

Planning Development Management Committee

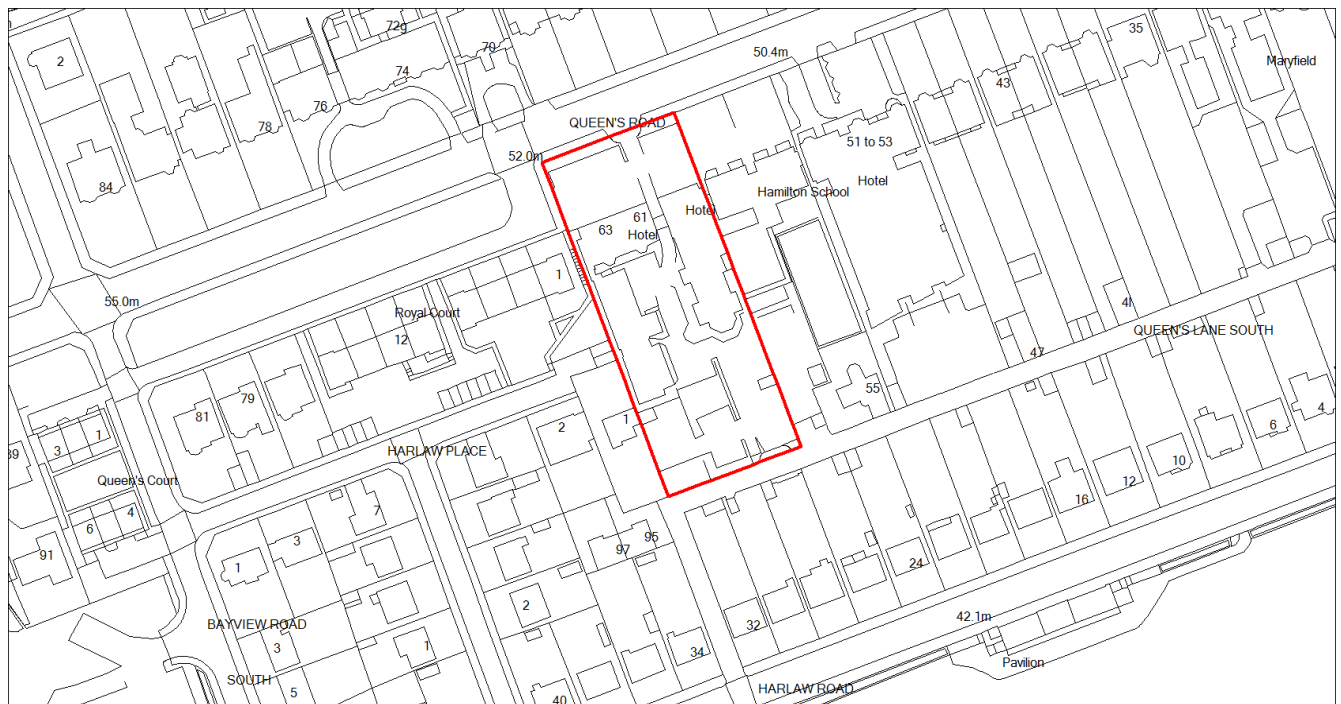
THE CHESTER HOTEL, 59 - 63 QUEEN'S ROAD, ABERDEEN

INSTALLATION OF GRANITE SEATING TO FRONT OF HOTEL AND FIXED SEATING AND PERGOLA TO REAR (PARTIALLY RETROSPECTIVE).

For: The Chester Hotel Ltd.

Application Type : Detailed Planning Permission
Application Ref. : P140259
Application Date: 26/03/2014
Officer: Matthew Easton
Ward: Hazlehead/Ashley/Queen'sCross (M Greig/J Stewart/R Thomson/J Corall)

Advert: Section 60/65 - Dev aff LB/CA
Advertised on: 09/04/2014
Committee Date: 24/07/2014
Community Council : Objection



RECOMMENDATION: Approve Unconditionally

DESCRIPTION

The site is the 'Chester Hotel' (formerly 'Simpsons Hotel Bar and Restaurant') which is located on the south side of Queen's Road, between its junctions with Bayview Road and Queen's Gate.

It comprises three separate 19th century granite villas which date from 1896 and were designed by A. Marshall McKenzie. Due to the difference in levels on the site, these buildings are two storey on the Queen's Road elevation and three storeys to the rear. The front elevations are rough-faced coursed granite ashlar with finely finished dressings.

There are modern 20th century extensions to the rear which have recently been refurbished. A further extension has also recently been completed and the hotel now provides 54 bedrooms, a restaurant, private dining rooms, lounge bar and conference & function facilities for up to 300 guests.

59 Queen's Road is category C listed (1984) and 61 and 63 Queen's are category B listed (1992). The site is within the Conservation Area 4 (Albyn Place/Rubislaw).

There are 21 parking spaces at the front of the premises. Access to the rear car park, where there is a further 26 spaces, is taken underneath the link bridge between the buildings at number 59 and 61. There is an access gate from the rear car park to Queen's Lane South which is restricted to use by service vehicles only.

The trees at the front of the site are protected by Tree Preservation Order 13. There are four large mature trees within the rear car park.

The surrounding area contains a mix of uses. To the immediate west are two storey residential properties at Royal Court, Queen's Road and the dwellinghouse at 1 Harlaw Place. To the north is 64 – 70 Queen's Road which are granite villas currently occupied by offices. To the south across Queen's Lane South is the rear of residential properties on Harlaw Road and to the immediate east is the now vacant former Hamilton School.

RELEVANT HISTORY

In 2012 and 2013 several planning applications were approved for an extension and refurbishment of the hotel. It has recently reopened as the 'Chester Hotel'.

PROPOSAL

Planning permission is sought retrospectively for two permanent structures with associated hard landscaping which sit within the grounds of the hotel. A further area of hard landscaping is also proposed.

- The first is a permanent outdoor seating area at the front of the hotel, between the entrance door to the hotel bar and the boundary wall with Queen's Road and alongside the boundary with the former Hamilton School. The seating area comprises planters which are 950mm high and seating which is 850mm high, all constructed in silver/grey fine picked granite. The surrounding area has been finished in a mixture of silver/grey granite setts and paving slabs. Further planters which are 450mm high define the space between the seating area and the parking spaces beyond. Moveable tables and stools have been provided around the permanent seating.

The area is used as outdoor seating associated with the hotel bar and can be used by hotel guests and customers. It is licensed to allow patrons to consume or purchase alcohol within it during core licensing hours which are 10:00 to 00:00 hours Monday to Thursday, 10:00 to 01:00 hours Friday and Saturday and 11:00 to 00:00 hours on Sundays.

- The second aspect is a hard landscaped area of approximately 120m² which is located within the rear car park, adjacent to the recent extension and beneath two large mature trees. It is finished in limestone and granite paviors and also provides a pedestrian route to the parking beyond. Steps into the area provide access to the function rooms which are at first floor level of the hotel. The area is enclosed by original boundary walls and hedging and there are four stone benches positioned around the edges, which could accommodate 2-3 people. This area is licensed during core hours.
- The final part of the application is a pergola structure located within the rear grounds of the hotel, adjacent to the boundary wall with Queen's Lane South. The pergola is laid out in a square shape with four 400mm diameter stone clad columns which are positioned 2.2m apart. Upon the columns are two douglas fir solid timber beams rest, which in turn support a further five timber cross beams. Overall the structure is 4m wide, 4m long and 2.85m in height. The pergola sits within an area of stone slabs which is 9m x 6m and generally rectangular in shape. Existing landscaping surrounds the pergola and it sits underneath two large trees. There are three stone benches at three ends of the pergola which again could accommodate 2-3 people.

The applicant has advised that the pergola area is to be used occasionally for small wedding ceremonies and to provide a back drop for taking wedding photos. The area is licensed and there are local conditions in place which prevent amplified music from being played, restrict the use of bagpipes or harps (or other such unamplified solo instruments) to before 22:00 each day and prevent the consumption of alcohol after 22:00 hours on any day.

The Community Council and the majority of objectors refer to the creation of a 'beer garden' in this area. For the avoidance of doubt, no proposal for a beer garden has been submitted, the hotel operator has confirmed that they do not intend to operate the area as a beer garden and the license which they have received from the Licensing Board does not permit the area to be used as a beer garden.

Supporting Documents

All drawings and the supporting documents listed below relating to this application can be viewed on the Council's website at <http://planning.aberdeencity.gov.uk/PlanningDetail.asp?ref=140259>. On accepting the disclaimer enter the application reference quoted on the first page of this report.

REASON FOR REFERRAL TO COMMITTEE

The application has been referred to the Planning Development Management Committee for two reasons – (i) the community council for the area has objected; and (ii) more than five objections have been received. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

CONSULTATIONS

Roads Projects Team – No observations.

Environmental Health – In relation to the pergola, there would be sufficient control with conditions on no amplified music and not using after 10pm.

Enterprise, Planning & Infrastructure (Flooding) – No observations.

Queens Cross and Harlaw Community Council – In response to approaches from local residents, the community council objects to the proposal. The grounds of concern relate to the plans for the rear of the property, specifically with the proposal for an 'elevated pergola with associated outdoor seating'. There are no objections to the plans for development of the hotel frontage. The following specific matters are raised –

- The proposal at the back of the hotel is effectively a beer garden and would therefore create noise, which can carry a considerable distance and would disturb residents in Harlaw Road.
- Due to the elevation of the pergola the beer garden would over look the rear gardens of Harlaw Road.
- Overspill parking from people visiting the beer garden would take place in Queen's Lane South.
- Patrons of the beer garden would use the rear gate from Queen's Lane South, resulting in a safety hazard for pedestrians and vehicles in the lane.

REPRESENTATIONS

Nineteen letters of objection have been received, predominately from residential properties at the rear of the hotel on Harlaw Road, Harlaw Place and Queens Lane South. One letter of support was received from the owner of a property on Queen's Road and Graham Mitchel architects have submitted a letter on behalf of the hotel clarifying several matters related to the proposal.

The objections raised relate to the following matters –

In relation to the pergola –

1. hotel patrons are very likely to sit and drink alcohol outside and would therefore would be involved in anti-social behaviour, resulting in disturbance and nuisance to nearby residents, especially in the evening or at night;
2. if hotel guests and customers smoked in the pergola area the smell of smoke would cause nuisance to neighbours;
3. it would result in increased pedestrian traffic on Queen's Lane South, resulting in disturbance to residents, a high risk of accidents and an increase in the existing traffic management problems on the lane;
4. it would result in increased vehicular traffic on Queen's Lane South as patrons drive to use the pergola area, resulting in disturbance to residents, a high risk of accidents and an increase in the existing traffic management problems on the lane;
5. the area on which the pergola is located was previously used for parking spaces and therefore did not encourage people into that area;
6. the area on which the pergola is located was previously used for parking spaces and therefore the reduction in parking spaces will impact on parking capacity in the surrounding area;
7. it is an eyesore;
8. it should not be approved as previous construction work has caused disruption to residents;
9. litter would be blown into the lane from the area;

In relation to the outdoor seating area at the front of the hotel –

10. the seating area would reduce the number of parking spaces available;

In relation to no specific aspect of the application –

11. the development would create an undesirable precedent;

12. the development would create anti-social behaviour;
13. the development would generate noise which would carry into the surrounding area;
14. the development would create litter;
15. the development would generate an increase in traffic;
16. the development would create an undesirable precedent;
17. the on-going renovation work should be completed before further work is permitted;
18. the proposal represents overdevelopment of the site;
19. the use of flood lights at the hotel could cause light pollution.

PLANNING POLICY

National Policy and Guidance

Scottish Planning Policy (2014) / Scottish Historic Environment Policy (2011)

Listed Buildings –Where planning permission and listed building consent are sought for development to, or affecting, a listed building, special regard must be given to the importance of preserving and enhancing the building, its setting and any features of special architectural or historic interest. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the character and appearance of the building and setting.

Conservation Areas – Proposals for development within conservation areas and proposals outwith which will impact on its appearance, character or setting, should preserve or enhance the character and appearance of the conservation area. Proposals that do not harm the character or appearance of the conservation area should be treated as preserving its character or appearance.

Aberdeen Local Development Plan

Policy D1 (Architecture and Place Making) – To ensure high standards of design, new development must be designed with due consideration for its context and make a positive contribution to its setting.

Policy D5 (Built Heritage) – Proposals affecting conservation areas or listed buildings will only be permitted if they comply with Scottish Planning Policy (SPP).

Policy BI3 (West End Office Area) – Where there is scope to provide access to properties from rear lanes this will only be acceptable if satisfactory traffic management measures are in place, or can be provided by the developer.

EVALUATION

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to preserve and enhance the character or appearance of conservation areas.

The site is located within the west end office area (Policy BI3 – West End Office Area) where offices and business uses are generally supported. Other commercial uses are not explicitly mentioned in the policy.

A hotel has existed at 59 Queen's Road since at least the 1960's. In the 1990s the hotel expanded into 61 and 63 Queen's Road and it became 'Simpsons Hotel, Bar and Restaurant'. Given that the hotel use has been established at the site for many years and the original buildings have already been extensively extended, it is considered that small scale development associated with the hotel is acceptable in principle. Therefore the matters to be assessed are the scale and design of the proposals and any impact it may have on the surrounding area.

Seating Area at Front of Hotel

The area at the front of the hotel, opposite the door to the bar, is intended to function as the permanent outdoor seating area for use by hotel patrons. The area has previously been used as part of a larger outdoor seating area when the premises operated as 'Simpson's'. In that instance moveable garden style furniture was utilised rather than permanent seating. Given that it has already been used for this purpose and the only change is the use of permanent seating rather than moveable furniture, it is not anticipated there would be any additional impact on the amenity of neighbouring uses.

The permanent seating is low level and does not obscure views of the category B listed building nor does it interrupt the streetscape of Queens Road. It has been constructed from high quality materials which relate to the wider hard and soft landscaping at the front of the hotel. Therefore it is considered that the setting of the listed building has to a degree been enhanced through the use of a consistent and high quality finish and that the character of the wider conservation area has been maintained in accordance with Policy D1 (Architecture and Place Making) and Policy D5 (Built Heritage).

The creation of this area has not resulted in the loss of car parking. Due to the reduction in space taken up by the outdoor seating, the opportunity has been

taken to provide three spaces more than were provided when the hotel operated as 'Simpsons'. There is now a total of 21 space at the front of the hotel.

Pergola and Hard Landscaped Area

The pergola is located against the rear boundary wall of the hotel, adjacent to Queen's Lane South.

It is constructed from high quality materials which complement the light render which has been used to finish the hotel buildings. It has open sides and top which results in a structure which appears sturdy but insubstantial. The modern extensions to the hotel are located between the pergola and the listed parts of the building. At approximately 60m away, it would have no effect on the setting of the listed buildings.

In the wider context of the conservation area, this section of Queen's Lane South is characterised by large extensions at the hotel itself, the former Hamilton School and the Malmaison Hotel. Boundary walls and domestic garages typically define the southern side of the lane. Although the pergola is visible above the rear boundary wall, it is the height of a small domestic garage. It sits within a landscaped area and when trees are in leaf it is largely screened from the lane. Within this overall context the structure would be insignificant and it is considered that the character of the conservation area has been maintained in accordance with Policy D1 (Architecture and Place Making) and Policy D5 (Built Heritage).

Similarly, the hard landscaped area adjacent to the most recent hotel extension has been finished in high quality materials and provides a suitable setting for the hotel buildings.

A significant level of objection has been received to the pergola whilst others do not specifically mention which area at the rear of hotel they refer to. The main concern is that a beer garden is being proposed and that this would result in anti-social behaviour, resulting in disturbance and nuisance to nearby residents, especially in the evening or at night. Whilst the concerns of residents in terms of amenity are appreciated, the Council as planning authority may only assess the proposal on the basis of what is presented in an application and the planning circumstances which exist. In this instance, the application is for the pergola as a physical structure. The hotel operator has confirmed that they do not intend to operate the area as a beer garden. There are no tables and chairs and the area is remote from the bar or function suites. It is apparent that it does not have any of the characteristics of a typical beer garden. Should the layout change or further tables and chairs be introduced, a variation to the license would be required. In determining whether to vary a license the board are required to have regard to the licensing objectives which are (1) preventing crime and disorder, (2) securing public safety (3) preventing public nuisance, (4) protecting and improving public health and (5) protecting children from harm.

It is perhaps beneficial to explain the circumstances around the activities the hotel may carry out within their grounds, in terms of planning control. The hotel,

bar and restaurant use, which is the authorised use of the premises, extends to not only the buildings on the site but to the grounds as well, which together form the overall planning unit. Case law has established that in addition to the right to use a planning unit for a primary purpose (in this case the hotel, bar and restaurant) there also exists a right to carry out any activity which is associated with the primary use. Therefore any activity which one would expect to reasonably take place within the grounds of a hotel, could take place without planning permission, as long as no physical development was undertaken. For example, activities such as outside drinking and dining, the conducting of weddings or taking of wedding photos, or smoking, could legitimately take place within the grounds, without planning permission being required.

In relation to this specific proposal it is therefore important to note that there are no planning restrictions which restrict the times hotel patrons can be outside within the grounds of the hotel. This has been the case since the hotel originally opened and remains the case since the premises became the 'Chester Hotel'. It is also worthwhile to note that when the hotel operated as 'Simpsons', there was an external terrace area adjacent to the bar and restaurant where patrons sat outside to consume food and drink. Therefore, to summarise, patrons can congregate, smoke or drink in this part of the grounds whether or not a pergola or hard landscaping exists. Planning permission would not be required to use moveable furniture to allow patrons to sit outside. However, a license variation would be required if the layout was changed.

The conducting of wedding ceremonies or taking of photographs are activities which it would not be unusual to find taking place within the grounds of a hotel. These activities are likely to take place during the day or early evening and it would be reasonable to assume that it would only occur when the weather permits. Bearing in mind that the area could be used for these purposes whether or not a pergola exists, any disturbance as a result of the use of the area is likely to be minimal and be no greater than if the pergola and hard surface was not there. The area is licensed, however no alcohol can be served or consumed in this area after 22:00 and no amplified music may be played at any time. The use of bagpipes or harps (or other such unamplified solo instruments), which may be played at weddings or other such functions is permitted but not beyond 22:00 hours. If the hotel wished to use the area as a beer garden they would need to apply for a variation to the license.

The Community Council have raised concerns that due to the elevation of the pergola the alleged 'beer garden' would overlook the rear gardens of Harlaw Road. Queen's Lane South is approximately 6m wide and beyond it are the rear gardens of residential properties on Harlaw Road, with the houses themselves being a further 31m away. Other nearby residential properties which are adjacent to the hotel are 95 and 97 Queen's Lane South and 1 Harlaw Place. The pergola and the hard surface below it however sit at ground level and would not permit overlooking anymore than the grass which was there previously.

In order to try and alleviate the concerns of residents, initially it may seem reasonable to add a condition controlling the hours which people can be present in the pergola and hard landscaped area. However hotel patrons are legitimately

entitled to use the area for the reasons explained above. A condition restricting the use of the areas after a particular time in the evening for example is unlikely to be effective, reasonable or enforceable.

To be effective at controlling noise disturbance, patrons would have to be restricted from being outside anywhere within the rear grounds of the hotel. Such a restriction cannot be imposed on the whole hotel retrospectively through this application. It would also be unreasonable to place restrictions on these specific areas, when patrons could use the remainder of the grounds without restraint.

As already mentioned, the license does not permit the type of activity which residents are concerned about and in any case no alcohol may be consumed in these areas after 22:00. A planning condition controlling hours would simply be repeating provisions which are controlled under licensing legislation and therefore is neither necessary nor desirable.

Each of the remaining points raised in objections which specifically relate to the pergola area and hard landscaping are addressed below –

- *Issue 2 – If hotel guests and customers smoked in the pergola area the smell of smoke would cause nuisance to neighbours;*

Hotel patrons would be free to stand and smoke in the pergola area, or any other part of the hotel grounds. Given the outdoor nature and distance of around 16m to the nearest house it is unlikely that a nuisance would occur. This is the same for all three outside areas.

- *Issues 5 and 6 – The area on which the pergola is located was previously used for parking spaces and therefore the reduction in parking spaces will impact on parking capacity in the surrounding area.*

The area was previously soft landscaping and there has been no loss of car parking.

Relevant Planning matters raised by the Community Council

All matters raised by the Community Council have been addressed within this report.

Relevant Planning Matters Raised in Written Representations

Matters which have been raised and not already addressed -

- *Issues 3 and 4 – The proposed developments would result in increased pedestrian traffic on Queen's Lane South, resulting in disturbance to residents, a high risk of accidents and an increase in the existing traffic management problems on the lane.*

A condition which allows only service vehicles to use this gate has been in place since 2006. There is no public access between the lane and hotel car park or grounds. The gate was removed during the refurbishment of the hotel and has recently been reinstated. At the time of writing, the handover from the contractors to the hotel operator was taking place and planning officers have been advised that the gate will now be locked and only opened by staff during service deliveries and collections. With this restriction in place, it is not anticipated that patrons of the hotel would either drive or walk to the hotel via Queen's Lane South with the specific aim of using any of the outdoor areas at the rear of the hotel.

- *Issue 8 – The application should not be approved as previous construction work has caused disruption to residents / the on-going renovation work should be completed before further work is permitted.*

Disruption from construction work is inevitable and it would not be legitimate to withhold further planning permissions for this reason.

- *Issue 9 – Litter would be blown into the lane from the area.*

There is no evidence to suggest that the surrounding area would experience a greater amount of litter than would otherwise be the case.

- *Issue 15 – The development would generate an increase in vehicle traffic.*

The outdoor areas at the rear of the hotel are minor elements of the overall hotel and ancillary to the main use. People are unlikely to be traveling specifically to utilise the areas at the rear of the hotel. Nonetheless, it is accepted that on a hot summers day the outdoor seating area at the front of the building may attract customers over and above those which would go to the hotel in any case, however it is reasonable to assume that most people would not be driving if they were to be drinking and again the area is ancillary to the overall hotel use. A parking provision of 48 parking spaces was agreed through the planning permission for the most recent extension and they are now available for use. No changes to the number of parking spaces are proposed in this application, although a small number of spaces have been rearranged moved in order to create a more practical layout.

- *Issue 18 – The proposal represents overdevelopment of the site.*

The proposals are either hard landscaping or a pergola, neither of which contribute to the built footprint of buildings on the site.

- *Issue 19 – The use of flood lights at the hotel could cause light pollution.*

No flood lights are proposed as part of the development. The pergola features small LED uplighters at its base and there are various small lights throughout the grounds within landscaping and on the building which it is not considered would require planning permission.

RECOMMENDATION

Approve Unconditionally

REASONS FOR RECOMMENDATION

Development ancillary to and associated with the established hotel use is considered acceptable in principle.

Through the use of high quality and consistent materials throughout the site and sensitive design the setting of the listed building has to a degree been enhanced. The character of the wider conservation area has also been maintained and therefore the proposals are in accordance with Policy D1 (Architecture and Place Making) and Policy D5 (Built Heritage).

Whilst the concerns of residents are appreciated, no proposal for a beer garden has been submitted, the operator of the hotel has confirmed that there is no intention to operate the area as a beer garden and the license for the hotel received from the Licensing Board does not permit the area to be used as a beer garden. There are no tables and chairs and the area is remote from the bar or function suites. It is apparent that it does not have any of the characteristics of a typical beer garden. There are no planning restrictions which restrict the times hotel patrons can be outside within the grounds of the hotel and the presence of the pergola or hard landscaped area at the rear of the hotel does not change this.

Any problems experienced by residents with the hotel which are not part of these proposals cannot be controlled or resolved through this application and should be addressed through the licensing or environmental health regimes.

Dr Margaret Bochel

Head of Planning and Sustainable Development.