

RECOMMENDATION FOR PLANNING AND DEVELOPMENT COMMITTEE

APPROVAL

DATE: 29 MARCH 2006

REF: CS/EL/JS

CHECKED BY:

APPLICATION NO: 3/2006/0029/P

(GRID REF: SD 6681 3107)

PROPOSED ERECTION OF TIMBER DECKING (82M2) TO THE REAR OF THE PUBLIC HOUSE AS AN EXTERNAL DINING AREA AND BEER GARDEN, TO REPLACE CHILDREN'S PLAY AREA AT THE SPREAD EAGLE HOTEL, MELLOR LANE, MELLOR

PARISH COUNCIL: Mellor Parish Council objected to the application on the following grounds:

1. Concerns over noise/bad language and light pollution to properties in immediate vicinity.
2. The proximity to the collection bins when serving food would appear inappropriate.

Ramsgreave Parish Council have commented that, although the development is in Mellor Parish, the site is at the abutment of the Parish with Ramsgreave. They say that they have been asked by several of their parishioners, who have a vested interest, to tender their objections.

NEARBY RESIDENTS: A letter has been received from the owners/occupiers of a property on the opposite side of Mellor Lane who object to the application for the following reasons:

1. Noise disturbance especially from the large umbrellas flapping in the wind. They could at least be folded down and contained overnight.
2. The umbrellas are so large that they block the previously enjoyed views of Pendle Hill and Waddington Fell.
3. Three lengthy letters have been received from the owners/occupiers of a dwelling on the same side of Mellor Lane as the site, but on the opposite side of Saccary Lane. These letters are available for inspection by Members but the main objections contained within them are summarised as follows:
 1. When this area was a children's play area, they were not disturbed in the evenings because there would be just a few children playing outside. It was little different to children playing in a neighbour's garden.

2. Now there can be up to 100 adults eating and drinking in the area until late at night. They generally become more noisy and more likely to use bad language as they become more drunk. Their 6 year old daughter has unfortunately heard such language. This represents such an imposition on them as they cannot leave windows open in the evening or have friends around because of the "onslaught of noise" from the dining/beer garden. What was once a family pub/restaurant with a children's play area has been changed into a mainly adult external beer drinking area.
3. There has been a blatant disregard of planning rules and regulations by Whitbread and would have gone unrecognised if we had not brought it to the Sub-Committee of the Licensing Committee's attention during Whitbread's application for an extension to licensing hours at the Spread Eagle. Surely it would not be unreasonable to presume that a large company such as Whitbread with so many restaurants, would know that planning permission should be sought prior to works commencing.
4. There could be increased crime and disorder – there is evidence of drug users and pushers using the car park late at night of which the police are aware. There have been cars in the car park with all doors and windows open with loud music disturbing the neighbours until late at night. An external dining area and beer garden is a greater attraction for adults to come to the Spread Eagle later at night.
5. The public nuisance has increased substantially – where there was a children's play area there is a permanent dining area and beer garden since July 2005 and with further outside tables on the grass there is seating for up to 200 people. There is also a substantial increase in lighting to the beer garden including a tree full of what can only be described as fairy lights, where before there was only low level lighting. There is therefore a substantial increase in lighting, noise, swearing and overall nuisance to neighbours where there was none before July 2005. Should planning permission be granted we are either going to be forced to be prisoners in our own

home and not use the garden or sell the property and move. This would obviously be very disruptive to us as a family.

6. There is a danger to children – the increase in adults using what is a family restaurant/pub changes the nature of the activity outside the premises and therefore the danger to children both in increased traffic during the spring, summer and autumn months on narrow lanes/roads, also the increase in drunken behaviour of adults will have a significant influence over children at what is essentially a family restaurant.
7. There is an increased risk to public safety – the change of use from playground to dining area and beer garden (capacity of up to 200 people) has increased the number of people consuming alcohol from outside sales and therefore increased the traffic on an already dangerous crossroads and entrance to the property. Obviously there will also be children running around from beer garden to grassed area through the car park.
8. There is a real possibility that our property will suffer a devaluation because of the dining area and beer garden proximity to our property.
9. If the application is successful, this will be the forerunner of an application to extend the property in the dining area and beer garden.
10. In a supporting statement submitted on behalf of the applicants a number of comments are made, including the following:
 - The children's play equipment which originally occupied the site was dilapidated, unsightly and in need of repair.
 - The proposal complies with Policies G1, G5 and ENV2 of the Local Plan.
 - The proposal does not constitute a material change of use.
 - The new structure is of high quality and visually more attractive than the previous

play equipment.

- The patio area was already used as a drinking area.
- The development is small scale.
- There is no loss of privacy to adjacent residents.

The neighbour disagrees with all of these comments.

Proposal

Retrospective permission is sought for an 82sqm decked area with balustrading to the rear of the public house. The decked area is of irregular shape with maximum dimensions of 11m x 11m. It has been formed on ground which was previously occupied by children's play equipment.

The decking has been laid flush with an existing adjacent patio area in order to avoid steps and ensure accessibility for disabled persons. This has resulted in the decking being slightly raised at its northern edge in order to achieve a level surface.

There is a 1.8m closed board fence along the eastern side of the decking with 1m high timber balustrading to its north and west sides.

Site Location

The Spread Eagle public house is located on the north side of Mellor Lane and west side of Saccary Lane at the crossroads junction of those two roads with Higher Ramsgreave Road and Barker Lane.

There are residential properties to the east of the site (on the opposite side of Saccary Lane) and to the south (on the opposite side of Mellor Lane). To the north and west the site is adjoined by open fields.

Relevant History

3/89/0707/P – Extension to restaurant, kitchen and car park extension. Approved.

3/89/0958/P – Extension to car park. Approved.

3/90/0931/P – Extension to staff facilities. Approved.

Relevant Policies

Policy G1 - Development Control.

Policy G5 - Settlement Strategy.

Policy ENV3 - Development in Open Countryside.

Environmental, AONB, Human Rights and Other Issues

The 'planning unit' of this public house (as would be the case for any public house) comprises the building itself and its outdoor areas such as play areas, beer gardens and car park. The authorised use of the site as a public house covers the whole of the planning unit. Therefore, provided that there is no operational development (ie structures or buildings) involved, the use of any part of the 'planning unit' for any purpose normally associated with a public house can be carried out without planning permission (as no development or change of use would be involved).

Until some time around July 2005 the area at the rear of this public house building was used as a children's play area and contained play equipment. That was a legitimate use of this area of land falling within the use rights of the public house. At that time the play equipment was removed and replaced with the decking to which this application relates. Tables are placed on the decking and it is used as an outdoor eating and drinking area. This is also a legitimate use which falls within the use rights of the public house. It does not represent a material change of use in planning terms.

The decked area was used for its intended purpose throughout the remainder of the summer of 2005, and the Environmental Health Officer has confirmed that he did not receive any specific complaints regarding noise, but that there was a general comment from the resident closest to the area, that the level of noise had altered and a comment was also made about lighting of the area. The planning department did not receive any complaints about the decking or its use.

The decking was the subject of discussion at a Licensing Sub-Committee meeting on 13 October 2005 which was considering an application for an extension to the licensing hours of the public house. This resulted in the planning department being asked whether the decking should have had planning permission. The answer to that question is that permission was required but only because the decking and balustrade represents operational development. The use of that area as a beer garden does not, in itself, require permission. If tables were placed on the grass in that area, permission would not be required. The effects on the amenities of nearby residents of a beer garden formed in that way would be no different to the use of the decked area for eating and drinking.

Therefore, whilst appreciating the objections raised by nearby residents, the only consideration to be made in respect of this development concerns its effects on the appearance of the locality. As an area of timber decking with timber balustrading which has a maximum height above ground level of only approximately 1.4m, I consider the effects on visual amenity to be minimal and acceptable. This is a small scale development at an existing commercial premises which I consider to satisfy the requirements of the relevant policies of the Local Plan.

SUMMARY OF REASONS FOR APPROVAL

The operational development (ie the construction of the decking and balustrade) for which retrospective planning permission is sought has no seriously detrimental effects upon visual amenity or the amenities of nearby residents.

RECOMMENDATION: That planning permission be GRANTED.