

Report to Planning Committee

Application Number: 2021/0693

Appeal Ref: APP/N3020/W/22/3293642

Site Address: The Wrinkly Lettuce Cafe & Bistro, 16 Main Road, Gedling, Nottingham, NG4 3HP

Application description: Installation of decking

Case Officer: Claire Turton

The planning application description was altered during the planning application process from;-

“Erection of decking (retrospective)”

to;-

“Decking to the rear of cafe and change of use of site from Bistro (Class E) to a mixed use as a Café (Class E) and Pub (Sui Generis) (retrospective).”

This was to take into account the current unauthorised use as a micro bar / pub. The applicant / appellant agreed in writing to the change of application description as outlined above.

However, despite this written confirmation from the applicant / appellant, the Inspector decided that there was a lack of clarity as to the extent that the implications of the altered description were fully communicated to the appellant who was representing herself. As, such the Inspector only considered this appeal as it relates to the installation of the decking only, as stated on the initial application and appeal forms.

The planning application was refused permission on the 8th December 2021 for the reason outlined below:

- 1) *“Due to its nature, the pub use will cause unacceptable issues of noise and disturbance to the occupiers of the adjoining neighbouring properties. The creation of the decking to be used as an outside seating area adds to these issues of noise and disturbance and also causes additional issues of overlooking onto the adjacent neighbouring property. As such the proposal is contrary to policies LPD 32, 46 and 50.”*

The Planning Inspectors view on the decking is reproduced below. The Planning Inspector agreed that the decking would cause unacceptable issues of overlooking onto neighbouring properties. However, he did not agree that the decking added to issues of noise and disturbance caused by the existing, authorised external seating areas elsewhere on the site. For the reasons stated at the start of this report, he did not assess the change of use to a micro bar / pub.

The appeal site is a small commercial property, with a residential flat above. The attached neighbour is also in commercial use at ground floor. The detached neighbour is a residential property in domestic use. While I acknowledge that the site is within the Gedling Local Centre, its character in the vicinity of this site is mixed due to the small scale of the commercial properties and intervening residential properties to the remainder of the centre.

It is not in dispute that the rear garden area can legitimately be used by the appellant in the operation of their business, or that the business can operate for extended hours. However, it is clear from the pictures provided by the appellant of the area prior to the decking being installed and the pitch of the steps leading from the decking to the lower area of the garden that it would not reasonably have been possible for this area to be used by customers of the café. The introduction of the decking results in customers of the café being able to look directly into the rear gardens of the adjacent residential property. This would be for extended periods of time while sitting at the tables on the decking. This increase in overlooking and consequent loss of privacy has an unacceptable impact on the living conditions of the occupiers of that property.

At my site visit, I observed seating had been provided elsewhere in the garden area which could give rise to a degree of noise and disturbance. While the decking area does allow for a greater area of seating, it is a limited increase beyond the seating that exists elsewhere in the garden. I consider that the increase in noise and disturbance would not be materially beyond that which could occur from the accepted use of the garden area.

As a result, the appeal has been dismissed.

Recommendation: To note the information.