
2023/0278

Applicant: Mr Kane Yeardley

Retention of marquees and outdoor container bar in rear car park

The Crown and Anchor Inn, Barugh Lane, Barugh Green, Barnsley, S75 1LL

Site Description

The application site in relation to the Crown and Anchor pub located on Barugh Lane in Barugh Green, Barnsley. The site has long been established and operated as a public house with vehicular access off Barugh lane leading to a hard surfaced parking area to the front of the detached building. The site is slightly raised from Barugh Lane itself with the access having a narrow slope upwards into the parking area. To the rear of the building is a beer garden which is partially grassed, landscaped with hard surfacing and outdoor benches/tables etc.

The site is split between the Urban Fabric and the Green Belt, in what is primarily a residential area, however to the immediate Rear/North of the site is an undeveloped green belt farmers field. The marquees and associated outdoor buildings which form the subject of this application lie within the beer garden/former parking area to the rear/side (North-East) of the building.

Relevant Site History

B/80/1432/DT – Extension to public house to form steak bar, and extension to car park (Refused)

B/81/0983/DT – Alterations and extensions to public house to provide restaurant, office, bottle store, toilets and extended living accommodation (Historic)

B/82/0238/DT – Extension to car park and formation of beer garden (Historic)

B/86/0293/DT – Erection of porch extension (Historic)

B/95/0209/DT – Formation of children's play are at public house (Historic)

B/96/0913/DT – Erection of garden shed to public house (Historic)

B/99/1201/DT – Erection of rear single-storey extensions to public house (Historic)

2018/1344 – First floor extensions to side and rear of public house (Approve with Conditions)

Proposed Development

The applicant is seeking retrospective approval for the retention of the three structures on site, as outlined on the block plan – a large marquee, a small marquee and a metal container. All three structures are located to the North of the existing pub in the beer garden/car park area.





Policy Context

Planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise and the NPPF does not change the statutory status of the development plan as the starting point for decision making. The Local Plan was adopted in January 2019 and is also now accompanied by seven masterplan frameworks which apply to the largest site allocations (housing, employment and mixed-use sites). In addition, the Council has adopted a series of Supplementary Planning Documents and Neighbourhood Plans which provide supporting guidance and specific local policies and are a material consideration in the decision-making process.

The Local Plan review was approved at the full Council meeting held 24th November 2022. The review determined that the Local Plan remains fit for purpose and is adequately delivering its objectives. This means no updates to the Local Plan, in whole or in part, are to be carried out ahead of a further review. The next review is due to take place in 2027 or earlier if circumstances, require it. The National Planning Policy Framework represents up-to-date government planning policy and is a material consideration that must be taken into account where it is relevant to a planning application. As such, the following policies are relevant to the application-

SD1: Presumption in favour of sustainable development – When considering development proposals we will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. We will work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

GD1: General Development – Development will be approved if there will be no significant adverse effect on the living conditions and residential amenity of existing and future residents.

GB1: Protection of Green Belt – Green Belt will be protected from inappropriate development in accordance with national planning policy.

GB2: Replacement, extension and alteration of existing buildings in the Green Belt - Provided it will not have a harmful impact on the appearance, or character and will preserve the openness of the Green Belt, the Council will allow the following development in the Green Belt:

- Replacement buildings where the new building is in the same use and is not materially larger than that which it replaces.
- Extension or alteration of a building where the total size of the proposed and previous extensions does not exceed the size of the original building.
- Dividing an existing house to form smaller units of accommodation

This is providing that such development is of a high standard of design, has no adverse effect on the amenity of local residents, the visual amenity of the area, or highways safety and preserves the openness of the Green Belt.

GB3: Changes of use in the Green Belt – The Council will allow the change of use or conversion of buildings in the Green Belt provided that:

- The existing building is of a form, scale and design that is in keeping with its surroundings;
- The existing building is of a permanent and substantial construction and a structural survey demonstrates that the building does not need major or complete reconstruction for the proposed new use;
- The proposed new use is in keeping with the local character and the appearance of the building; and
- The loss of any building from agricultural use will not give rise to the need for a replacement agricultural building, except in cases where the existing building is no longer capable of agricultural use.

This is providing that such development is of a high standard of design, has no adverse effect on the amenity of local residents, the visual amenity of the area, or highways safety and preserves the openness of the Green Belt.

D1: High Quality Design and Place Making – Development is expected to be of a high quality design and will be expected to respect, take advantage of and reinforce the distinctive, local character and other features of Barnsley.

T3: New Development and Sustainable Travel – New Development will be expected to:

- Be located and designed to reduce the need to travel, be accessible to public transport and meet the needs of pedestrians and cyclists.
- Provide at least the minimum levels of parking for cycles, motorbikes, scooters, mopeds and disabled people set out in the relevant Supplementary Planning Document.

T4: New Development and Transport Safety – New development will be expected to be designed and built to provide all transport users within and surrounding the development with safe, secure and convenient access and movement.

Poll1: Pollution Control and Protection - Development will be expected to demonstrate that it is not likely to result, directly or indirectly, in an increase in air, surface water and groundwater, noise, smell, dust, vibration, light or other pollution which would unacceptably affect or cause a nuisance to the natural and built environment or to people.

BIO1: Biodiversity and geodiversity – Development will be expected to conserve and enhance the biodiversity and geological features of the borough.

I2: Educational and Community Facilities – The Council will support the provision of schools, educational facilities and other community facilities.

Supplementary Planning Documents

- Parking
- Sustainable Travel
- Trees and Hedgerows

NPPF

The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise.

Consultations

Enforcement – Confirmed that a retrospective application was requested by enforcement.

Forestry Officer – No comments

Highways DC (two responses) –

Initial response - The proposals result in customer floor area alongside a reduction in parking provision by 12 spaces. Such uses should provide 1 parking space per 4sqm of gross floor area as required by the Council's Parking SPD, however the information initially presented did not allow for the required level of parking provision to be calculated. Information was requested which states the total size of customer floor area alongside the maximum number of staff on duty at any given time. Any shortfall in parking should also be justified by the applicant.

Second response - The additional information reveals that the maximum number of staff on duty at any one time is 12 which, in accordance with the Barnsley Supplementary Planning Document: Parking (2019), requires a total of 4 parking spaces for staff. The proposed site plan dwg. no. 6135-403A shows that these 4 spaces are to be provided within the site along with the 60 customer parking spaces. No alterations to the existing car park layout or surface treatment are required. The proposals are therefore considered acceptable from a highways development control perspective. No specific highways related conditions are deemed necessary.

Pollution Control – Assessed the information in the Noise Impact Assessment (NIA) and questioned where the nearest noise sensitive receptors were located. The NIA presents 3 different scenarios of how the development may be used. "Scenario C" would not be an acceptable use as it is likely to have an adverse impact on nearby residents. Therefore, I would recommend a condition limiting the levels of amplified music. An agreed Noise Management Plan would also be required prior to use of the development. Upon receipt of the amended information, no objection was raised subject to conditions.

Ward Councillors – No comments received.

Representations

Neighbour consultation letters were sent to neighbouring residents with a site notice placed nearby; three comments were received from neighbouring properties objecting to the application raising the following points:

1. Previous noise and disturbance issues with the pub, citing incidents of trespassing onto neighbouring properties. There is concern that the retention of the marquee would allow these issues to continue as the outside area is likely not fully surveillanced by cameras.
2. Concerns with parking on the main road when events are occurring throughout the year, which creates disturbances for neighbouring properties such as blocking footpaths and resident's driveways.

Assessment

Principle of development and Impact on the Green Belt:

The site is split the Urban Fabric and the Green Belt. The Northern part of the site, which includes the entirety of the beer garden and a small section of both the building itself and the car park, is located within the Green Belt. The Southern section of the site, including the majority of the pub and the car park, is within the Urban Fabric. The application relates to three structures located entirely within the green belt part of the site, one (the larger marquee) has been removed and the smaller marquee and the storage container retains. However, the application is for the retention/reinstatement of all three structures.

NPPF paragraph 137 and 138 sets out that the government attaches great importance to Green Belts, with the fundamental aim of GB policy to prevent urban sprawl by keeping land permanently open, with the essential characteristics of Green Belt being their openness and their permanence.

The starting point in terms of local green belt policy is Local Plan Policy GB1 which directly relates to paragraph 149 of the NPPF which states that the erection of new buildings within the Green Belt is inappropriate development with several exceptions, which does not include a public house, associated outbuildings or marquees. The NPPF paragraph 147 is clear in that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the NPPF is essentially two points which relate to the planning balance of development stating that LPAs should ensure that substantial weight is given to any harm to the Green Belt and also that Very Special Circumstances will not exist unless the potential harm to the Green Belt is clearly outweighed by other considerations. NPPF paragraph 148 also refers to any other harm resulting from the proposal. The erection/retention of the marquees to serve a public house and to host events is inappropriate development and very special circumstances will need to be presented to justify the development.

The D&A Statement acknowledges that the erection of such structures in the Green Belt is inappropriate development and has presented a case for very special circumstances which largely focuses on the economic viability of the business which relies heavily on the marquees to survive. A wide range of events have been held in the marquees such as family parties, weddings and unspecified 'community events'. A refusal to the application would place serious doubt on the business surviving and the potential for the BMBC to lose a community asset. The statement details that since the larger marquee was removed, the business has estimated that it has lost an income of £42k and pushes the overall business to a critical position in terms of surviving. The total number of events which have been requested in this time is 21 and 2 weddings. Additionally, this has had a knock-on effect to loss of jobs in the local area and loss of income to other local businesses which would have benefitted from the business purchasing food/supplies from.

Taking Local Plan Policy I2 into consideration, which requires the LPA to protect existing community facilities (including pubs) from development which would result in their loss, the above point points provided by the agent have been acknowledged and can be understood. However, as specifically referenced in NPPF paragraph 148, the government attaches great importance to Green Belts and very special circumstances will not exist unless the potential harm to the Green Belt is outweighed by other considerations. Thereby, the bar for very special circumstances is always high – hence the term 'very special'. It is considered that the existing economic situation at the pub is a separate factor in determining the planning application and cannot be given significant weight. Whilst it is a key goal of the LPA to protect and retain public houses

which are community assets, the bar for very special circumstances is high and the circumstances presented within the statement are somewhat weak and lacking evidence. Specifically, there is no record of the business accounts to evidence the claims that the business is no longer viable. As such, only limited to moderate weight can be afforded to the case put forward by the applicant when assessing the planning balance merits of the scheme.

Additionally, it is considered that the marquees and container are within the grounds of an established public house/restaurant and the greater reliance of the business to survive/operate on the marquee would arguably comprise of a change of use on site to an events venue. Whilst it is appreciated that it is common for pubs/restaurants to be booked out, the marquee should be ancillary to the operation of the public house, rather than the other way around. The submitted NIA has outlined that there will be some noise and general disturbance from the activity within the development, with harm to the Green Belt caused by this type of activity. The LPA also considers that other planning harm is caused by the development, with the close amenity of neighbouring properties being adversely impacted by the increased noise and general disturbance of the development. Green belt areas are characterised by their openness and permanence and is not typically an area comprised of noisy, outdoor activity such as what would be proposed within the marquees until late in the evening. NPPF paragraph 148 makes specific reference to 'any other harm' which would arise from the proposal, and it is considered that there is indeed additional harm given the detrimental impact on the neighbouring properties, and also the harm to the visual amenity of the green belt given the unattractive temporary structure which does not typically make up the character of Green Belt areas.

In this case, the proposed block plan consists of three structures, with an accumulative footprint area of 151sqm. When taking a planning balance assessing the impact on the green belt, the structures are inappropriate development, clearly having an impact on the openness of the Green Belt, being viewed from the nearby area, including the open and undeveloped field located immediately to the North. Local Plan Policy I2 is to support community facilities, but the policy is not worded to support such businesses at all costs. As covered above, individual financial situations of businesses is not something which is a weighing significant weighing factor in in the planning balance assessment for LPAs to assess the impact on the Green Belt.

Taking a balanced approach to the above information, therefore, it is clear that the proposed development is inappropriate development within the Green Belt and the very special circumstances case which has been put forward is relatively weak and lacking substance. The proposed use is consolidating the external area of the beer garden, which is entirely within the Green Belt, for outdoor events which generate noise and disturbance which do not conform with the character of the green belt, which is typically characterised by openness and permanence. The proposed development is therefore considered to be contrary to Local Plan Policy GB1, and paragraphs 137, 148 and 149 in the NPPF in that the proposal is inappropriate development in the Green Belt, resulting in urban sprawl, harming the openness and permanence of the Green Belt which the NPPF attaches great weight to, without very special circumstances being presented which would clearly outweigh the harm to the Green Belt.

The proposed development is therefore considered to be unacceptable in principle.

Residential Amenity

The pub and marquee are in close proximity to neighbouring properties with Barugh Green primarily being characterised by residential properties. The closest property in question is no. 211 which resides to the South-East of the structures, however the neighbouring residential curtilage is large and shared the entire Eastern boundary with the pub, to the East and North-East of the proposed structures. The application has been supported a noise impact assessment which reviews the noise impact on neighbouring properties using three scenarios, as follows:

Scenario A – Event with up to 100 people with no amplified music (assumes up to 50 people talking simultaneously with normal vocal effort).

Scenario B – Event with up to 100 people with background amplified music provided by the in house small powered PA speaker (assumes up to 50 people talking simultaneously).

Scenario C – Event with up to 100 people with foreground music provided by a DJ using a full range PA system (assumes up to 50 people talking simultaneously).

The NIA showed that scenario C resulted in an excessive nuisance to the nearest neighbouring receptor, which was acknowledged by the agent and should the application be approvable, a condition would be acceptable which restricted the use of the marquee to not be used for scenario C. Colleagues in Pollution Control assessed the amended NIA and did not object to the proposal subject to agent submitting a detailed noise management plan to support the development. Details of which would be submitted and agreed with the LPA prior to the use operating on site.

Notwithstanding the above, colleagues in Pollution Control assess developments against the Environmental Protection Act which identifies whether a statutory nuisance on site would occur. The starting point for such planning assessments is against Local Plan Policy GD1: General Development which states that developments should not have an adverse impact on existing or future residents. The marquee is in close proximity to neighbouring properties, with the smaller marquee (which has been retained) 4m from the Eastern boundary line. It is clear from the D&A statement that the character of the outdoor area has been significantly changed through the use of the marquees which have been rented for a wide range of purposes. Several of these activities would clearly result in increased noise, activity and disturbance within the beer garden of the public house. It would be difficult for the LPA to control the use or noise output from the marquee which is ultimately located in a use where alcohol is served, without any perceived discrepancy on the potential uses within the marquees, until late in the evening. The development is not considered to protect the amenity of neighbouring properties and the likely adverse impact from the proposed development, which is located in a largely residential area.

For the above reasons, the proposed development is considered to be unacceptable in terms of residential amenity.

Visual Amenity

The structures are located to the rear/North of the pub, in an area which is set back from the street and therefore does not reside in a prominent position within the site or area. The proposed buildings are temporary with the marquees finished in UPVC whilst the storage container is metal.

The structures are unattractive, constructed/finished in low quality and cheap materials given that they are removable and temporary. The Local Plan contains Local Plan Policy GD2: Temporary Buildings and Uses which allow for temporary buildings where it can be demonstrated that a permanent building is not suitable or that urgent accommodation is needed pending the completion of a permanent building. Whilst all development is required to meet high levels of design quality, as expected by Local Plan Policy D1, there is flexibility allowed with temporary structures. The elevation drawings show that the structures are not in a prominent or visible position on site, with screening from a wall showing the roof of the marquees. It is considered that the marquees do not have a significant detrimental impact on the character of the area to warrant refusal on its own merit.

Highways Safety

The marquee (and retained smaller marquee) is situated on land that was formerly used as a car park. This placement resulted in a reduction of parking numbers on site from 74 to 62 (a loss of 12 spaces). Highways DC were consulted on the proposal and raised concerns over this loss and requested further information including an amended site plan showing the number and position of parking spaces on site, alongside employee numbers and staff parking. Colleagues in Highways DC did not raise an objection to the amended information after assessing against the Council's Parking SPD which requires 4 parking spaces for the outlined maximum number of staff on duty at any one time (x 12). The proposed development is considered to be acceptable from a highways perspective.

Conclusion

The applicant is seeking approval for the retention/reinstatement of three structures on the site, a large marquee, a small marquee and a metal storage container. The site's allocation is split between the Urban Fabric and the Green Belt, with the entirety of the structures being positioned within the Green Belt section of the site. The structures therefore comprise inappropriate development within the Green Belt, which has been acknowledged by the agent and a very special circumstances case has been submitted, which largely relates to the business' existing financial situation and the likelihood that the pub would go out of business, thereby conflicting with Local Plan Policy I2 which seeks to protect community assets. The LPA is only able to attach limited to moderate weight to the individual situation of the business, which is considered to be fairly weak and lacking supporting evidence, and thereby does not clearly outweigh the planning harm to the

openness and permanence of the Green Belt. Additionally, the proposed use of the marquee would resemble a use not too dissimilar to an events venue which the LPA, as well as the unattractive temporary structure which is not a typical feature within the Green Belt and the LPA attaches additional weight to the harm to the Green Belt through its inappropriate design and impact on neighbouring properties. The proposed development conflicts with Local Plan Policy GB1 and NPPF paragraphs 137, 138, 148 and 149 and is inappropriate development in the Green Belt.

The site is also located in an established residential area, in close proximity to neighbouring residential properties. The structures will change the character and use of the beer garden to formally be used for rentable events of a wide-ranging nature, late into the evening in a place where alcohol is served. The proposed development is not considered to protect the amenity of neighbouring residential properties and is in conflict with Local Plan Policy GD1 in that it is unacceptable in terms of residential amenity.

Recommendation

Refuse

The Site lies within the Green Belt, as allocated in the Local Plan, wherein it is the local and national planning policy not to permit new development except in very special circumstances, for purposes other than those set out in paragraph 149 of the NPPF. By their nature, the proposed structures represent inappropriate development, are considered detrimental to the openness and permanence of the Green Belt, as well as comprising of an unattractive and temporary design which is not a character of such areas, with a moderate, yet unsubstantiated case for very special circumstances presented which does not clearly outweigh the harm to the Green Belt. The proposal is therefore contrary to Local Plan Policy GB1: Protection of Green Belt and paragraphs 137, 138 148 and 149 of the NPPF in that the development would result in urban sprawl and detrimentally impacts the openness and permanence of the Green Belt.

The proposed development would result in significant noise, general disturbance, and activity within the outdoor area of the public house, with the marquee being rentable to a wide variety of uses until late in the evening, changing the character and scope of the site to somewhat resemble an events venue rather than minor ancillary accommodation for the public house. The site is located within very close proximity of neighbouring residential properties with the submitted information indicating that the proposed use would have an adverse impact on the living conditions and amenity of neighbouring properties, contrary to Local Plan Policy GD1: General Development.