

**HIGH PEAK BOROUGH COUNCIL
DEVELOPMENT CONTROL COMMITTEE**

Date 13th November 2023

Application No:	HPK/2023/0338	
Location	OLD HALL INN, UNNAMED ROAD FROM TRAMWAY TRACK TO WHITEHOUGH HEAD LANE, WHITEHOUGH, DERBYSHIRE, SK23 6EJ	
Proposal	RETROSPECTIVE APPLICATION FOR THE ERECTION OF A FREESTANDING STRETCHED FABRIC CANOPY TO ACCOMMODATE OUTDOOR SEATING/DINING	
Applicant	Daniel Capper, The Old Hall Ltd	
Agent	Mrs Claire Wilde SlaterWilde Ltd	
Parish/ward	Chapel-en-le-Frith/ Blackbrook Ward	Date registered 9 th August 2023
If you have a question about this report please contact: Declan Cleary, dcplanningconsultancy@gmail.com Tel: 07976272142		

REFERRAL

This application has been brought before the Development Control Committee as the applicant is Blackbrook Ward Cllr Daniel Capper.

1. SUMMARY OF RECOMMENDATION

Approve, subject to conditions

2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

2.1 The application site lies within an area of countryside, which is also designated as Green Belt as defined by the Local Plan policies map. While located in the countryside, the site lies within the village of Whitehough and the surrounding area is predominantly residential in character.

2.2 The building relates to The Old Hall Inn which is a public house and a Grade II listed building. The Historic England listing describes the building as:

Public house. Part C17 with later additions and part early C19. Coursed gritstone rubble with quoins. Gritstone dressings. Stone slate roof. Stone ridge stacks. Two storeys, irregular plan, three bay. South elevation - to west advanced gabled crosswing with six-light recessed and chamfered mullion window. Central major mullion and leaded lights.

Drip mould over. To east, similar window with smaller major mullion and no drip mould. Beyond, to east, quoined doorcase with large lintel. Glazed C20 door. Restored four-light chamfered mullion window and second doorcase to east. Above, in crosswing, four-light recessed and chamfered mullion window with drip mould. To east, two similar windows without drip moulds in gabled dormers. Attached to west, facing west, early C19 double fronted house. Central C20 stone porch. To either side, C20 bow windows in original openings. Two similar windows above.

2.3 The site also lies within the Chinley & Whitehough Conservation Area which is also a designated heritage asset.

2.4 The site lies at the junction of Whitehough Head Lane and an unnamed road. The public house is positioned at the northern part of the site. The southern rear beer garden is bound by stone walls, with an historic vehicular access with gate posts located in its southern boundary. The rear area is partly laid to setts, with the remainder of the land being grass. The beer garden contains a number of substantial and visually prominent trees which are covered by a Tree Preservation Order (known as G1 of DCCTPO 140).

3. DESCRIPTION OF THE PROPOSAL

3.1 This application proposes the retention of an existing canopy structure which provides a covered seating area in the beer garden of the Old Hall Inn. The canopy is provided on the western side of the beer garden, sited on the existing stone setts.

3.2 The development is 15m in length, at a width of 4.6m covering an area of circa 69sqm. Maximum height of the canopy is 2.9m.

3.2 The canopy comprises a pale cream coloured tensioned fabric, which is affixed/anchored to the existing stone wall, and has a series of support poles and guy ropes.

3.3 The application, the details attached to it, including the plans and the responses of the consultees can be found on the Council's website at:

<http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=262891>

4. RELEVANT PLANNING HISTORY

4.1 The application site has been subject to a number of historic planning applications.

5. PLANNING POLICIES RELEVANT TO THE DECISION

Chapel-en-le-Frith Parish Neighbourhood Development Plan

H3 Design Criteria

High Peak Local Plan (Adopted 2016)

- S1 Sustainable Development Principles
- S1a Presumption in Favour of Sustainable Development
- S6 Central Sub-area Strategy
- EQ1 Climate Change
- EQ2 Landscape Character
- EQ3 Rural Development
- EQ4 Green Belt Development
- EQ6 Design and Place Making
- EQ7 Built and Historic Environment
- CF6 Accessibility and Transport

Supplementary Planning Guidance/Documents

- Residential Design (2005)
- High Peak Design Guide (2018)

National Planning Policy Framework

- Section 9: Promoting Sustainable Transport
- Section 12: Achieving Well-designed Places
- Section 13: Protecting Green Belt land
- Section 14: Meeting the challenge of climate change, flooding and coastal change
- Section 15: Conserving and enhancing the Natural Environment
- Section 16: Conserving and enhancing the Historic Environment

6. CONSULTATIONS CARRIED OUT

Site notice	Expiry date for comments: 27/09/2023
Neighbour letters	Expiry date for comments: 21/09/2023
Press notice	Expiry date for comments: 21/09/2023

Public Comments:

One letter of representation received neither supporting or objecting. The salient points being:

- Shame that the walled garden will not be returned to its pre covid pandemic state by the current owners.
- Unique selling point of the Old Hall Inn both to local residents and visitors alike was the ability to sit out in an open green space 'beer garden'

- It was always well used, attractive and served to frame the Grade II listed Old Hall which is at the heart of the hamlet of Whitehough.
- The current fixed teepee canopies obscure the view of the Grade II listed Old Hall from the southern (Chapel-en-le-Frith) approach to the hamlet
- Accept that publicans have been having a hard time maintaining revenues, I think it's a shame that more permanent covered spaces will become a fixture
- there's already covered outdoor spaces in the opposite Paper Mill Inn across the road (which is owned by the same applicants and cross-pollination of use is already encouraged between both venues)
- Perhaps non-fixed, removable and events- driven temporary coverings might be more appropriate
- Would like to lodge an objection to any further expansion of fixed outdoor canopies, including those recently removed. This, erected during the pandemic, served only to facilitate late outdoor 2 drinking with heightened noise in a very inappropriate location where noise cannot be as well contained as it is by the high stone walls of the 'southern garden'.

Consultee	Comment	Officer response
Chapel-en-le-Frith Parish Council	None received	N/A
Conservation Officer	The canopy in the garden area is not directly connected to the listed building but is within the setting of it. The structure is small and set back from the listed building, and appears to be low lying. I am content to deem this to be a neutral intervention, though would recommend once it's use has come to an end and or it has deteriorated that it should be removed or replaced to prevent it depreciating the conservation area and the listed building's character.	See Section 7
Arboricultural Officer	There is no objection to the principle of the development, however there is concerns around the future impact of the trees on the fabric canopy and the trees coming under pressure to be removed due to honey dew drip causing the fabric to become	See Section 7

	'dirty'. The trees are protected by Derbyshire County Council TPO 140 and are important to the character of the area and should take preference over the 'temporary' structure.	
--	---	--

7. POLICY AND MATERIAL CONSIDERATIONS AND PLANNING BALANCE

Planning Policies

7.1 The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990.

7.2 Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'. Section 70(2) provides that in determining applications the local planning authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations." The Development Plan currently consists of the High Peak Local Plan 2016.

7.3 Paragraph 11 of the National Planning Policy Framework (NPPF) explains that at the heart of the Framework is the presumption in favour of sustainable development. For decision makers this means that when considering development proposals which accord with the development plan they should be approved without delay; or where the development plan is absent, silent or relevant policies are out of date, grant planning permission unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

7.4 The NPPF seeks to proactively drive and support sustainable economic development through the delivery the homes, business and industrial units, infrastructure and thriving local places that the country needs. High quality design should be sought and a good standard of amenity provided for all existing and future occupants of land and buildings.

7.5 Local Plan policy S1a establishes a presumption in favour of sustainable development as contained within the NPPF.

Principle of Development and background

Commercial Development

7.6 The application proposes retention of a covered canopy which is located within the grounds of a public house. The site lies outside of a settlement boundary and within the Green Belt as defined by the Local Plan policies map. Policy EQ3 seeks to facilitate sustainable rural community needs, tourism and economic development through; supporting the provision and expansion of tourist and visitor facilities in sustainable locations where identified needs are not met by existing facilities; and, supporting rural employment in the form of home working, commercial enterprises and live-work units where a rural location can be justified.

7.7 The principle of development at an existing commercial property is considered to be acceptable, subject to satisfying other considerations, particularly with regard to protecting the character, appearance and integrity of the historic and cultural environment, as required by EQ3. The effect on the historic environment is considered later.

7.8 Further, in this instance, as the site lies within the Green Belt, it is necessary to assess the development against the relevant considerations in this regard.

Green Belt

7.9 Policy S2 establishes the settlement hierarchy which does not identify Whitehough as a settlement to which development should be directed. Therefore, in accordance with the settlement hierarchy the site lies within an “Other Rural Area” which relates to all other areas outside of the settlement boundary of settlements, including those villages, hamlets and isolated groups of buildings in the Green Belt where development will be strictly limited to that which has an essential need to be located in the countryside, with the Green Belt protected from inappropriate development. Policy S6, which relates to the Central Sub-Area also seeks to protect the Green Belt. Policy EQ4, which relates to Green Belt development, states that development in these locations will not be permitted unless it is in accordance with national planning policy.

7.10 National planning policy is set out in the National Planning Policy Framework 2023 (the Framework). The Framework identifies that the construction of new buildings within the Green Belt will be considered to be inappropriate development and will only be allowed where it meets one of the exceptions identified within paragraph 149.

7.11 One exception in paragraph 149 of the Framework is for “limited infilling in villages”. For the purposes of development within the Green Belt, Whitehough is considered to be a village of sufficient size to allow for some degree of limited infilling within its built grain.

7.12 There is no definition of what constitutes a “building” in the Framework. However, it would be reasonable to assess this as meaning development which creates volume. The application proposals relate to the retention of a canopy which, whilst open, does have the perception of creating volume and therefore can reasonably be considered to be a building for the purposes of the Framework.

7.13 The site lies at the heart of the village, and is surrounded by built development. The canopy covers part of the front curtilage of the building and is not significant in site coverage, scale or height. Given the context and the size of the proposals, the development can therefore be considered to be limited infilling within the village.

7.14 Therefore, as the development can be considered to be limited infilling within a village, the development would be an appropriate form of development in the Green belt. As such, it is not necessary to consider other matters relating to openness or the purposes of including the land in the Green Belt in such circumstances.

7.15 The main considerations in this instance are therefore the effect of the development on the character and appearance of the area, having particular regard to heritage assets; residential amenity; highway safety; and trees.

Design Considerations (including impact on Heritage Assets)

Effect on Setting of Listed Building

7.16 The Old Hall Inn is a Grade II Listed Building. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act) requires that special regard be had to the desirability of preserving the listed building, or its setting, or any feature of special architectural or historic interest which it possesses. Policies S1 and S6 requires that development seeks to protect and enhance the historic environment. Policy S7 seeks to conserve heritage assets in a manner appropriate to their significance, taking into account the desirability of sustaining and enhancing their significance and to ensure that development proposals contribute positively to the character of the built and historic environment.

7.17 The significance of the Old Hall Inn lies within its historic origins and architectural detailing. The walled setting of the building, and surrounding village context, also contributes towards its significance. The proposed development does not affect the fabric of the Listed Building itself and therefore does not affect any features of special architectural interest. However, the proposal is development within the setting of the listed building.

7.18 The canopy is sited to the south side of the building on land which is the public houses external seating area. The area is bound by tall stone walls which frame the existing building. The framing of the

listed building by the walls would not be affected, albeit the canopy projects above the wall. To the south is an historic access opening within the walls, flanked by gate pillars, this allows from views from Whitehough Head Lane into the site. The canopy partially obscures some views of the Listed Building. Previously, this part of the external seating area, at times, included parasols to provide cover/shade for the benches. However, the proposal does obscure some views of the rear of the listed building while its colour and irregular shape presents a stark contrast to the stonework, thereby drawing attention to its presence.

7.19 It is acknowledged that the Conservation Officer considers the canopy to be a neutral intervention in terms of its effect on the setting of the Listed Building. However, for the reasons identified above, it is considered that some harm would arise to the setting of the listed building.

7.20 Such harm would be at the lower end of being “less than substantial” harm to the significance of the heritage asset. In such circumstances, paragraph 202 of the NPPF confirms that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. This point is returned to later.

Effect on Conservation Area

7.21 The application site lies within the Chinley & Whitehough Conservation Area which is a designated heritage asset. S.72(1) of The LBCA, requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of the area. Great weight should be given to the heritage assets conservation.

7.22 There is no Character Appraisal for the Conservation Area. Nonetheless, the Conservation Area is characterised by predominantly two storey buildings of stone construction, set behind stone walls, with irregular gain and pattern of development. The position of buildings provide a sense of enclosure of a quaint rural village environment with views from the more open road junction of Whitehough Head Road and the lane opposite.

7.23 As detailed above, the walled setting of the listed building contributes to its significance, and it is considered that this contributes to the overall character and appearance of the Conservation Area. The proposed canopy projects above the boundary wall of the site and is visible between the gate posts. The canopy is particularly noticeable when approaching the site from the south. Its colour and form attracts attention.

7.24 Therefore it is considered that the canopy does not preserve or enhance, and thereby causes some harm to the significance of the Conservation Area. Again, this would be at the lower end of less than substantial and will be returned to in the planning balance below.

Amenity

7.25 Policy EQ6 requires development achieve a satisfactory relationship to adjacent development and not cause unacceptable effects by reason of visual intrusion, overlooking, shadowing, overbearing effect, noise, light pollution or other adverse impacts on local character and amenity.

7.27 The scale and proximity of the development to nearby residential properties is such that the proposal would not cause harm through loss of light, overshadowing, overbearing or outlook.

7.28 In terms of noise or disturbance, the canopy is sited on an existing external seating area which serves the public house. There may be some increase in external activity as a result of the canopy in the space it covers. However, such an increase in use could not be quantified to determine any harm to amenity, particularly given that the use as a beer garden is lawful. Also the canopy itself would go some way to containing noise generated by users of the beer garden underneath. Nonetheless, the nearest residential areas are separated from this space by a public highway and any increase in activity is unlikely to result in an adverse effect on amenity.

7.29 Concern has been raised by a resident with regard to the erection of similar covered areas at the site. While this concern is noted, it is only the effect of the proposed development that can be considered and any future proposal would be subject to a planning application which would need to be judged on its own merits. .

Highway Safety

7.30 Policy CF6 states that development should be safely accessed in a sustainable manner. Policy EQ6 states requires that developments are easy to move through and around, incorporating well integrated car parking.

7.31 The scheme proposes no increase in floorspace and, as such, it is not considered that any increased demand in off street parking would result.

Trees

7.32 The trees within the beer garden of the application site are covered by TPO. The canopy is sited on existing stone setts and has not resulted in development which affects the root protection areas of these trees.

7.33 The canopy is sited partially under the crown spread of one of the trees. The Arboricultural Officer has raised some concern with regard to

the future pressures for the trees to be removed due to honey dew drip causing the fabric to become 'dirty'. It is considered that the canopy would be a semi-permanent installation and, given its nature, would have a limited life span. Any future application for works or removal of the tree(s) would be considered on its merits and it is not considered that the retention of the canopy (given its nature) would outweigh the loss of such an important tree.

Planning Balance

7.34 As outlined above, the proposal fails to preserve or enhance the Conservation Area, and setting of the Grade II Listed Building. The degree of harm to both heritage assets is considered to be at the lower end of “less than substantial”. Nonetheless, any harm ought to be afforded great weight and, in accordance with Paragraph 202 of the Framework, the harm needs to be weighed against the public benefits of the proposals.

7.35 Firstly, it must be acknowledged that such a structure would have a limited life span and the effect on heritage assets would only be temporary. The reversibility of the harm is a matter which needs to be weighed in the balance.

7.36 It is understood that the canopy was initially erected during the pandemic and assisted in the operation of the business during that time. The continued retention of the canopy allows for additional space for the business without resulting in any permanent additions. Furthermore, it facilitates all year round outdoor space which provides shelter for the range of customers who visit the site. It is also understood that the space has multi-functional purposes with it being used by local community groups. The space would also help to sustain the business, as a local employer.

7.37 It is clear that the development is a beneficial addition to the public house which brings with it clear economic and social benefits, both directly and indirectly.

7.38 Given the scale of harm to heritage assets, and the temporary nature of that harm, it is considered that the identified public benefits outweigh the significant harm to heritage assets which have been identified.

8. CONCLUSIONS

8.1 At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development. For decision making this means that amongst other things, that local planning authorities should positively seek opportunities to meet the development needs of their area unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits and to secure a development

that improves the economic, social and environmental conditions of the area.

8.2 The proposed development by reason of its siting and design would result in harm to the Chinley and Whitehough Conservation Area, and the setting of the Grade II Listed Building known as Old Hall Inn. This harm is at the lower end of less than substantial, and results in a harm which is temporary and fully revisable.

8.3 The scheme would deliver clear direct and indirect public benefits of a social and economic nature which weigh significantly in favour of the development. Such benefits are considered to be sufficient to outweigh the harm that would arise from the proposed development.

8.4 Accordingly, the proposal is considered to comprise sustainable development under the terms of the Framework, and it is recommended that the application be approved.

9. RECOMMENDATIONS

A. That planning permission is GRANTED subject to the following conditions:

- 1. Retained in accordance with approved plans**
- 2. Structure to be removed when no longer fit for purpose**

B. In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/ informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Services has delegated authority to do so in consultation with the Chairman of the Development Control Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

This recommendation is made following careful consideration of all the issues raised through the application process and thorough discussion with the applicants. In accordance with Paragraph 38 of the NPPF the Case Officer has sought solutions where possible to secure a development that improves the economic, social and environmental conditions of the area.

