

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/23/2006/0F1
2.	<b>Proposed Development:</b>	FORM A NEW ROOF GARDEN TO EXISTING PUB
3.	<b>Location:</b>	THE BRANSTY ARCH, BRANSTY ROW, WHITEHAVEN
4.	<b>Parish:</b>	Whitehaven
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Conservation Area - Conservation Area, Coal - Standing Advice - Data Subject To Change
6.	<b>Publicity Representations &amp;Policy</b>	Neighbour Notification Letter: YES  Site Notice: YES  Press Notice: NO  Consultation Responses: See report  Relevant Planning Policies: See report
7.	<b>Report:</b>  <b>Site and Location</b>  This application relates to 5 Bransty Row which is currently utilised by Wetherspoons as a Public House. The premises are large in scale and lie on the end of a terrace of buildings which marks the approach into Whitehaven from Bransty Row.  The building has a derelict hard surfaced area to the rear fronting onto Wellington Row which was formerly occupied by a building used in association with the bus station.  The site is within the Whitehaven Conservation Area and lies in close proximity to a number	

of residential properties to the east of Wellington Row.

### **Relevant Previous Applications**

Change of use to a traditional wine and food bar, approved in May 2002 (application reference 4/02/0378/0 relates);

Alterations to the shop front to new pub, approved in October 2002 (application reference 4/02/0952/0 relates);

Advertisement Consent for internally illuminated signage, approved in October 2002 (application reference 4/02/0958/0 relates);

Creation of a new beer garden on the roof of an existing public house with a new customer staircase and disabled lift, withdrawn in September 2016 (application reference 4/16/2298/0F1 relates);

The development of an existing derelict site to form a beer garden with associated works for use in association with JD Wetherspoon Bar, approved in June 2018 (application reference 4/18/2396/0F1 relates).

### **Proposal**

Planning permission is sought for the creation of a beer garden in association with the existing pub. It is to be situated on an used hardsurfaced area of land to the east of the building which, due to the change in levels across the public house site, lies at the same height as the roof of the main building.

The beer garden will be accessed through the existing bar area with a stair and lift access proposed which terminate in a small building on the northeastern boundary. The beer garden will be on a level surface and bound on its southern edge by a 300mm wall.

It is proposed to construct a pitched roof structure that will be supported on a timber frame to create a covered area of seating. This structure is of a "L" shaped configuration with its main length parallel to Wellington Row. This structure will be a maximum height of 4 metres and it will extend into the site by 5m. The roof is to be covered with zinc cladding. The central section of the beer garden will be open.

It is also proposed to have a food serving area and dispense room and a bin store to the northern part of the site. The bin store will be accessed off Wellington Row.

The existing wall on the southern edge of the site is to be lowered and retained as a means of enclosing the roof garden.

The proposed opening hours submitted with the application are:

Monday – Friday	08:00:00 – 00:00:00
Saturday	08:00:00 – 01:00:00
Sunday and Bank Holidays	08:00:00 – 00:00:00



## Cumberland Council

### Consultation Responses

#### Whitehaven Town Council

No objections.

#### Conservation and Design Officer

##### 1<sup>st</sup> response

Description: This site is a vacant plot on top of and to the rear of the Bransty Arch pub. It was formerly occupied by mid-twentieth century light industrial buildings but has been vacant following clearance for over a decade.

Conclusion: Request further information

Assessment:

- I would view these proposals as having limited visibility from the surrounding parts of the conservation area. The main improvement is likely to come from improving the appearance of the external wall and imparting a sense of life and theatre to this corner. What is visible will be an improvement to the current scruffy and vacant site, and therefore preserve or enhance the character of the conservation area.
- Impact on this non-designated heritage asset is likely to be positive from improving the appearance of its upper rear sections and increasing its communal value, which contributes to its significance.
- Impact on the conservation area is likely to be positive from rectifying the sense of vacancy that currently blights this street corner. Additionally, the relocation of the bin store to the rear of the building will remove a feature that makes a negative impact to the frontage.
- Impact on the setting of the grade II listed 34-35 Tangier Street over the junction is likely to be minimal and to consist of slight enhancement.

I have the following questions:

- Is the intention to re-render the external walls or to leave them flush pointed?
- Is the intention to wholly relocate the bin storage from the front roadside to the new bin store, or are some bins to be left on the pavement on Bransty Row?
- Is it proposed to install a door, gate or similar at the opening to the beer garden on the corner of George Street and Wellington Row?
- The Proposed Roof Plan is annotated "Wall at high level TBC", and I would be grateful for clarification on this.
- A palette of materials for roofs, paving etc. should be provided as part of the submission. This could take the form of photo references and product details on a

sheet or similar.

- Pointing should balance the need to resist weather with being softer than the masonry. NHL5 is the hardest NHL and risks leading to masonry damage unless it is particularly tough e.g. engineering brick, granite etc. If the masonry is at all soft or crumbly, such as sandstone or old or damaged brick, NHL3.5 may be a better choice.

### 2<sup>nd</sup> response

In my previous consultation response, I requested expansion on the following points:

- Is the intention to re-render the external walls or to leave them flush pointed?
- Is the intention to wholly relocate the bin storage from the front roadside to the new bin store, or are some bins to be left on the pavement on Bransty Row?
- Is it proposed to install a door, gate or similar at the opening to the beer garden on the corner of George Street and Wellington Row?
- The Proposed Roof Plan is annotated "Wall at high level TBC", and I would be grateful for clarification on this.
- Pointing should balance the need to resist weather with being softer than the masonry. NHL5 is the hardest NHL and risks leading to masonry damage unless it is particularly tough e.g. engineering brick, granite etc. If the masonry is at all soft or crumbly, such as sandstone or old or damaged brick, NHL3.5 may be a better choice.
- A palette of materials for roofs, paving etc. should be provided as part of the submission. This could take the form of photo references and product details on a sheet or similar.

The following information has now been provided relating to the last of those:

- Mayfair Flags granite aggregate slabs will be used, along with Millboard Enhanced Grain coloured Oak cladding and a zinc sheet.
- I presume these are for the rooftop flooring, and the wall and roof cladding of the new rooftop structure (food servery and dispense room) although cannot be certain.
- I would be grateful for confirmation of this, and responses to the other questions posed above.

### 3<sup>rd</sup> response

In my previous consultation response, I requested expansion on the following points:

- Is the intention to re-render the external walls or to leave them flush pointed?
- Is the intention to wholly relocate the bin storage from the front roadside to the new bin store, or are some bins to be left on the pavement on Bransty Row?
- Is it proposed to install a door, gate or similar at the opening to the beer garden on the

corner of George Street and Wellington Row?

- The Proposed Roof Plan is annotated “Wall at high level TBC”, and I would be grateful for clarification on this.
- Pointing should balance the need to resist weather with being softer than the masonry. NHL5 is the hardest NHL and risks leading to masonry damage unless it is particularly tough e.g. engineering brick, granite etc. If the masonry is at all soft or crumbly, such as sandstone or old or damaged brick, NHL3.5 may be a better choice.
- Clarification on where the respective elements of the palette of materials for roofs, paving etc. are to be used

The following information has now been provided:

- The external walls will be left with a pointed masonry finish.
- Most or all of the bins will be relocated to the garden. If there are any left on the pavement, this will be a great reduction.
- The garden will be fitted with a gate or door onto Bransty Row.
  - I have not been able to find detail of this in the application, so request either that it be included to allow a full understanding of how this corner will appear to the conservation area, or that a condition is used requiring detail to be submitted and approved prior to its installation.
- I think it would be reasonable to reduce the height of the almost freestanding section of gable wall.
  - Details should either be included with the application (e.g. an annotated elevation drawing), or a condition used requiring the proposal to be submitted and approved prior to the alteration taking place.
- NHL3.5 is proposed for the rendering and is supportable here.

#### 4<sup>th</sup> response

Conclusion: No objection

Assessment:

In my previous consultation response, I requested either detail of two points, or conditions attaching to provide those details. My attention has been draw to information submitted in the application that provides sufficient level of detail, and so I’m able to support the application.

#### Environmental Health

#### 1<sup>st</sup> response

In considering the response to the application for the roof terrace beer garden, Environmental Health are mindful of the previous approved application (ref 4/18/2396/0F1) and the new

letter of objection to this current application received from a local resident.

The objections are based around potential loss of amenity of residents from noise disturbance from the terrace beer garden.

This noise disturbance would be mainly from patron noise (raised voices, laughing etc).

The applicant has included a noise impact assessment to look at this.

Environmental Health are in agreement with the noise impact assessment of the existing ambient noise of this vicinity, made up largely of noise from traffic and from the existing roof top plant equipment of the Bransty Arch PH.

There is, however, no specific guidance for the impact of patron noise.

The noise impact assessment has predicted two measures of patron noise, based on other Wetherspoon sites, of 67 db and 74 db between 21.00 – 23.00 hours.

The measurement of patron noise can be highly variable and difficult to predict, with noise levels commonly seen between 65 – 100 dba depending on a host of variables. 'Noise creep' can also occur as the evening wears on, where the noise level from a large group of persons gathered together gradually increases over time.

Context of the local noise environment is important in this case.

The noise impact assessment has used guidelines set out in the WHO Community Noise Guidance which states a 16 hour external average noise level (07.00 – 23.00 hours) of 50 db as being preferable.

This use of the WHO Community Noise Guidance has been questioned by Mr Howard, but there is a lack of a definitive and suitable measurement otherwise.

The local existing ambient noise (from traffic and plant equipment) is similar to daytime WHO guideline levels at present and the predicted noise from patrons on the roof terrace is not seen to greatly exceed this value in the noise impact assessment.

However, Environmental Health do agree with Mr Howard in that such loud noises from patrons can be both distinctive and may exceed the above average predicted patron noise values by a considerable margin for short periods, especially in the later evening.

In such an instance, therefore, there is no perfect solution. Some noise disturbance from the patrons on the roof terrace is possible.

It would be for the Council to judge whether the town centre location in question is suitable to site the development.

The Environmental Health Team would wish to point out that other pubs in the town centre have external beer gardens that are on a 21.00 curfew because of concerns around noise.,

The proposed hours of operation up to 23.00 in this application are therefore a concern.

Environmental Health believe that the planning conditions approved in the first planning



## Cumberland Council

application were an acceptable compromise to this situation.

Namely, that there should be a curfew of 21.00 hours on use of the roof terrace beer garden and that a Noise Management Plan (to include collection and disposal of glasses / bottles) be submitted by the applicants.

The local resident points out that there has been an over-reliance on such management measures in other cases. However, again, in the lack of definitive guidance a site-specific Noise Management Plan would be a commonly-acceptable means of dealing with this issue.

In terms of other concerns, it should be noted that while Wetherspoon pubs do not typically play music there could be a condition imposed prohibiting outdoor entertainment, music, televisions, gambling machines, etc.

The wall along the northern boundary will require a barrier along the top, the disused site to the north is level with the top of the wall and so there is a fall hazard into the proposed beer garden.

It is likely that about 25% of the beer garden would allow smoking, this area should be submitted to and agreed with the planning authority.

All outdoor lighting schemes will need to meet the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Light (GN01:2011).

Before any works take place a construction management plan needs to be produced for the construction phase to include controls on noise, dust, light.

Construction hours of operation should be 8am-6pm Mon-Fri, 8am-1pm Sat and no work on Sun or Bank Holidays.

In conclusion, therefore, I would request that the following conditions are imposed on any approval:

- There shall be no operational use of the beer garden between the hours of 21.00 and 09.00 on any day.

Reason:

To minimise potential disturbance to nearby residents as a result of noise.

- No development shall take place until a site-specific construction management plan or construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved plan / statement shall be adhered to throughout the construction period.

Reason:

In the interests of the safe operation of the highway and in order to maintain a satisfactory level of neighbourhood amenity.

- During construction, development shall take place during the following hours and at no other times:

Monday to Friday 08.00 – 18.00

Saturday 08.00 – 13.00

Reason:

In order to ensure a reasonable standard of amenity for the surrounding properties.

- Prior to first use of the beer garden, a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This should also include full details of how bottles, glasses, plates and cutlery shall be removed from the beer garden and disposed, as well as details on the control of patrons in the beer garden, and handling / recording of any complaints made.

Reason:

To ensure adequate amenity for the surrounding residential properties.

- Prior to first use of the beer garden, full details of the area to be used for outdoor smoking shall be submitted to and approved in writing by the Local Planning Authority. Development shall be undertaken in accordance with the approved details and retained as such at all times thereafter.

Reason:

To ensure a reasonable level of amenity for surrounding properties.

- Full details of the treatment of the northern boundary wall shall be submitted to and approved in writing by the Local Planning Authority. Development shall be in accordance with the approved details and completed before the first use of the beer garden hereby approved and shall be retained at all times thereafter.

Reason:

To ensure the safety of the users of the beer garden.

- Details of any external lighting that is to be installed in the beer garden shall be submitted to and approved in writing to the Local Planning Authority. Details of the lighting shall be in accordance with the Reduction of Obtrusive Light produced by the Institute of Lighting Professionals, and shall be maintained as such at all times



thereafter.

Reason:

In order to ensure the amenity of surrounding residential properties.

### 2<sup>nd</sup> response

I'm happy with the document and pleasing to see that Wetherspoons are agreeable to the 21.00 hours curfew on the use of the rooftop beer garden.

It's likely that the premises licence for the Bransty Arch PH will need a variation, under the Licensing Act 2003, and some of the finer details of day-to-day operations can be honed through this process.

### Crime Prevention Officer

Many thanks for your communication dated 10<sup>th</sup> January 2023.

I have consulted with the police Licensing Officer that covers this area and he has no concerns regarding this proposal.

I have perused the drawings and documents to ascertain if this application complies with Policy DM10 of the Local Plan, with regard to appropriate crime prevention measures and community safety.

#### i) Clear distinctions between public and private spaces

The published Design and Access Statement does not explain if customers shall be permitted to enter the new space via Wellington Row – or if access may only be achieved from inside the pub. If access shall be permitted, there must be obvious features to indicate access to a private space and it must be appropriately supervised by staff to prevent unobserved access by unauthorised persons or youngsters. (The Noise Impact Document advises that the new space shall be observed by CCTV. CCTV views must be carefully arranged to ensure no approaches or features are concealed from view).

#### Other recommended security measures

##### Bin Store

This space must be kept secure when not in use (to prevent bins exploited as climbing aids or source for arson)

#### Configuration of New Facilities

The development establishes new access points into the structure, providing approach to the

Dispense Room and access to the Food Servery and internal staircases. Shutters and exterior doors must be suitably specified to resist forced entry to the building from this direction. I recommend the incorporation of door and shutter products compliant with LPS 1175 and fitted with laminated glazing (BS EN 356) as appropriate. New access points should be connected to the premises intruder alarm system.

#### CCTV

Image standard and compliance with Data Protection legislation issues to be addressed, to ensure cameras may capture lawful 'evidential quality' images.

I shall be pleased to advise on any crime prevention issues arising from this application.

#### Public Representation

The application has been advertised by way of a site notice and neighbour notification letters issued to 9 no. properties.

One letter of objection has been received as a result of these advertisements raising the following concerns:

- Amenity issues for surrounding neighbours due to noise.

#### **Planning Policy**

Planning law requires applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

#### **Development Plan:**

On 1st April 2023, Copeland Borough Council ceased to exist and was replaced by Cumberland Council as part of the Local Government Reorganisation of Cumbria.

Cumberland Council inherited the local development plan documents of each of the sovereign Councils including Copeland Borough Council, which combine to form a Consolidated Planning Policy Framework for Cumberland.

The inherited the local development plan documents continue to apply to the geographic area of their sovereign Councils only.

The Consolidated Planning Policy Framework for Cumberland comprises the Development Plan for Cumberland Council until replaced by a new Cumberland Local Plan.

#### **Copeland Local Plan 2013-2028 (Adopted December 2013):**

#### Core Strategy (CS)

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Policy ER4 – Land and Premises for Economic Development

Policy ER7 – Principal Town Centre, Key Service Centres, Local Centres and other service areas: Roles and Functions

Policy ER8 – Whitehaven Town Centre

Policy SS4 – Community and Cultural Facilities and Services

Policy ENV4 – Heritage Assets

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM27 – Built Heritage and Archaeology

**Emerging Copeland Local Plan 2021-2038 (ELP):**

Cumberland Council are continuing the preparation and progression to adoption of the emerging Copeland Local Plan 2017-2038.

The emerging Copeland Local Plan 2017-2038 comprising the Publication Draft (January 2022) and Addendum (July 2022) have recently been examined by the Planning Inspector and their report on the soundness of the plan currently remains awaited.

As set out at Paragraph 48 of the National Planning Policy Framework (NPPF), Local Planning Authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which objections to relevant policies have been resolved; and the degree to which emerging policies are consistent with the NPPF.

Given the stage of preparation of the emerging Copeland Local Plan 2017-2038 some weight can be attached to policies where no objections have been received or objections have been resolved. The Publication Draft (January 2022) and Addendum (July 2022) provides an indication of the direction of travel of the emerging planning policies, which themselves have been developed in accordance with the provisions of the NPPF.

The policies relevant to this application are:

Strategic Policy DS1PU: Presumption in favour of Sustainable Development

Strategic Policy DS2PU: Reducing the impacts of development on Climate Change

Strategic Policy DS3PU: Settlement Hierarchy

Policy DS6PU: Design and Development Standards

Policy DS7PU: Hard and Soft Landscaping

Strategic Policy E1PU: Economic Growth

Strategic Policy R1PU: Vitality and Viability of Town Centres and villages within the Hierarchy

Strategic Policy R2PU: Hierarchy of Town Centres

Strategic Policy R3PU: Whitehaven Town Centre

Policy SC5PU: Community and Cultural Facilities

Strategic Policy BE1PU: Heritage Assets

Policy BE2PU: Designated Heritage Assets

Policy CO7PU: Parking Standards and Electric Vehicle Charging Infrastructure

### **Other Material Planning Considerations**

National Planning Policy 2021 (NPPF)

Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA)

The Copeland Conservation Area Design Guide

This was adopted as a Supplementary Planning Document in December 2017. It seeks to conserve and enhance Listed Buildings and Conservation Areas by ensuring that repairs, reinstatements and alterations are undertaken in a way that preserves important assets.

### **Assessment**

#### Principle of the Development

Policy ST1 of the CS and DS1PU of the ELP set out the strategic 'Development Principles' that underpin the Borough's planning policies. This encourages the reuse of existing buildings and also the protection and enhancement of the Borough's cultural and historic features and their settings.

Policy ST2 of the CS and DS2PU of the ELP set out a Spatial Development Strategy for the Borough and states that development will be located within existing settlements and help with the regeneration of the town centres. Whitehaven is designated as Copeland's Principal Town where most of the Borough's development should be focussed.

Policy ER6 of the CS and E1PU of the ELP state that employment related development will be supported within Whitehaven.

Policy ER7 of the CS and R1PU of the ELP state that development will be required to meet the needs of the area and be appropriate to the scale of the town centre. Development should also reinforce the role of Whitehaven as the Principal Town through the promotion of a flexible, mixed-use approach.

Policy ER8 of the CS encourages development in Whitehaven Town Centre which includes

(but is not limited to) the following:

- Enhances the retail function of ground floor premises;
- Diversifies the 'offer' within the town centre, and improves the evening and night time economy;
- Improves the integration of new and existing development into the urban grain;
- Improves the range of activities available to local residents and visitors.

This guidance is repeated within Policy R3PU of the emerging local plan.

The proposal relates to an established and popular public house, run by JD Wetherspoon. The land for development is brownfield land, currently unused hard standing and the site is located within the settlement boundary for Whitehaven. On this basis, the principle of the development is considered to be acceptable subject to site specific considerations which are assessed below.

#### Impacts on Residential Amenity

Policy DM10 of the CS seeks to foster 'quality places' addressing vulnerability to and fear of crime and anti-social behaviour and create and maintain reasonable standards of general amenity. Policy DS6PU of the ELP intends to provide high levels of residential amenity, including designing out crime.

The key issue raised by this application is the likely impact on the amenity of the occupiers of the adjacent residential properties as a result of the potential noise and disturbance created by the use of this outdoor space as a beer garden.

The existing public house at 5 Bransty Row has residential properties to the east and south with another Public House situated to the north. Due to the fact that the site is not completely enclosed, there is potential for the beer garden to create noise issues for the surrounding properties.

The Environmental Health Officer has reviewed the submitted information, including additional information received from an objector, including the submitted noise assessment and accepts that based on this information the levels will not be unsatisfactory for the surrounding properties. Although the application indicates that the beer garden will be open until midnight, it is considered that in order to protect the surrounding properties, it should be closed at 9pm with no further use after that time. This is consistent with the approach taken on other beer gardens within the town centre and strikes a balance between the business needs of the applicant and the duty to protect residential amenity.

Policy DM7 of the Copeland Local Plan states that proposals relating to pubs and clubs will be permitted within the defined town centres, provided that they are not detrimental to residential amenity. All other issues, such as the possibility of the provision of outside

entertainment and anti-social behaviour issues can be controlled by the premises license rather than through the planning legislation.

Further to this, the main entrance to the beer garden will be via an internal entrance from the existing public house. The Applicant has provided a Premises Management Plan to detail that staff are trained to ensure as little disturbance as possible to surrounding properties, the use of signage to encourage sensible behaviours and to ensure that no drinks are taken onto the street. This will further protect the properties situated on Wellington Row.

The proposal will create a raised platform with views towards Bransty Row and Tangier Buildings. Although the issue of overlooking from the beer garden towards these properties has been considered, the separation distances of at least 33 metres are considered to be acceptable and the proposal is unlikely to create amenity issues for any of these adjacent properties in terms of overlooking.

On this basis, subject to the control of the use of the external space, it is considered that this proposal will comply with policies within the Copeland Local Plan and emerging local plan and it is considered that there are no planning grounds to refuse the application on amenity grounds.

#### Design and Impacts on the Conservation Area

Policies ENV4 and DM27 of the CS and BE1PU and BE2PU of the ELP relate to the protection and enhancement of the Conservation Area and seek to ensure that any alterations are in keeping and respect the existing character of the area. Policy DM10 of the CS and DS6PU of the ELP requires good design.

The LBCA sets out a clear presumption that gives considerable importance and weight to the desirability of preserving a heritage asset and its setting.

Section 66.1 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'.

Section 72 requires that: 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance' of a conservation area.

The Wetherspoons building dates from the 1920s or early 1930s and is unlisted. It forms part of a group of buildings in a prominent location within the Whitehaven Conservation Area. The Conservation Officer reviewed the submitted plans and raised several questions with regards to details of the finishes, including the rendering of the external wall, the placement of bins within the bin store and gate details. Further to the submission of all of this information, the Officer was able to fully support the proposal.

The development will fill in a currently unsightly gap with a proposal which is in keeping with both the existing building and surrounding Conservation Area. The Conservation Officer

	<p>considers that the proposal will have a positive impact on the Conservation Area from both long and short views.</p> <p>It is considered that the proposal will improve the appearance of this section of the building and will enhance the Conservation Area, in accordance with Policy DM27 of the CS and Policy BE1PU of the ELP.</p> <p><u>The Planning Balance and Conclusion</u></p> <p>Planning policy encourages the retention and expansion of new and existing businesses in Copeland, with major development focussed on its Principal Town of Whitehaven. The principle of the use of the site for an external beer garden is considered to be acceptable subject to site specific considerations including the impacts of the use on residential amenity and also on the character and appearance of the Conservation Area..</p> <p>The enhancement of facilities to allow the longevity and growth of the business carries significant weight within the planning balance. Furthermore, the improvements to the aesthetics of the building and the sympathetic design will ensure the preservation of the character and appearance of this part of the Whitehaven Conservation Area.</p> <p>Whilst there may be some noise emanating from the site as a result of open-air drinking and eating mitigation in terms of a restriction in the opening hours that the beer garden can be used and the implementation of a management plan put in place by the Applicant is likely to reduce the impacts on nearby residents. Any noise issues can be dealt with under the premises license and separate public nuisance legislation.</p> <p>The nighttime economy can add vitality and viability to the town centre which has to be balanced against any potential impacts upon residential amenity. The positive aspects of this application are considered to outweigh any harm created in this case.</p> <p>Overall, this is considered to be an acceptable form of development which accords with the guidance set out in the NPPF and the adopted Local Plan.</p>
8.	<p><b>Recommendation:</b></p> <p>Approve (commence within 3 years)</p>
9.	<p><b>Conditions:</b></p> <p><u>Standard Conditions</u></p> <p>1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.</p> <p>Reason</p>

To comply with Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Permission shall relate to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them: -
- Application form, received 7th July 2022;
  - Site Plan, scale 1:500, drawing number AS00-B, received 7th July 2023;
  - Block Plan, scale 1:1250, drawing number AS05, received 7th July 2023;
  - Proposed Ground Floor Plan, scale 1:100, drawing number AK07-A, received 7th July 2022;
  - Proposed Mid Level Floor Plan, scale 1:100, drawing number AK08-A, received 16<sup>th</sup> January 2023;
  - Proposed First Floor Plan, scale 1:100, drawing number AK09-A, received 9th January 2023;
  - Proposed Garden Plan, scale 1:50, drawing number AL06-, received 17th February 2023;
  - Proposed Ground Floor GA Plan, scale 1:100, drawing number AL01-, received 9th January 2023;
  - Proposed Mid Level Floor GA Plan, scale 1:100, drawing number AL02-, received 9th January 2023;
  - Proposed Roof GA Plan, scale 1:100, drawing number AL05-, received 9th January 2023;
  - Proposed Garden Layout GA Plan, scale 1:100, drawing number AL03-, received 9th January 2023;
  - Proposed Sections, scale 1:100, drawing number AX01-, received 9th January 2023;
  - Proposed Elevations, scale 1:100, drawing number AV03, received 17th August 2023;
  - Proposed Stting Out Plan First Floor, scale 1:100, drawing number AL07, received 17th August 2023;
  - Noise Impact Assessment, written by Spectrum Consultants, received 9th January 2023;
  - Design and Access Statement, written by Harrison Ince Architects, received 13th July 2022;
  - JD Wetherspoon PLC Code of Conduct for Responsible Retailing - England, Scotland and Wales, received 20th February 2023;



Proposed Smoking Area, scale 1:50, drawing number AL12-, received 20th February 2023;  
 Premises Management Plan, received 22nd February 2023;  
 Mayfair Flags Specification, received 18th April 2023;  
 Paving Stone Sample, received 18th April 2023;  
 Millboard Sample, received 18th April 2023;  
 Millboard Advanced Grain Sample, received 18th April 2023;  
 Quartz Zinc Sample, received 18th April 2023.

**Reason**

To conform with the requirement of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

**Prior to Commencement Conditions**

3. No development must take place, including any works of demolition, until a construction management plan or construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved plan/statement must be adhered to throughout the construction period. The statement must provide for:

- mitigation measures to prevent excessive noise from the site;
- details of the control of external lighting;
- parking of vehicles of site operatives and visitors;
- routes for construction traffic;
- hours of operation;
- method of prevention of mud being carried onto highway;
- pedestrian and cyclist protection;
- arrangements for turning vehicles.

**Reason**

In the interests of safe operation of the highway and in order to maintain a satisfactory level of neighbouring amenity in accordance with Policies ST1 and DM10 of the

Copeland Local Plan.

Prior To Use Conditions

4. Prior to first use of the beer garden, a Noise Management Plan must be submitted to and approved in writing by the Local Planning Authority. This must also include full details of how bottles, glasses, plates and cutlery will be removed from the beer garden and disposed, as well as details on the control of patrons in the beer garden, and handling / recording of any complaints made.

Reason

To ensure adequate amenity for the surrounding residential properties in accordance with Policies ST1 and DM10 of the Copeland Local Plan.

5. Prior to first use of the beer garden, full details of the area to be used for outdoor smoking must be submitted to and approved in writing by the Local Planning Authority. Development must be undertaken in accordance with the approved details and retained as such at all times thereafter.

Reason

To ensure a reasonable level of amenity for surrounding properties in accordance with Policies ST1 and DM10 of the Copeland Local Plan.

6. Full details of the treatment of the northern boundary wall must be submitted to and approved in writing by the Local Planning Authority. Development must be in accordance with the approved details and completed before the first use of the beer garden hereby approved and must be retained at all times thereafter.

Reason

To ensure the safety of the users of the beer garden and in accordance with Policy DM10 of the Copeland Local Plan.

Other Conditions

7. Details of any external lighting that is to be installed in the beer garden must be submitted to and approved in writing by the Local Planning Authority prior to its

installation. Details of the lighting must be in accordance with the Guidance Notes for the Reduction of Obtrusive Light produced by the Institute of Lighting Professionals and must be maintained as per the approved details at all times thereafter.

**Reason**

In order to ensure the amenity of the surrounding residential properties and in accordance with Policies ST1 and DM10 of the Copeland Local Plan.

8. There must be no operational use of the beer garden hereby approved between the hours of 21:00 and 09:00 on any day.

**Reason**

To minimise potential disturbance to nearby residents as a result of noise and in accordance with Policy ST1 of the Copeland Local Plan.

9. During construction, development must take place during the following hours and at no other times:

Monday to Friday – 08:00 – 18:00

Saturday – 08:00 – 13:00

**Reason**

In order to ensure a reasonable standard of amenity for the surrounding properties in accordance with Policy ST1 of the Copeland Local Plan.

**Informative**

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:

[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

	<p><b>Statement</b></p> <p>The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.</p>
<p><b>Case Officer: Sarah Papaleo</b></p>	<p><b>Date : 28/09/2023</b></p>
<p><b>Authorising Officer: N.J. Hayhurst</b></p>	<p><b>Date : 04/10/2023</b></p>
<p><b>Dedicated responses to:- N/A</b></p>	