

## Planning Committee

21 July 2010

**Reference:**  
**APP/10/00545**

**Area Team:**  
**North Team**

**Case Officer:**  
**Miss K Elliot**

**Ward:**  
**Hoylake and Meols**

**Location:** Panache, 43 MARKET STREET, HOYLAKES, CH47 2BG  
**Proposal:** Retention of canopy at rear for seating and storage

**Applicant:** Mr Adam Bale  
**Agent :**

### Site Plan:



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### Development Plan allocation and policies:

Key Town Centre  
Policy SH1 Criteria for Development in Key Town Centres

### Planning History:

2001/7190 Change of use to a wine bar and alterations to elevations. Approved 11/01/02  
2005/6815 Variation of condition no. 3 on APP/2001/7190 to extend opening hours to 01.00 hours.  
Refused 30/09/05  
2006/5339 Variation of condition no. 3 on APP/2001/7190/D to extend opening hours from 23.30

hours to midnight. Refused 10/04/06. Appeal dismissed 23/01/07  
2009/5412 Variation of condition 3 of APP/2001/7190 to extend opening hours Sunday to Thursday  
0800 to 0100, Friday and Saturday 0800 to 0130, Thursdays preceding Good Friday and Sundays  
preceding Bank Holiday Mondays 0800 to 0130 Christmas Eve, Christmas Day. Refused 22/05/09

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

#### **REPRESENTATIONS**

44 letters of notification were sent to the occupiers of neighbouring properties and a site notice was displayed. At the time of writing this report a total of 8 letters of objection have been received. The nature of the objections related largely to noise and disturbance, loss of amenity, the use of the rear yard as a beer garden and air pollution. A statement from the applicant has been received detailing the results of various sound tests that have been carried out within the site and neighbouring premises and Environmental Health concluded that noise levels were acceptable. In addition 15 separate letters of support have been received and these can be summarised as follows:

- The proposal would act as a barrier for noise at the site;
- The canopy is not visible from the road;
- The provision of the canopy reduces the risk of people congregating on Market Street;
- The proposal supports a local business which is important to the growth of Hoylake;

#### **CONSULTATIONS**

Director of Technical Services (Traffic Management Division) have no objection to the proposal.  
Director of Law, HR & Asset Management (Environmental Protection Division) has no objection to the proposal.

Police (Crime Reduction) have no objection to the proposal.

Hoylake Civic Society did not comment on the application.

#### **Director's Comments:**

The application was deferred from Planning Committee on 6th July 2010 for a site visit.

#### **REASON FOR REFERRAL**

Councillor Ellis requested that the application was taken out of delegation for the following reason: disturbance to neighbouring residents in terms of noise, anti-social behaviour and air pollution to neighbouring properties.

#### **INTRODUCTION**

The proposal is for the retention of an existing canopy at the rear of the premises for seating and storage purposes.

#### **PRINCIPLE OF DEVELOPMENT**

The principle of the development is acceptable subject to Policy SH1 of Wirral's Unitary Development Plan.

#### **SITE AND SURROUNDINGS**

The site comprises an end of terrace property situated on the corner of Market Street and Wood Street. The premises is an existing bar which has a small rear yard enclosed by surrounding properties and a 2.3 metre boundary wall, with fencing above, fronting on to Wood Street. The property is bounded by residential properties in Rudd Street and a commercial unit directly to the rear. There are other residential properties including upper floor flats above neighbouring properties along Market Street.

#### **POLICY CONTEXT**

Policy SH1 is directly relevant in this instance.

#### **APPEARANCE AND AMENITY ISSUES**

The canopy is already partly constructed and measures 3.1 metres with a mono-pitched roof. The proposal is for it to be open sided with glazed panels on the roof of the structure. The roof of the canopy is partially visible from Wood Street but is otherwise screened from the general street scene and is not considered to result in visual harm. The use of the site is already established as the original planning permission to convert the premises to a bar, granted in 2001, encompassed the rear yard, it would be difficult to sustain refusing a proposal for a structure that would be ancillary to the

established use. The use of the rear yard for seating, storage or socialising is not considered inappropriate in the context of the site. It is not considered that the proposal would result in an over-intensification in the use of the site or in an unacceptable level of noise and disturbance to neighbouring properties and uses. The issues raised in the representations received are largely concerned at the use of the rear yard for such purposes and emanating noise and smells. The Director of Regeneration (Housing and Environmental Protection) has raised no objection to the proposal in this regard. Whilst it is accepted that proposals should not lead to an unacceptable loss of amenity to neighbouring residents and uses, the proposal is not considered to exacerbate the existing use of the yard which at present cannot be controlled by planning regulations.

The issues raised over the inaccuracy of the plans has been rectified by the applicant and the side street annotation has been altered to the correct address of Wood Street. The inclusion of the barbeque detail and fence above the boundary wall fronting Wood Street do not form part of the proposal and are therefore not for consideration. The letter of comment received in support of the proposal acknowledges that the site is within the Key Town Centre and that a certain amount of noise is inevitable. The proposal is considered to support the existing business and thus the long term vitality and viability of the town centre. The operation of the premises is subject to Licensing and this would still take precedence over any grant of planning permission. The use of the premises, including the rear yard, is already permissible until 23:30 in accordance with condition 3 of APP/2001/7190, which was the original grant of planning permission for the bar. However a condition will be attached to ensure there is no activity in the rear yard beyond this time. In conclusion the retention of the canopy at the rear of the site is considered acceptable in the context of the existing use and is not considered to result in a significant loss of amenity to neighbouring properties than at present. Overall the proposal complies with SH1 and is recommended for approval.

#### **SEPARATION DISTANCES**

Separation distances do not apply in this instance, as no residential properties will be affected by the proposed development.

#### **HIGHWAY/TRAFFIC IMPLICATIONS**

There are no Highway Implications relating to this proposal.

#### **ENVIRONMENTAL/SUSTAINABILITY ISSUES**

There are no Environmental/Sustainability issues relating to these proposals.

#### **HEALTH ISSUES**

There are no health implications relating to this application.

#### **CONCLUSION**

The proposal complies with Policy SH1 of Wirral's Unitary Development Plan and is deemed not to undermine the vitality and viability of the Key Town Centre or be detrimental to the character of the area.

#### **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 Wirral's Unitary Development Plan and is deemed not to undermine the vitality and viability of the Key Town Centre or be detrimental to the character of the area.

#### **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 rear yard of the premises shall not be used for any purpose outside the hours of 08:00 and 23:30.

**Reason:** In the interests of amenity.

**Further Notes for Committee:**

**Last Comments By:** 10/06/2010 15:56:29

**Expiry Date:** 25/06/2010