
APP/2009/5794

WARD Hoylake and Meols

Location: Surfers Restaurant 136-140 Banks Road West Kirby Wirral CH48 0RF

Proposal: Alteration to street cafe

Applicant: Mr James Demetrios
Surfers Restaurant Wirral Ltd
Thermopylae Ridge
79 Vyner Road South
Bidston
Wirral
CH43 7PW

Agent: Mr A Martinez
Survey & Design Associates
2 Duncote Close
Oxton
Wirral
CH43 6YA

Development Plan allocation and policies: Key Town Centre
Tourism Development Site
Policy SH1 Criteria for Development in Key Town Centres
Policy TL5 The Control of Tourism in West Kirby
SPD3 Hot Food Takeaways, Restaurants, Cafes and Drinking Establishments
SPD4 Parking Standards

Planning History: 20065730 Change of use of pavement to outdoor seating A/C 02/06/2006

Representations and consultations received: Representations:

A site notice was displayed on Banks Road on the 17th July 2009. A total of 14 letters of notification have been sent to properties in the area. At the time of writing this report 7 individual letters of objection and a qualifying petition of 47 signatures households has been received citing concerns the proposal will result in:

- Disability issues; namely safe and easy access for all pavement users;
- Sound reflection and additional noise;
- The proposal would not be inkeeping with the street scene;
- The scale of the proposal is overwhelming;
- It will become another late night drinking venue;
- Noise and disturbance;
- Opening until 2300 hours is not reasonable in a residential area;
- The development is too close to peoples houses;
- There will be an increase demand in parking;
- Dining outside will increase noise levels;
- There will be an increase in smoke pollution;
- The capacity of the restaurant will treble and deliveries and waste collections will increase;
- Misleading information on the planning application forms;
- The applicant does not own the pavement area and it does not appear notice has been served on the owner;
- The present seating arrangement is around the building whereas the proposal is for a permanent enclosed extension to the building;
- The proposal creates a physical obstacle which pedestrians need to negotiate around;
- The proposal will set a precedent;
- The proposal will create a "higledy pigledy" mess to the front elevations within which the tidiness and consistence of the existing appearance will be lost;
- The privacy screen highlights the unsuitability of the scheme;
- The sliding doors will allow internal music to be audible from the street;
- The sliding doors will allow odours to escape into the street;
- Greater levels of disturbance at anti-social hours and exacerbate existing problems;
- Residential property No25 adjoins Surfers; the living room is next to the dining area and the bedroom extends over the dining area, and already experiences high levels of noise;
- Loss of a view from garden/living room of No.25;

- The proposed doors will result in more noise escaping;
- Concerns regarding external heaters and their environmental impact;
- There are 48 places in West Kirby to eat and drink and the cumulative effect will negatively affect amenity by late night activity (noise, taxis, people waiting).

The owners of No.25 and No.27A were concerned they were not notified. For clarification, letters have been sent to the occupiers of all properties requiring notification under the General Development Procedure Order 1995, including No.25 and No.27A. In addition a site notice was displayed. The Local Planning Authority is satisfied the correct neighbour notification has been undertaken

The Hoylake, West Kirby and District Society objected on the impact of the proposal on neighbouring residential properties, increased noise and disturbance and the impact on the character of the street scene.

Councillor Ellis requested the application be removed from delegation for reasons of residents concerns about late night noise disturbance, potential undue obstruction of the footway and an unsightly canopy.

Consultations:

The Director of Technical Services (Traffic Management Division): No objection as the pavement is very wide and will allow for pedestrian movement. A condition is necessary to relocate the two litter bins at the expense of the applicant.

The Director of Technical Services (Highway Maintenance): No objection. The stopping up of the adopted footway is required.

The Director of Regeneration (Environmental Health): No objection subject to conditions relating to doors and windows remaining closed, customers to be cleared from outside by 2130, no music or amplified voices to be played outside and bottles must not be deposited between 2100 hours and 0900 hours.

Directors comments:

PROPOSAL

This application seeks approval for the change of use of a portion of the public footway, fronting Banks Road to a formalised seating out area for the consumption of food and drink. Amended plans were received reducing the scale of the proposal and restricting its hours of use. The current application proposes to enlarge the existing area of outside seating to 3m by 16.8m, to erect 1m high balustrades to the perimeter of that area, and to install a canopy over the area. The scheme includes privacy screens and alterations to the existing windows.

PRINCIPLE OF DEVELOPMENT

Amended plans were received reducing the scale of the proposal and restricting its hours of use. As such the proposal is considered acceptable under Policy SH1 and TL5 of the Wirral Unitary Development Plan 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 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 proposal is assessed against the adopted Unitary Development Plan Policy SH1 Criteria for Development in Key Town Centres and SPD3 Hot Food Takeaways, Restaurants, Cafes and Drinking Establishments. This is to be evaluated against the Government's key objectives in PPS6 Planning for Town Centres.

SEPARATION DISTANCES

The application is for decking projecting 3m from the front elevation of the property and 100mm in height. The height of the decking and its positioning is not considered to result in overlooking.

APPEARANCE AND AMENITY ISSUES

The Government's key objectives as set out in PPS6 Planning for Town Centres 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.

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 principle of outdoor seating is therefore considered acceptable under policy PPS6, SH1 and TL5. The upgraded outdoor seating is considered to promote an "active frontage" which will 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). Whilst objections were received regarding the growing number of late night uses in West Kirby, 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.

Amended plans were requested reducing the size of the proposal including removing the portion of decking/seating facing onto Church Road and reducing the projection of the decked outdoor seating area by 1m to project no more than 3m. This was deemed necessary to reduce the bulk of the development and protect the amenities of the occupier of No.25 Church Road. The scale and extent of the decking is now deemed acceptable and the use is directed to the main shopping street.

The decking is 100mm above ground floor level and is not considered excessive in terms of scale. The proposed balustrades and canopy are simple in design and appropriate to the surrounding streetscene. Whilst there are no other outdoor seating areas in this locality, they are a feature in West Kirby and as discussed it is considered acceptable in terms of scale and design, will not harm the character of the original building or surrounding buildings, and introduces a new feature with a large open piece of concrete paving which has no aesthetic value.

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 the residents in the flats within 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 stating the outside area cannot be used for the consumption of food and drink after 2130 hours.

Issues of an increase in deliveries and collections raised in the letters of objection received lie outside the remit of the Local Planning Authority, It is not considered the

information submitted by the applicant is misleading and a site inspection was conducted and notes taken during the visit. The proposal will not set a precedent as all applications are assessed on their own merits. The agent confirmed notice 1 has been served on the Council, and Highway Maintenance have no objection to the application.

HIGHWAY/TRAFFIC IMPLICATIONS

Concerns were received regarding the width of the pavement should the application be approved, and the potential parking issues. The Director of Technical Services (Traffic Management Division) has 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

The principle objection to the proposal by neighbouring residents was the potential for noise and disturbance, which would intensify in anti-social hours. As discussed above, the principle of outdoor seating is deemed acceptable, however the initially requested hours for outdoor eating/drinking until 2300 hours would harm residential amenity. It is considered appropriate to limit and condition the hours of use for the proposed seating area. The applicant agreed hours of use of the outdoor area for the consumption of food and drink be amended to 1200 hours to 2130 hours. A 2m screen to the south elevation will further mitigate the likelihood of any noise and disturbance.

The Director of Regeneration Housing & Environmental Protection has no objections to the proposal on the provision of conditions relating to noise reduction measures. Conditions can be imposed for the closing of the folding windows after 2130 hours, self closing mechanisms on the doors and no amplification in the outside area. It is considered this will negate any impact on the surrounding properties. Conditions that are not enforceable or reasonable include controlling when bottles should be deposited. There were no objections from Housing & Environmental Protection regarding sound reflection and additional noise, smoke pollution or odours. The plans do not show external heaters. There are no environmental/sustainability issues relating to the proposal.

HEALTH ISSUES

There are no health implications relating to this application.

CONCLUSION

Amended plans have been received which are deemed to address policy issues and some of the neighbours' objections. The proposal is considered to contribute to the vitality and unique character of the area. It will not undermine the viability of the area or have a detrimental impact on highway safety. Hours restrictions of opening will protect residential amenity in relation to noise and disturbance. It is considered the proposal complies with the relevant national and local legislation

Summary of Decision: 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.

Recommendation: **Approve**

Condition(s):

- 1 Full planning permission: standard commencement date. (C03A)
- 2 Development according to plans received on 12 August 2009. (C24C)
- 3 The outside area shall not be used for the consumption of food or drink between the hours of 2130 hours and 1200 hours.
- 4 Prior to the commencement of the use hereby approved, full details shall be submitted to and approved in writing by the Local Planning Authority for a scheme of self-closing mechanisms on all doors between inside and outside areas to the premises. Upon receipt of written approval by the Local Planning Authority the scheme shall be carried out in full prior to the use being open to members of the public and retained as such thereafter.
- 5 The folding windows (shown on drawing no 5 revision A) shall remain closed between the hours of 2130 hours and 1200 hours.
- 6 No live or recorded music or amplified voices shall be played in the outside area at any time.
- 7 Before the development hereby permitted is brought into use a screen shall be erected to the south elevation of the decking of a height of 2 metres above floor level (as shown on drawing 06 revision A) and shall be retained as such thereafter. No development shall take place until details of the materials of the proposed screen has been submitted to and approved in writing by the Local Planning Authority.

Reason for conditions

- 1 Standard (CR86)
- 2 For the avoidance of doubt. (CR33)
- 3 In the interests of amenity.
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- 6 In the interests of amenity. (CR17)
- 7 To protect the privacy of residents. Policy HS11 of the UDP (CR62)

Last Comments By: 06 August 2009

56 Day Expires On: 26 August 2009

Case Officer: Miss S Hesketh

Notes:

The stopping up of the adopted highway is required. Please contact Highway Maintenance on (0151) 606 2098.