANNING COMMITTEE

The application is submitted by SDA Architects and Surveyors, a partner and architect of which is an elected Member of the Council

INTRODUCTION

The application proposes a front extension to the existing restaurant. A previous permission granted an outside seating area and enclosed seating area (see history). The extension projects 3m from the front elevation of the building and measures the length of the building. It is predominantly glazed with opening windows and a glass roof. The doors are centrally positioned and recessed.

PRINCIPLE OF DEVELOPMENT

The proposal is considered acceptable in principle under Policy SH1 Criteria for Development in Key Town Centres and SPD3 Hot Food Takeaways, Restaurants, Cafes and Drinking Establishments which encourages A3 uses to be directed towards Key Town Centres.

SITE AND SURROUNDINGS

Surfers Restaurant is located within a row of commercial and retail properties in West Kirby, which is designated as a Key Town Centre and Tourism Development Site in the adopted Wirral Unitary Development Plan. There is an existing outdoor decked seating area. Banks Road is a busy shopping parade that includes a variety of retail uses, including late night uses such as a hot food takeaway and video rental shop. There are no other outdoor seating areas in the vicinity (No.122 – No.140 Banks Road). There are residential dwellings along Church Road, which is an area designated as Primarily Residential Area. There are also first floor flats along Banks Road within the Key Town Centre. The nearest residential house (no. 25 Church Road) adjoins Surfers, and the living room is directly adjacent to the site and the first floor bedroom is above Surfers. There is a 6.7m wide pavement outside Surfers along Banks Road and two litter bins on the pavement which reduces the width of the pavement.

POLICY CONTEXT

The Government's key objectives set out in Planning Policy Statement 4 - Planning for sustainable Economic Development (PPS4) is to promote the vitality and viability of existing centres by encouraging a wide range of services in a good environment which meets the needs of the entire community and is accessible to all.

The proposal is assessed against the Unitary Development Plan Policy SH1 Criteria for Development in Key Town Centres where it states:

- (i) the proposal, together with other recent or proposed development does not undermine the vitality and viability of any Key Town Centre or Traditional Suburban Centre as a whole or other town centre outside the Borough boundary;
- (ii) the proposal does not generate traffic in excess of that which can be accommodated by the existing or proposed highway network;
- (iii) the proposal meets highway access and servicing requirements and includes off-street car parking in line with Policy TR9 and cycle parking in line with Policy TR12;
- (iv) the siting, scale, design, choice of materials and landscaping is not detrimental to the character of the area;
- (v) the proposal does not cause nuisance to neighbouring uses, or lead to loss of amenity, as a result of noise and disturbance, on-street parking or delivery vehicles - where necessary, a suitable condition will be imposed on hours of opening/ operation

Supplementary Planning Document 3 - Hot Food Takeaways, Restaurants, Cafes and Drinking Establishments (SPD3) states that A3 (Restaurant and Cafe) uses should be directed towards town centres and should have minimal impact on local amenity and the character of the area and not cause nuisance to neighbouring uses.

APPEARANCE AND AMENITY ISSUES

West Kirby is an established location for day or half-day trips to the coast by car, bus or rail. The site is located in a Key Town Centre which encourages the development of restaurants and cafes, subject to no adverse impact on the surrounding area. The upgraded frontage is considered to add to the vitality of the recognised town centre location. The principle of use has also been established by the previous grant of permission (2006/5730). The proposal is an addition to an existing business, and it is the natural progression that successful businesses expand and develop. It is not considered the cumulative impact of the proposal will have a negative impact on the character of the area, as the restaurant and outside seating area is already established.

The extension measures approximately 17m in width along Banks Road and projects 3m. The scale and design of the extension is deemed acceptable. The proposed elevation is contemporary in design and appropriate to the surrounding streetscene. The scale and design is considered not to harm the character of the original building or surrounding buildings, and introduces a new feature to the parade of commercial buildings.

Whilst the proposal is within 40m of residential properties, the application is for the development of an existing A3 use within a Key Town Centre. It is considered reasonable that residents of the flats in the Key Town Centre should expect higher levels of noise and disturbance than those in Primarily Residential Areas. The amenities of neighbouring residents would be protected by a limiting hours condition.

NEIGHBOUR OBJECTIONS

Two objections had been received from No.25 Church Road and No.27a Church Road, citing the following concerns:

"Light pollution from the roof". It is not considered the proposal will result in lights shining directly into neighbouring properties. For a light to be construed as a statutory light nuisance the light emanating from the light fitting would have to be prevalent in a bedroom or living room with normal curtains closed. The levels of illumination can be controlled and the potential of lights shining directly into bedroom windows can be controlled by Environmental Health legislation.

"The extension will heat up during the day and require additional ventilation as opening windows will result in noise pollution to the flats above". Internal ventilation systems do not require planning consent. Any issues with noise pollution can be controlled under Environmental Health legislation.

"The proposal will add to the car parking problems. A car already parks on the pavement, and this may be emulated. Staff of the restaurant are parking, maybe with the consent of the shops leaseholders, in private spaces". Policy SPD4 Parking Standards sets out maximum levels of parking provision for development. Its objective is to reduce the need to travel by private car and promote the use of public and other means of transport. SPD4 states there is no minimum allowance of car parking for restaurants, and as such the proposal complies with these standards. The proposal is in a Key Town Centre with existing parking facilities and good transport link, the proposal is deemed acceptable. This application does not seek permission to change the pavement to a car park, and illegal parking is controlled by the police. Staff parking in private parking spaces is civil matter between the owner of the land.

"It is not considered Mr Demetris has "lifted up" the area. Publicly available figures show the restaurant is making a relatively large financial loss in the past financial year". It is considered the restaurant is well established and the proposal may contribute to the future financial stability of the business.

"Conditions were placed on the previous permission to close internal windows which are to be removed, thus any sound will come out of the single entry doors as they are opened. The glazing is not specified, vibrations will result in noise disturbance". The previous application proposed bi-fold doors and as the application proposed a more open eating arrangement it was considered necessary to condition that the doors were closed late in the evening. The resubmitted application proposes a solid more enclosed extension as opposed to the previous folding doors and a condition is therefore not considered necessary..

"The corner bedroom over Banks Road/Church Road belongs to the house on Church Road - this is a rented house and the tenants may not pass notification across to the owners". Sixteen neighbours were notified in accordance with the Council Guidance on Publicity for Applications and a site notice was displayed on the highway. The owners of No.25 are aware of the application and have written in with their objections.

"The visual impact on the street scene introduces an alien design to the Edwardian Verandah aspect purveyed and beloved of the tourist brochure. A clock tower, filigree fillings or elevating the model penguin outside the building would benefit the visual impact". Whilst date the existing building cannot be confirmed, it appears to be post war with a bland facade. The proposed extension is considered to improve the appearance of the building by adding a simple but contemporary extension. The materials are proposed to be timber not UPVC which will result in a crisp finish. The flat roof reduces the bulk of the proposal. The photographs supplied in the Design and Access Statement indicate the extension will be painted white, with green and blue details which compliment the seaside resort without being pastiche. Materials and paint colours can be conditioned to ensure a high quality finish.

"The owner should display a sign asking his customers to leave quietly in respect of occupiers in the surrounding residential properties". This cannot be conditioned as it would not meet the tests of a necessary and enforceable condition.

"If the restaurant failed residents would be threatened by the introduction of the late night culture of bistro drinking etc". A spate planning application would be required for a change of use from A3 Restaurant and Cafe to A4 Drinking Establishment. Neighbours would be given the opportunity to raise concerns under the Council Guidance on Publicity for Applications.

"No site notice has been displayed". A site notice was displayed on the highway on 13 January 2012.

"There are no details of drainage, noise or light pollution, how the windows will be cleaned or maintained, would funds be made available for future costs." This information is not required with the submission or determination of a planning application.

"No.25 is a Flying Freehold with Surfers". The ownership of a property does not affect the determination of the application. The LPA is aware there is a residential property above Surfers, and this has been taken into consideration during the assessment of the proposal.

"There has previously been damage to No.25 when a TV dish was erected and therefore have concerns of future developments". This does not have a bearing on how a planning application is determined.

SEPARATION DISTANCES

The proposed ground floor windows are not considered to result in overlooking.

HIGHWAY/TRAFFIC IMPLICATIONS

The Director of Technical Services (Traffic Engineers) had no objection to the proposal as the pavement is very wide in this section and the remaining 3.6m width will allow for pedestrian movement for all users.

Policy SPD4 Parking Standards sets out maximum levels of parking provision for development. Its objective is to reduce the need to travel by private car and promote the use of public and other means of transport. SPD4 states there is no minimum allowance of car parking for restaurants, and as such the proposal complies with these standards. The proposal is in a Key Town Centre with existing parking facilities and good transport link, the proposal is deemed acceptable. There are no highway implications relating to this proposal.

ENVIRONMENTAL/SUSTAINABILITY ISSUES

There are no environmental/sustainability issues relating to the proposal.

HEALTH ISSUES

There are no health implications relating to this application.

CONCLUSION

The proposal complies with Policy SH1 of the adopted Wirral Unitary Development Plan and is deemed not to have an adverse impact on the character of the area, the amenity of nearby residential properties, or the vitality and viability of the Key Town Centre.

Summary of Decision:

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national and regional policy advice. In reaching this decision the Local Planning Authority has considered the following:-

The proposal complies with Policy SH1 of the adopted Wirral Unitary Development Plan and is deemed not to have an adverse impact on the character of the area, the amenity of nearby residential properties, or the vitality and viability of the Key Town Centre.

Recommended Decision: **Approve**

Recommended Conditions and Reasons:

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 (as amended) of the Town and Country Planning Act 1990.

2. The premises shall be closed between the hours of 2300 hours and 1200 hours

Reason: In the interests of residential amenity and to comply with Policy SH1 of the Wirral Unitary Development Plan.

3. Before any construction commences, details of the materials and colour coatings to be used in the external construction of this development shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall then be used in the construction of the development and retained thereafter.

Reason: To ensure a satisfactory appearance to the development in the interests of visual amenity and to comply with Policy SH1 of the Wirral Unitary Development Plan.

Further Notes for Committee:

Informatives to the Applicant:

1. The applicant is requested to inform patrons of the need for quietness when leaving the premises late at night. Should a nuisance arise action may become necessary under Section 58 of the Control of Pollution Act 1974.

2. A stopping up order is required. Please contact StreetScene on 0151 606 2004

Last Comments By: 27/01/2012 16:15:31
Expiry Date: 07/02/2012