
Ditton	571162 158257	26 March 2010	TM/09/02033/FL
Ditton			

Proposal:	Change of use of the land and associated works, thus incorporating part of the rear garden to 44 New Road into the curtilage of the Public House. Including the erection of external light columns enabling the land to be used as a beer or trade garden - limited in use by the existing premises licence
Location:	42 New Road Ditton Aylesford ME20 6AD
Applicant:	Mr James Woolford

1. Description:

- 1.1 This full application is retrospective and proposes the retention of the area of pub garden to the rear of 44 New Road. The area was created from part of the rear garden of the former Manager's house that was adjacent to the former Working Mens Club. The car park to the rear of the pub has been extended up to this garden area from which it is segregated by a gated picket fence. A small area of garden has been retained adjacent to the house, which is no longer used as Manager's accommodation and is being sold off separately.
- 1.2 The pub garden area is only accessible through the car park. The area has been laid to grass and has three round garden tables, four lamp columns and two low level lights. The site has been fenced with a 2m close boarded fence on the boundaries with the neighbouring house (no.46), on the boundary with the retained garden to no.44 to the south and the recreation ground to the west. The western end of the garden has been planted with a variety of plants and shrubs.
- 1.3 In support of the application the applicants have stated that the garden will only be used until 22:30, the same time as agreed for the use of the patio area to the front of the building.

2. Reason for reporting to Committee:

- 2.1 Request from Cllr Barry Stone as the site is in a predominantly residential area where occupiers could reasonably expect a level of amenity concurrent with the property. The change of use of the property introduces a diverse element that by reason of the use is likely to result in noise, disturbance and nuisance to the detriment of the neighbours' residential amenity.

3. The Site:

- 3.1 The site is adjacent to (and currently used in conjunction with) the Kentish Quarryman Public House that was the former Ditton Working Mens Club, located on the western side of New Road. That building was converted into a public house in 2008. The building is attached to the end of a terrace of houses and is in an area that is predominantly residential in character.

suffering from noise pollution emanating from inside the Kentish Quarryman, and the street outside. Creating additional pollution at the rear will spread this pollution to an even wider area than is currently already being blighted.

- Residents of New Road already suffer noise, litter and anti-social behaviour from this public house. This venue would be better suited moved to a local town away from residential premises. Consideration should be given to the people that have to suffer the above and are then expected to get up and do a days work.

6. Determining Issues:

- 6.1 The principal consideration with this application is whether the retention of the garden area at the rear of the public house would have a significantly adverse impact on the character of the surrounding area and the residential amenity of the local residents. The use of the premises itself as a public house is not for consideration under this application.
- 6.2 The original change of use application from the Working Mens Club to public house proposed the creation of a pub garden to the rear, retaining space for approximately 20 parking spaces. The development as carried out has altered the position of the garden by utilising the majority of the rear garden of the adjacent dwelling that was originally in the same ownership as the Working Mens Club. The garden has been fenced and landscaped as stated in the original application but is further to the south than originally approved and does not have the buffer of the house and garden within the same ownership between it and the neighbouring residential property.
- 6.3 In order to mitigate the impact of the development the applicants have stated that they are willing to restrict the use of the garden to no later than 22:30. This is the time that has been previously been agreed for the use of the patio area to the front of the premises. This operating time is considered acceptable by DHH as it would be an appropriate balance between the operation of the public house and the amenities of the surrounding properties. The hours of use of the garden can be controlled by planning condition as can the lighting. Given the position in relation to the neighbouring property it is also considered to be appropriate to restrict the use of amplified music or speech in the garden in order to reduce the potential for noise disturbance to the surrounding residents. These conditions would mitigate the concerns raised by the local residents.
- 6.4 The issue of noise from the existing premises causing a disturbance to the surrounding dwellings is not unfortunately a matter that can be dealt with under this application because, as previously stated, this application only relates to the garden area.

- 6.5 The permitted hours of use of the public house are between 07:00 and 00:00 on any day with the sale of alcohol to end no later than 23:30. The hours of use stated on the application form are 10:00 to 00:30 Sunday to Friday and 10:00 to 01:30 Saturday. These hours were refused permission though in relation to the premises as a whole under reference TM/09/01762/FL on 8 September 2009. These hours are unauthorised however there have been no complaints that the approved hours are not being adhered to. For clarity any consent would impose the original conditions with regard to use and hours of operation.
- 6.6 The applicant has also stated in this submission that after the garden area closes (at 22.30, as referred to in para 6.3 above) patrons would be directed to the patio at the front of the premises. The use of this patio area is though restricted to 22:30 hours under condition 4 of the original consent TM/07/03375/FL. Given this restriction on the hours of use of the patio it is considered that the closure of the garden at 22:30 should not mean that patrons will be directed to the patio area adjacent to New Road.
- 6.7 The hours of operation, illumination and use of amplified speech or music for the garden can be controlled by conditions that can be monitored in a way that would enable clear identification of a breach of planning control.
- 6.8 It is therefore considered that, on balance, the garden area, subject to the appropriate restrictive planning conditions, is acceptable. Any consent though should be conditioned to remind the applicants that previous conditions are still pertinent to the development.

7. Recommendation:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Photographs dated 12.08.2009, Site Plan 1807-10 + Block Plan dated 12.08.2009, Site Plan 1807-11 + Block Plan dated 12.08.2009, Letter dated 20.08.2009, Email dated 26.03.2010, Design and Access Statement dated 26.03.2010 and the following conditions:

- 1 The use of the garden area for any purpose shall cease between the hours of 22:30 on one day and 07:00 hours on the next day and any illumination of this area shall be turned off at this time.

Reason: In the interests of the residential amenities of the occupants of adjacent properties.

- 2 No amplified music or speech shall be played within the garden.

Reason: In the interests of the residential amenities of the occupants of adjacent properties.

- 3 For the avoidance of doubt, conditions 2 to 5 (inclusive) and the informative imposed on planning permission TM/07/03375/FL and condition 1 imposed on planning permission TM/08/01203/FL continue to apply to the use of the premises as a whole, in so far as they are still subsisting and capable of taking effect.

Reason: For the reasons originally cited.

Contact: Robin Gilbert