

REFERENCE NO - 26/500987/FULL		
PROPOSAL - Change of use of public open space / grass area to mixed use as a public open space and beer garden (Sui Generis Drinking Establishment and restaurant use) including siting of picnic tables and benches.		
SITE LOCATION - Albion Tavern, Front Brents, Faversham, Kent, ME13 7DH		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions.		
APPLICATION TYPE – Full Planning Application		
REASON FOR REFERRAL TO COMMITTEE - Application site comprises council owned land and the recommendation of Officers is contrary to Member Representations received from Cllr Claire Martin and Cllr Alex Eyre along with a representation received from Faversham Town Council who have asked for the application to be considered by the Planning Committee in that scenario.		
Case Officer - Christian De Grussa		
WARD Priory	PARISH / TOWN COUNCIL Faversham Town Council	APPLICANT Shepherd Neame Ltd AGENT Milliken & Co. Chartered Surveyors
DATE REGISTERED 31/03/2026		TARGET DATE 26/05/2026
BACKGROUND PAPERS AND INFORMATION: The full suite of documents submitted, and representations received pursuant to the above application are available via the link below: - https://pa.midkent.gov.uk/online-applications/applicationDetails.do?keyVal=TBU15KTYMQW00&activeTab=summary		

1. SITE LOCATION AND DESCRIPTION

- 1.1. The site comprises a 250 square metre parcel of area of flat, grassed, open space. The site is bounded by the side wall of The Albion Tavern, by the vegetated rear boundaries of houses fronting Upper Brents, by trees and timber bollards lining the northeastern boundary of the car park, and by stone bollards preventing vehicle access from the Creekside track. It has no fence or other means of enclosure on the car park or Front Brents sides and is open to access by the public at all times. It is noted that the property is addressed as Albion

Tavern and Albion Taverna interchangeably within the submissions. Albion Tavern was the address used on the application form and has been therefore used throughout this report.

- 1.2. The site is part of an area of Local Green Space as designated by Policy DM18 of the adopted Swale Borough Local Plan 2017. The site is within the Faversham Conservation Area and within the Faversham Creek Policy Area as defined by Policy NP1.
- 1.3. The site sits adjacent to The Albion Tavern which is shown on the plans to be within the applicant's control and comprises an attractive established C19th public house and Mexican restaurant situated within the Faversham conservation area along Front Brents, facing onto Faversham Creek, with its own private car park to the rear accessed off Church Road/Upper Brents. It also has a small enclosed outside seating area, and it also often has tables on the frontage overlooking the Creek. The car park and outside seating area are beside and behind private houses fronting Upper Brents; two of which are in a grade II listed building which itself used to be another public house (The Willow Tap) that closed some years ago.
- 1.4. The Albion Tavern faces the Creek between Council owned land, including a car park to the southwest of the site in which ten to twelve cars can be parked. This small car park is reached via a track that also leads on to a number of dwellings on Front Brents on either side of the public house. The whole area is very low lying alongside the Creek and is within Flood Zones 2 and 3, whilst the north western part of the site comprises an area at risk of surface water flooding. Both the Albion Tavern and the car park are excluded from the designated Local Green Space.

2. PLANNING HISTORY

- 2.1. 19/500084/FULL - Change of use of public open space/grass area to mixed use as a public open space and beer garden (Class A4 drinking establishment), including siting of tables and chairs/picnic benches. Refused at committee on for the following reason:
 - 1) The proposed mixed use of this area of Local Green Space as defined in the Council's adopted Local Plan would have a negative impact upon the amenities of the area, upon the setting of nearby listed buildings and the special character of the Faversham conservation area, with negative impacts on the residential amenity of adjacent residents, local parking problems and the direct loss of this highly valued open green space in a manner contrary to policies CP5, DM7, DM14, DM17, DM18, DM32 and DM33 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017.
- 2.2. That application was recommended for approval by Officers but the Planning Committee decided to refuse the application.

- 2.3. Earlier applications at the applicant's holding include SW/97/0550 and SW/12/1354. These related to works of extension and advertising but neither are considered to be relevant to the assessment of this proposal

3. PROPOSED DEVELOPMENT

- 3.1. The proposed development is the change of use of the application site from public open space to a mixed use for public open space and for use as a beer garden to be facilitated by the stationing of 10 six-seater timber picnic tables/benches to serve Albion Tavern. Revised drawings were submitted during the course of the application which reduced the number of six-seater timber picnic tables/benches from 12 to 10, reducing the area over which the tables/benches are to be situated.
- 3.2. In this instance it is considered that planning permission is required solely for the change of use. The submissions indicate that the associated picnic tables would not meet all of the relevant tests to be considered buildings, particularly as they would not be fixed to the ground. Their presence and siting are, however, integral to the proposal and the development should be considered in that context.

4. REPRESENTATIONS

- 4.1. Public consultation was undertaken, during which letters were sent to neighbours. A site notice was displayed at the site, and an advert was placed in the local newspaper. Full details of representations are available online.
- 4.2. During the initial consultation (when the application proposed 12 six-seater timber benches), six letters were received supporting the proposal, thirteen letters were received objecting to the proposal, and two letters were received neither objecting nor supporting the scheme.
- 4.3. Upon the receipt of amended plans, showing 10 six-seater timber benches, a second round of consultation was undertaken. One letter was received supporting the proposal, seven letters objecting to the proposal, and one letter neither objecting nor supporting the proposal.
- 4.4. The letters of support raised the following:

First Round Comments	Report reference
Supports the continued viability of the public house whilst making the space more usable and welcome for guests	See paragraphs 7.2.3 to 7.2.10 and 7.10.4.
Contribution to the local economy and social life of Faversham town	See paragraphs 7.2.3 to 7.2.10 and 7.10.4.
Appropriate use of local green space	See paragraphs 7.2.12 - 7.2.23.
Strengthens the vitality of Faversham	See paragraphs 7.2.3 to 7.2.10 and 7.10.4.
No built development being proposed	See section 3 above.
Second Round - Additional Comments	Report reference

Supports the continued viability of the public house whilst making the space more usable and welcome for guests	See paragraphs 7.2.3 to 7.2.10 and 7.10.4.
Contribution to the local economy and social life of Faversham town	See paragraphs 7.2.3 to 7.2.10 and 7.10.4.
No unacceptable noise impacts or antisocial behaviour to be derived from the scheme	See section 7.9.
Appropriate use of local green space	See paragraphs 7.2.12 to 7.2.23.
Strengthens the vitality of Faversham	See paragraphs 7.2.3 to 7.2.10 and 7.10.4.

4.5. The letters of objection raised the following:

First Round Comments	Report reference
Inappropriate loss of green space	See paragraphs 7.2.12 to 7.2.23.
Unjustified extension of commercial use	See paragraphs 7.2.3 to 7.2.10 and 7.10.4.
Noise, disturbance, pollution, littering, and anti-social behaviour	See section 7.9.
Overlooking and loss of privacy	See section 7.9.
Insufficient parking provision and detrimental to highway safety	See section 7.7.
Not mixed use owing to Shepherd Neame only supporting use by non-customers during non-busy periods	The terms of use are set out in Section 3.
Pre-mediated attempt by the developer to land grab and make a profit	Potential profit making is not a material consideration.
Increased risk of flooding	See section 7.8
Limited impact upon local economy	See paragraphs 7.2.3 to 7.2.10 and 7.10.4.
Harm to heritage assets and character of the surrounding area	See section 7.3
Failure to protected natural green areas and biodiversity	See section 7.6
Conditions that are to be recommended would lack enforceability	The conditions that are recommended are considered to meet the tests.
Second Round - Additional Comments	Report reference
Inappropriate loss of green space	See paragraphs 7.2.12 to 7.2.23.
Unjustified extension of commercial use	See paragraphs 7.2.3 to 7.2.10 and 7.10.4.
Noise, disturbance, pollution, littering, and anti-social behaviour	See section 7.9.
Plan does not show access from Creek Cottage	Access onto neighbouring land is a civil matter and would not be affected by the proposals.

A public consultation should be undertaken	As set out throughout this section, public consultation has been undertaken.
Insufficient parking provision and detrimental to highway safety	See section 7.7.
Limited impact upon the local economy	See paragraphs 7.2.3 to 7.2.10 and 7.10.4.
Not mixed use owing to Shepherd Neame only supporting use by non-customers during non-busy periods	The terms of use are set out in Section 3.

4.6. The letters neither supporting nor objecting raised the following:

First Round Comments	Report reference
Tables would be welcome addition	Comment noted.
Requests for opening and closing times to be observed	See section 7.9.
Land in question should not fall into the ownership of Shepherds Neame	Future land ownership is not a material consideration.
Supports the scheme provided no furniture is placed on the highway	Such provisions would fall outside the scope of this application.
Queries if proposed use would be for public or private occupation	The proposal is to use the land for mixed use purposes.
Questions if other representations received are genuine	All representations have been considered in good faith and there is no evidence to justify not having regard to all representations received.
Location of site notice is inadequate	The site notice was posted appropriately.
Second Round - Additional Comments	Report reference
Condition should be imposed as part of any forthcoming decision notice which prevents seating or other furniture from being placed within the road	Such a condition would be unnecessary as provisions like that would be outside the scope of this application.

4.7. Faversham Town Council object to the application on the following grounds:

First Round Comments	Report reference
Inappropriate use of local green space	See paragraphs 7.2.12 to 7.2.23.
Noise and disturbance impact	See section 7.9.
Detrimental to highway safety	See section 7.7.
Second Round - Additional Comments	Report reference
Inappropriate use of local green space	See paragraphs 7.2.12 to 7.2.23.
Noise and disturbance impact along with increased antisocial behaviour	See section 7.9.

Submitted plans do not show the existing access from Creek Cottage	Access onto neighbouring land is a civil matter and would not be affected by the proposals.
A public consultation should be undertaken	As set out throughout this section, public consultation has been undertaken.
Number of safeguarding conditions are requested if application is approved	Appropriate conditions have been suggested.
A review of Faversham's Local Greens spaces should be undertaken prior to determination	The Council is obliged to determine the application in a timely manner and should not wait for other evidence to be prepared.

4.8. The Faversham Society object to the application on the following grounds:

First Round Comments	Report reference
Inappropriate use of public space owned by Swale Borough Council, and a loss of public amenity	Open space is addressed at paragraphs 7.2.24 to 7.2.29 and land ownership is not a relevant material consideration in this case.

5. CONSULTATIONS

5.1. Set out below is a summary of matters raised in representations, with the comments reflecting the final position of the consultee. There have been two rounds of consultation for most consultees.

5.2. **KCC Highways** – The response advised that there are no highway implications from the proposal.

5.3. **KCC Archaeology** – No objection

5.4. **KCC Public Rights of Way (PROW)** – No objection

5.5. **SBC Heritage and Design** – No objection

5.6. **SBC Greenspaces** – No objection

5.7. **Mid-Kent Environmental Protection** – No objection subject to conditions.

5.8. **Environment Agency (EA)** – No comment.

6. DEVELOPMENT PLAN POLICIES

Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 (the Local Plan)

ST1	Delivering sustainable development in Swale
ST3	The Swale settlement strategy
ST7	The Faversham area and Kent Downs strategy.
CP1	Building a strong, competitive economy

CP2	Promoting sustainable development
CP4	Requiring good design
CP5	Health and wellbeing
CP6	Community facilities and services to meet local needs
CP7	Conserving and enhancing the natural environment – providing for green infrastructure
CP8	Conserving and enhancing the historic environment
DM2	Main Proposal for main town centre uses
DM6	Managing transport demand and impact
DM7	Vehicle parking
DM14	General development criteria
DM17	Open space, sports, and recreation provision
DM18	Local green spaces [
DM19	Sustainable design and construction
DM21	Water, flooding and drainage
DM28	Biodiversity and geological conservation
DM32	Development involving listed buildings
DM33	Development involving conservation areas.
DM34	Scheduled Monuments and archaeological sites
NP1	Faversham Creek Neighbourhood Plan.

Faversham Neighbourhood Plan 2024

FAV4	Mobility and Sustainable Transport
FAV6	Public Rights of Way, National Trails, Promoted Routes and Cycleways
FAV7	Natural Environment and Landscape
FAV8	Flooding and Surface Water
FAV9	Air Quality
FAV10	Sustainable Design and Character
FAV11	Heritage
FAV12	Community Facilities
FAV15	Faversham Creek Policy Area

Supplementary Planning Guidance/Documents –

Parking Standard Supplementary Planning Document, 2020. Parking Standards SPD (2020)

Faversham Conservation Area Character Appraisal & Management Plan Public Consultation Draft August 2023.

Faversham conservation area character appraisal (2004)

National Planning Policy Framework (the NPPF)

National Planning Practice Guidance (NPPG)

Kent Mineral and Waste Local Plan 2024-39 (KM&WLP), 2025 & the Kent Mineral Sites Plan (KMSP), 2020.

7. ASSESSMENT

7.1. The main considerations involved in the assessment of the application are:

- Principle
- Heritage Assets
- Character and appearance of the site and the area
- Archaeology
- Highway Safety and Parking
- Living Conditions
- Ecology
- Flood Risk

7.2. **Principle**

7.2.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.

7.2.2. The NPPF provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

Sustainable Development and Expansion of Existing Business

7.2.3. Policy ST1 of the Local Plan 2017 states that, to deliver sustainable development in Swale, all development proposals will, as appropriate, build a strong competitive economy by meeting identified needs for inward investment and indigenous growth on allocated and suitable sites, including meeting the needs of under-represented sectors (criterion 1) and accord with the Local Plan Settlement Strategy (criterion 4).

7.2.4. The above is echoed by policy ST3 of the Local Plan 2017 which, at criterion 1, sets out that the urban centres of Faversham and Sheerness will provide the secondary urban focus for growth at a scale and form compatible to their historic and natural assets and where it can support their roles as local centres serving their hinterland.

7.2.5. Alongside this, policy CP1 of the Local Plan 2017 seeks to build a strong and competitive economy which, as per criterion 9, is to be achieved by safeguarding or enhancing Swale's' Principal Tourism Assets (defined in Statement Four as including high quality restaurants and pubs) whilst consolidating or widening the Borough's tourism potential, particularly where embracing principles of sustainable tourism. Policy ST7(10) also encourages enhancing the Faversham Creek area as a tourist hub and a place of special interest and activity, with strong associations with the water and improved links to the town centre.

- 7.2.6. Finally, policy FAV15(1a) of the Faversham Neighbourhood Plan 2024 clarifies that development in the Faversham Creek Policy Area (as defined within figure 21 of this document) will be supported where it comprises uses that enhance the economic, leisure, maritime or recreational use of the Creek, including visitor facilities. Similarly, policy FAV15 it goes onto clarify at criterion 8 that development must have no significant adverse impact upon the operations of existing commercial uses.
- 7.2.7. At a national level, paragraph 85 of the NPPF states that “significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.” Moreover, paragraph 98 states that planning decisions should “plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.”
- 7.2.8. The site is located within the built-up area boundaries of Faversham and the Faversham Creek Regeneration Area. The proposal pertains to the expansion and consolidation of an existing drinking establishment/restaurant, The Albion Tavern, to be facilitated via the change of use the adjacent Local Green Space to one which exhibits a mixed use comprising a beer garden (consisting of ten six-seater public benches) and public open space. The development would function ancillary to the established business, enhancing their offering, whilst also serving the community as an area of open space.
- 7.2.9. The proposed change of use would assist with fostering a strong and competitive economy which contributes to the strength/diversity of Faversham’s wider tourism/employment offer.
- 7.2.10. Moreover, it would have no adverse impact on the operation of existing commercial uses whilst enhancing the economic, leisure, and recreational use of the creek.
- 7.2.11. In light of the above, the proposal is considered to be in accordance with policies ST1(1), ST3(2), ST7(10) and CP1(9) of the Swale Borough Local Plan 2017 together with policy FAV15(1), FAV15(8) of the Faversham Creek Neighbourhood Plan, and the NPPF. This is subject to other material planning considerations set out below.

Local Green Space

- 7.2.12. The site is allocated as a Local Green Space by the local plan. The wider area of Local Green Space that the site is a part of extends from the Swing Bridge to the south west, to the section of open space that sites between Upper Brents and Faversham Reach to the north east. This is an irregularly shaped parcel of land that excludes the Albion Tavern, the adjacent car park and the terraced dwellings to the east but includes all the undeveloped land in the vicinity and the pedestrian routes through and across the otherwise undeveloped land.

7.2.13. The previous Officer Report discussed the purposes and designation of Local Green Space and it is relevant to highlight that such guidance is available at the “Open space, sports and recreation facilities, public rights of way and local green space” section of the Planning Practice Guidance and at paragraph 100 of the NPPF. Regard has been had to that guidance but, as it primarily relates to the designation of Local Green Space rather than the determination of applications where that designation is not in dispute, it is not now considered necessary to cite that guidance.

7.2.14. Policy DM18 of the Swale Borough Local Plan 2017 states that, within designated Local Green Spaces planning permission will not be granted other than for:

1. The construction of a new building for one of the following purposes: essential facilities for outdoor sport or recreation, cemeteries, allotment use, or other uses of land where preserving the openness of the Local Green Space and not conflicting with its purpose;
2. The re-use or replacement of an existing building, provided the re-use does not include any associated uses of land around the building which might conflict with the openness of the Local Green Space or the purposes of including land within it; and
3. The carrying out of an engineering or other operation or the making of any material change of use of land, provided that it maintains the openness and character of the Local Green Space

7.2.15. As set out above, the items to be kept at the site (benches) are not considered to be buildings and as such the proposal would not be considered in the context of the first two criteria set out above. However, the proposal would involve the change of use of land, with the stationing of benches being a feature of that use rather than a building operation. The keeping of these items at the site would inherently reduce openness as structures would be present where none currently exist. In spatial and visual terms, openness would be reduced. In terms of character, the land currently appears as a small part of the overall area of undeveloped land that has been described above, in some respects being of less visual value than other sections due to its small scale and positioning between the car park and the Albion Tavern which gives the impression that it is more general amenity land rather than usable open space. It could be construed that the site is viewed as part of the setting of the adjacent building and fringe to the adjacent car park as much as it is viewed as part of the wider area of undeveloped open space. However, by distinctly changing the use to include a ‘beer garden’ use and bring items onto the site to change that use, the existing character of the Local Green Space would not be maintained. Consequently, there is a conflict with Policy DM18.

7.2.16. The NPPF, at paragraph 108, states that decisions for managing development within a Local Green Space should be consistent with national policy for Green Belts set out in chapter 13 of the NPPF.

- 7.2.17. In this regard it is relevant to note that paragraph 153 of the NPPF states that “when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.” Clearly the use of the term Green Belt should be substituted for Local Green Space in the consideration of this proposal.
- 7.2.18. Paragraph 154 of the NPPF goes on to state that the types of development that are not inappropriate in the Green Belt, or in this case in the Local Green Space, one of which is “b) the provision of appropriate facilities (in connection with the existing use of land or a change of use), including buildings, for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.” Another is h)v) the “material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds)” provided that the development preserves the openness of the Local Green Space and does not conflict with the purposes of including land within the designated area.
- 7.2.19. Whichever of the ‘outdoor recreation’ categories are considered, there is a requirement for the development to preserve the openness of the Local Green Space. In the same manner as has been set out above, this would not be achieved. The development is therefore inappropriate development at a Local Green Space. This and the harm to openness both need to be afforded weight in the subsequent assessment of the proposal.
- 7.2.20. Unlike the applicable local plan policy, the NPPF requires a subsequent assessment to be made, namely whether there are very special circumstances that justify supporting the proposal, with it being the case that such circumstances would not exist “unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.” This exercise of weighing harms against benefits will be undertaken in the Conclusion and Planning Balance section.
- 7.2.21. This assessment is consistent with part of the reason for the refusal of the previous application which stated that the development would result in the “...direct loss of this highly valued open green space” and conflict with policy DM18. The reduction of tables at the site from 12, as proposed under the previously refused application, to 10 under the current application, would reduce the effect of the development but not in a manner that would lead to a different overall conclusion being reached specifically in relation to this matter.
- 7.2.22. In terms of the degree of harm that would be caused, it is considered relevant to note the commentary above which identifies that this is a small and fringe part of the overall area of Local Green Space. In that context and noting

that the site would still partially function as an open area with only limited items kept upon it, it is considered that there would only be a limited degree of harm to visual and spatial openness. This is, however, harm and does not give grounds to reach a different conclusion in respect of the considerations that are set out above.

- 7.2.23. Policy FAV 13 relates to Local Green Space but this parcel of land does not fall within one formally designated in the Neighbourhood Plan and the policy is clear that it only relates to those that are specifically designated by the Neighbourhood Plan. In any case, the policy aligns with national policy and so would not introduce any different considerations to those that have been considered above.

Open Space

- 7.2.24. Policy DM17 states that development will safeguard existing open space in accordance with national policy. In addition, Policy CP5 states that the Council will safeguard open space, with reference being made to Policy DM17.
- 7.2.25. Paragraph 104 states that existing open space should not be built on unless an assessment has been provided to show that it is surplus to requirements, the loss would be replaced by an equivalent or better provision or the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.
- 7.2.26. The NPPF defines open space as all open space of public value which offer important opportunities for sport and recreation and can act as a visual amenity. When considered alone and in conjunction with the wider parcel of open space that sits to the west, it is considered that the site constitutes open space.
- 7.2.27. The proposal would not result in the total loss of open space, but the shared use of that open space. This is, in part, encouraged by paragraph 98 of the NPPF which states that planning decisions should *“plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.”*
- 7.2.28. The proposal would involve the partial change of use of land to enable it to function as a beer garden, albeit it is envisaged that the land would also remain available for use as public open space, being a shared space. Through the partial intervention on the open space, there is a partial conflict with the abovementioned policies as the land would not remain entirely open and available for public use in the same way that is currently the case. This was reflected in the reason for the refusal of the previous application which referenced Policy DM17 and the *“direct loss of this highly valued open green space”*.
- 7.2.29. As per the assessment in the Local Green Space section, it is considered relevant that the site is a small part of the wider area of open space and, considered in that wider context, it is of limited value. There could be an actual

and perceived loss of availability of open space as a result of the land being commandeered as beer garden rather than open space. However, taking into account the overall quantum of open space of which this area forms part, it is recognised that there are other areas in proximity that are more likely to be highly valued by the users of the area. From this basis, whilst there is a partial conflict with policy arising from what is tantamount to an intermittent loss of public open space, it is considered that the harm arising from this is limited.

Main Town Centre Use.

7.2.30. Restaurants and pubs are main town centre uses and, as such, Policy DM2 and section 7 of the NPPF are applicable.

7.2.31. These require a sequential test to be undertaken with a preference being for such developments to be located in town centre or edge of centre locations. However, this would be entirely impractical in this case as the proposal is to be partially ancillary to an existing building and operating business. No other sequentially preferable location for the development could feasibly exist. Moreover, the proposal would fall outside the threshold for any impact assessment to be required. The proposal is therefore not considered to be prevented by the abovementioned policies.

7.3. Heritage Assets

7.3.1. Any planning application for development which will affect a listed building or its setting must be assessed in accordance with the requirements of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires a local planning authority to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.

7.3.2. A similar duty exists where the proposed development will be within a conservation area where section 72 of the same Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

7.3.3. The NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.

7.3.4. Policies DM32, DM33 and CP8 also require the protection of the heritage assets, albeit they are not consistent with the NPPF as they do not include a reference to weighing harm against public benefits. Neighbourhood Plan FAV11 also directly addresses heritage. Policies ST1, ST7, and DM14 of the Local Plan 2017 together with policies FAV12, and FAV15(6) of the Faversham Neighbourhood Plan 2024 also seek to protect heritage assets.

- 7.3.5. It is recognised that the previous reason for refusal identified conflict with policies DM32 and DM33 of the local plan and the reason for refusal states that the development would “have a negative impact upon the amenities of the area, upon the setting of nearby listed buildings and the special character of the Faversham conservation area.” The minutes of that meeting do not give a clear indication of the harm that was identified.
- 7.3.6. That stance was in contrast with the recommendations of officers. However, the position of the Council has previously been that the development would be unacceptable in this respect.
- 7.3.7. Although the details are limited, it can be assumed that the harm identified to the Conservation Area would have been as a result of the loss of open space, with it being the case that the open space must have been held as being valuable to the character and appearance of the Conservation Area. In this regard it is noted that the Conservation Area Appraisal (2004) refers to the Front Brents area as set out below, which specifically references the green spaces:

“Small C19 terraced houses, now punctuated by green areas, are set out along Front Brents on the north-west bank of the creek, although the more substantial stuccoed bulk of Bridge House (built in the early C19 and once a place of mercantile exchange) defines the corner with Church Road. Whilst the terraced houses mostly now have painted or rendered brickwork, replacement windows/doors and concrete roof tiles, their modest form and character still contributes positively to the character and history of the Creekside scene. The early C19 Albion public house is distinctive for its white-painted weatherboarding and slate-covered roofs; with twelve-paned sash windows overlooking the creek, and tables and chairs spilling out into the roadway, it is the attractive focus for eating, drinking and conversation which brings welcome life and vitality to the Creekside.

Green spaces (sometimes taking the place of demolished terraced houses) are now a significant feature of Front Brents and give the place a rather informal and relaxed feel. The largest of these is at the northern end of the road, where the lower unkempt section is historically important for embracing a severed loop in the creek left by the straightening of the channel in 1843.

Front Brents itself is a private street with restricted vehicular use so that it has the character of a path-cum-road where views of the creek can be enjoyed in peace and comfort. The creek-side verge (Town Green) forms an attractive green edge with well-spaced willow, birch and hawthorns trees. Kerbs, footways and all the clutter often prevalent in public streets are absent from the roadway so that an attractive and relaxed character predominates. There is access here to a timber jetty built in 1985 with moorings for a dozen or so small leisure craft; this trickle of life and activity on the water, important though it is, is not however on a scale to compensate for the demise of commercial craft. The view here confirms that the 'gritty' working waterside character of the creek has largely vanished and that it is now a quieter and more orderly place.”

- 7.3.8. The nearest listed buildings are Willow Tap Cottage and Creek House, Brents Tavern and St John the Evangelist Church to the north west of the creek and two of the converted former mills to the opposite side. These are all Grade II listed. Alike the harm to the Conservation Area it can be presumed that it was identified that the open space was valuable to the setting of those buildings and that through the alternative use of the site, harm to the setting of some of those buildings would have been identified. It is considered that the distance from the site and the intervening features means that there would be no harm to any listed buildings other than Willow Tap Cottage and Creek House.
- 7.3.9. Other than the reduction of tables at the site, the development is fundamentally the same and that baseline position of the Council has to be respected unless a case can be made that there are different policies or circumstances that would justify reaching a different position in relation to these specific matters.
- 7.3.10. The Design and Heritage Manager has raised no objection in respect of this application, alike his predecessor. In doing so it has been stated that “the picnic tables and benches are simple in design using traditional materials and are inherently temporary and moveable structures. Given the proposal would not alter the open and permeable quality of this green space, the Creekside already functions as a place of open air recreation and leisure, and the limited visibility between the application site and surrounding heritage assets due to intervening hedges, on heritage grounds there is no objection to the proposal which would preserve the character and appearance of the conservation area and the setting of the listed buildings. Overall, there is no objection to the proposed change of use with associated picnic tables and benches that would match the character of the area and is reversible in nature.”
- 7.3.11. The applicant has provided a reviewed version of the Heritage Impact Assessment that was submitted before. In summary this finds that the development “would serve to preserve and enhance the character and appearance of the Conservation Area; would not detract from the setting of a non-designated heritage asset; and would not detract from the setting of a nearby listed building.” As the document is fundamentally the same, its content is not grounds to reach a different conclusion in respect of the proposal.
- 7.3.12. In the interests of being consistent, it is considered that the former decision of the Council must be a material consideration and, other than a minor change being brought about through the number of tables, it is not considered that there would be grounds to reach a different conclusion. The partial loss of open space was found to be harmful to the character and appearance of the Conservation Area previously and in the context of the abovementioned appraisal, this approach can be taken again. However, this must be less than substantial harm in the context of the NPPF and, within the scale that sits within that category of harm, it is suggested that the harm must be at a very low level and at a lower level than was the case previously as a result of the reduction of the number of tables proposed. In this regard it is noted that the Conservation Area has to be viewed as a whole and as such, the change of use of a small parcel of land is not considered to be anywhere near moderately or significantly harmful.

- 7.3.13. Similarly, being consistent with the previous decision of the Council and recognising that harm was identified in respect of the effect on the setting of the abovementioned listed buildings, it is considered that, by definition, this has to be less than substantial harm. Any harm would be at the very low end of the scale due to the distance from the listed buildings and the minor nature of the proposal. As above, whilst the difference is minor, there would also be less harm than would have resulted from the previous proposal as a result of the reduction of the number of tables proposed.
- 7.3.14. As set out above Policies DM32 and DM33 require a binary assessment of whether or not harm would be caused. The reduction of tables is noted but, consistent with the previous decision, harm would still be derived in respect of the impact on the abovementioned heritage assets. There would, therefore, be a conflict with the abovementioned policies.
- 7.3.15. The Faversham Neighbourhood Plan has been made since the previous decision and it is noted that policy FAV11 states that “heritage-led regeneration and the adaptation and reuse of historic buildings will be supported, providing such works preserve or enhance the character or appearance of Conservation Areas and preserve listed buildings and their settings.” Policy FAV11 also states that development in conservation areas should preserve or enhance their character or appearance and setting, including their architectural quality and diversity, historic landscapes, townscape, historic layout and other historic features. Policies FAV12 and FAV15 are less direct in relation to heritage assets but have a similar theme of ensuring protection. There would be a conflict with these policies also.
- 7.3.16. It is noted that the applicant has referred to the building as a non-designated heritage asset. However, this was not assessed previously and the site is not designated on the Council’s local heritage list. Considering the building as a non-designated heritage asset, it is considered that the proposal would have a neutral effect on its setting given that the functional benefit would counteract the visual impact of the tables and, therefore, this does not affect the assessment.
- 7.3.17. The NPPF requires a balancing exercise to be undertaken to establish whether any harm to is outweighed by any public benefits that may arise. This exercise will be undertaken below.
- 7.3.18. In considering the impact of this proposal upon designated heritage assets, officers have had regard to the Council’s obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990.

7.4. Character and appearance of the site and the area.

- 7.4.1. Policies CP4 requires that development is of a high quality that is appropriate to its surroundings through, amongst many measures, creating safe, accessible, comfortable, varied and attractive places that enrich the qualities of the existing environment, reinforce local distinctiveness and retain and enhance features that contribute to local character. Policy DM14 provides similar guidance.

7.4.2. Setting aside the consideration of heritage assets, no other harms were identified in respect of the character and appearance of the site and the surrounding area. The Design and Heritage Manager has raised no objection to the proposal and, subject to conditions, it is considered that any objections should be raised other than where they relate to the heritage assets of the area as has been set out above. It is noted that Policy CP4 was not referred to in the previous reason for refusal and there is not considered to be any grounds to introduce any additional reasons for refusal in respect of this matter. In this regard, it is taken that the reference to Policy DM14 but not CP4 indicates that the concern raised in that regard was in respect of the other elements of that policy that are addressed elsewhere.

7.5. Archaeology

7.5.1. Policy DM34 of the Local Plan sets out that planning applications on sites where there is or is the potential for an archaeological heritage asset, there is a preference to preserve important archaeological features in situ, however, where this is not justified suitable mitigation must be achieved.

7.5.2. The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, Local Planning Authority's should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.

7.5.3. The site falls within an Area of Archaeological Potential though, given the modest nature of the proposal and there being no below ground works, KCC Archaeology raise no objections. This position is considered to be sound and, as such, the proposal is considered to accord with policies CP8 and DM34 of the Local Plan 2017, FAV11 of the Faversham Neighbourhood Plan 2024 and the NPPF.

7.6. Ecology

7.6.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP7 and DM28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.

7.6.2. Policy DM28 of the Local Plan 2017 clarifies that development which is likely to have an adverse effect upon locally designated sites will be permitted only where the damage can be avoided.

7.6.3. Although no Preliminary Ecological Appraisal accompanied the application, given that the application site is comprised of well-maintained grassland this is considered to be acceptable with regards to impacts upon biodiversity. In terms of Biodiversity Net Gain (BNG), the proposed development would be exempt from

this particular requirement given that the development is below the required threshold and de minimis by not impacting any priority habitats or non-priority on site habitats.

7.6.4. The Swale SSSI, SPA and Ramsar designations lie in excess of 500m to the north east of the site such that no direct impacts would arise. On this basis and given the nature of the proposals and the degree of separation, the proposals would not give rise to a likely significant effect on those designations. As likely significant effects can be screened out (the first stage of the Habitats Regulations Assessment process), an Appropriate Assessment is not required in this case.

7.6.5. Given the above assessment the proposed development is considered to be in accordance with policies CP7 and DM28 of the Swale Borough Local Plan 2017 along with FAV7 of the Faversham Neighbourhood Plan 2024.

7.7. Transport and Highways

7.7.1. Local Plan Policies CP2 and DM6 promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. Policy DM7 of the Local Plan requires parking provision to be in accordance with the Council's Parking SPD.

7.7.2. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”

7.7.3. Given that the proposed beer garden would function as ancillary to the established Albion Tavern drinking establishment, it is not considered that the change of use would significantly increase traffic volume to the detriment of highway safety. It is noted that there are no objections from the Highway Authority in respect of the proposal, and it is therefore suggested that it would not be prudent to object to the application on the grounds of highway safety or traffic generation.

7.7.4. In addition, the Public Right of Way Officer has stated that there are no objections to the proposal in the context of the presence of PROW ZF5. In this regard it is not considered that there would be any obstruction of the PROW caused by the development.

7.7.5. Nevertheless, no additional designated off-street parking has been proposed to reflect an uplift in demand that might arise from the additional tables. In this regard, it is noted that the Council's Parking Standards (2020) which were adopted since the previous decision, advises that 1 space per 6 square metres of floorspace should be provided for a restaurant and 1 space per 15 square

metres for a public house. The area demarked with tables on the submitted plan (with suitable allowances for movement around this tables) amounts to approximately 100 square metres and, as such, the parking standards would justify an uplift of parking provision to the extent of 16 spaces under the restaurant standards and 7 if considered under the public house standards. For 10 tables, 16 seems to be a high amount and so it is considered that the lower amount represents a more appropriate and proportionate provision. However, there would still be expected to be an uplift of parking demand arising from up to 10 tables worth of customers.

7.7.6. It is noted that the previous decision of the Council identified that the development would have a “negative impacts on....local parking problems” and policy DM7 was referenced in the reason for refusal. Although reference was made by an objector to the impact of parking on the usability of flood gates and the potential to cause indiscriminate parking, the minutes of the relevant Committee Meeting the summary indicates that the concern was that parking would be a problem.

7.7.7. For the reasons given above, no objection is raised in respect of highway safety or capacity. However, it is considered that an impact on parking can be an amenity issue. This is particularly the case given that limited fallback or overspill capacity within nearby streets can heighten the potential for amenity conflicts. Although there is some parking availability within the adjacent car park and the surrounding highways, it is known that this is already well used and therefore there could be additional parking strain arising from the proposed development. This would not give rise to demonstrably unsafe conditions but could cause inconvenience to the detriment of the general amenities of nearby residents. Consequently, the proposed development is considered to be in conflict with policies DM7 of the Local Plan 2017. This is, however, considered to be an indirect inconvenience to amenities rather than a direct harm and, therefore, it is not considered that it would cause the significant harm required for Policy DM14 to be conflicted. Moreover, it has to be acknowledged that there would be less of an impact than was the case when the 2019 application was considered due to the reduction of the proposed number of tables.

7.7.8. The Faversham Neighbourhood Plan 2024 has been made since the previous decision and whilst policy FAV4 is noted, it is not considered that it raises any matters that would justify raising an objection to the proposal. Whilst it is noted that it requires all development to provide storage facilities, it is considered to do so would be impractical in this case, particularly due to the small scale of the development. Therefore, no conflict with policy is identified.

7.8. Flood Risk

7.8.1. Policy DM21 of the Local Plan and the NPPF requires that Local Planning Authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed.

7.8.2. The NPPF (paragraph 170) stipulates that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas

at highest risk. If it is not possible, however, for development to be located in areas with a lower risk of flooding, then paragraph 177 of the NPPF requires the application of an exceptions test. The need for the exception test depends on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in Annex 3. Finally, the NPPF sets out at paragraph 181 that, when determining any planning applications, local planning authorities must ensure that flood risk is not increased elsewhere in the district.

7.8.3. Although located in Flood Zone 3 and the northern part of the site comprising a risk of surface water flooding, the site relates to a change of use of land and, as per footnote 60 of the NPPF, neither a sequential nor an exceptions test are required. In any case, given the beer garden would function as ancillary to Albion Tavern, it would be impractical to locate the proposal within an alternative location. Nevertheless, a site-specific Flood Risk Assessment was submitted which confirms the implementation of a Flood Emergency Plan and Evacuation Strategy. This is considered sufficient to overcome any potential flood risk to future patrons.

7.8.4. Subject to this document being secured by condition, the proposal is considered to be in accordance with policy DM21 of the Swale Borough Local Plan 2017, FAV8 of the Faversham Neighbourhood Plan 2024, together with the NPPF in this regard.

7.9. Living Conditions

7.9.1. Policy DM14 of the Local Plan and the NPPF requires that should not cause significant harm to the amenities of surrounding uses or areas, and due consideration will be given to the impact of the proposed development upon neighbouring properties. This is also set out within policies FAV10(9) and FAV12 of the Faversham Neighbourhood Plan 2024.

7.9.2. The nearest residential properties are those along Church Road that abut the northwestern boundary of the site. Other residential properties exist at the opposite side of Faversham Creek.

7.9.3. It is recognised that the previous reason for refusal identified conflict with policy DM14 of the local plan and the reason for refusal states that the development would have “negative impacts on the residential amenity of adjacent residents.” The minutes of that meeting indicate that this was a concern, but no additional detail can be drawn from the minutes.

7.9.4. Although the details are limited, it can be assumed that the assessment made by the committee would have been that the proposal would lead to an intensification of use along with increased footfall to the application site owing to the provision of the beer garden. In this regard it is recognised that, although functioning as ancillary to and in subordination with an established business, it would nonetheless lead to an increase in the levels of noise and disturbance impacts resulting from the additional comings and goings from customers, particularly during the summer months. The decision would suggest that the

assessment of the Planning Committee was that this would have caused harm to residential amenity.

- 7.9.5. It has been suggested by the applicant that the hours of use of the site as a beer garden would replicate those of the Albion Tavern and it is noted that the submissions of the applicant indicate that they would be able to wish to use the provisions until 10pm. However, this would be contrary to the guidance that has been provided by the Council's Environmental Health officers who have suggested that the use of the proposed area be limited to 11:00 to 21:00. These reduced hours are considered to be appropriate and would reduce the likelihood of any noise extending into the period where noise is more likely to be noticed and impactful. It is noted that premises already benefits from outdoor seating which means that there is already some noise experienced in the local environment and, at the later times of the day, it is considered that it would be undesirable for this to be added to. That existing activity demonstrates that it is not such a quiet setting that the proposed development would be unduly harmful to residential amenity during the suggested operational times.
- 7.9.6. The Council's Environmental Health Officer has not objected to the current application subject to conditions to control the opening hours, the playing of music and the submission and approval of a Noise Management Plan.
- 7.9.7. Although it would also have been the case at that time, it is considered relevant that the licensing regime would have some powers to control the use of the site where that use relates to the existing business.
- 7.9.8. Moreover, the proposal to require a Noise Management Plan to be submitted and agreed would represent a material change of approach compared to that which was considered previously. This would provide an additional mechanism to control any issues that arise. In addition, as has been set out elsewhere, there would be less disturbance and activity at the site as a result of this proposal when compared to the previous proposal at the site, by virtue of the reduction of the number of tables from 12 to 10.
- 7.9.9. In this regard, whilst the previous position of the Council is respected, it is considered that there are factors that represent material considerations that would justify reaching a different conclusion in this regard. Consequently, the proposed development is not considered to be in conflict with policy DM14 of the Local Plan 2017 together with FAV 12 of the Faversham Creek Neighbourhood Plan 2014 and the NPPF.
- 7.10. Heritage Balance, Assessment of Very Special Circumstances in the context of Local Green Space policy and the Planning Balance.**
- 7.10.1. It is recognised that the Council has a duty to act consistently and as such the decision of the Council in 2019 is an important material consideration. Consistent with that decision, harms have been identified in the assessment that has been undertaken above. In the considerations that will be undertaken below, those harms have to be weighed against any benefits of the proposal. Rather

than repeating the benefits of the scheme for each, it is considered prudent to set them out once.

- 7.10.2. The applicant's operational statement indicate that the benefits would be primarily economic and brought about through the inward investment into the site along with the accompanying increase in local spending from future customers and the direct employment of three additional members of staff.
- 7.10.3. Also, it is suggested that minor social benefits would be gained through improvements and the expansion of the pub within a sustainable location close to the town centre of Faversham.
- 7.10.4. The "Principle" section above identifies that the proposal would align with policies that support economic development. The National Planning Policy Framework, at paragraph 85, sets out that planning decisions 'should help create the conditions in which businesses can invest, expand and adapt' and that 'significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development'. This is also supported by government announcements relating to the hospitality and service sector, including documents such as 'Supporting Pubs and the Hospitality Sector' which was prepared by HM treasury in 2002 which emphasises how restaurants play a vital role in supporting economic growth across the UK and, more recently (June 2025) the House of Commons debate document "Government support for the hospitality sector." There are public benefits arising in this regard that are in line with the objectives of the Framework and cumulatively carry significant weight in favour of the proposed development, albeit it is recognised that the benefit is moderated by virtue of the small scale of the site and the proposal.
- 7.10.5. The previous Officer Report identified that the relevant considerations were finely balanced. Similarly, the minutes from the 2019 Planning Committee meeting indicate that a vote relating to the potential approval of the application was not unanimous. From this basis, as long as the weight applied to the relevant material considerations is done logically, it is considered that it would be reasonable for the Planning Committee to support or refuse the application.

Heritage Balance

- 7.10.6. As set out above and in the interests of consistency, it is considered that a very low level of less than substantial harm to the Faversham Conservation Area and the setting of Grade II listed buildings can be identified. Although the harm would be at a very low level, the NPPF still requires this to be given great weight. However, the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 7.10.7. Even giving great weight to the very low level of less than substantial harm that has been identified, it is considered that the public benefits that have been set out above outweigh that harm. Consequently, the proposal is

considered to accord with the approach set out at section 16 of the NPPF in respect of the effect on the heritage assets at and near the site. In undertaking this balancing exercise, officers have had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990.

Assessment of Very Special Circumstances in the context of Local Green Space policy

7.10.8. As detailed above, the NPPF sets out that 'very special circumstances' will not exist unless the potential harm to the Green Belt, or in this case the Local Green Space, by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

7.10.9. The proposal represents inappropriate development and harm would also be caused to openness. The NPPF requires that this is afforded substantial weight. Even doing so, the harm arising is considered to be moderated by virtue of the small scale of the impact and the comparatively limited value of the land to the overall function of the Local Green Space.

7.10.10. The benefits of the scheme have been set out above. In this case, it is considered that the circumstances of this case are very special, noting that the proposal represents a unique opportunity to support the established business which, in itself, is an important feature of the locality and the manner in which it functions. In this instance, it is considered that the benefits of economic development, the associated policy support and the circumstances of the case mean that the very special circumstances exist to outweigh the harm that would be derived from development that is inappropriate in a Local Green Space, harmful to the openness of the Local Green Space and all other harm that has been identified. Therefore, the proposal is considered to be acceptable and Local Green Space designation and the impact is not considered to be reason to find the development unacceptable.

Planning Balance

7.10.11. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

7.10.12. As detailed above, harm has previously been identified in respect of the effect on heritage assets and, whilst there are public benefits of the proposal which outweigh the harm such that there is no conflict with the NPPF, there is conflict with Policies DM32 and DM33 of the local plan which do not enable an assessment of wider benefits. The proposal is also in conflict with policy FAV11 of the Faversham Neighbourhood Plan in this respect. However, the harm arising from this conflict is at a very low level.

7.10.13. The proposal would also conflict with Policy DM18 by representing development at a Local Green Space that does not preserve the openness of that Local Green Space. Similar to the consideration of heritage assets, unlike the NPPF the local plan policies do not include a mechanism of balancing harms

against benefits and, as such, there is a conflict with policy despite there not being a conflict with the NPPF in this regard. The limited harm arising from the inappropriateness of the development in the Local Green Space and the harm to openness is however still required to be afforded substantial weight.

7.10.14. There would also be a shortfall of parking which could cause inconvenience to local residents and as a result, there would be some harm arising from the conflict with Policy DM7.

7.10.15. However, the proposal would accord with various policies and the benefits that have been identified are considered to outweigh the harm that would be caused. The proposal is considered to accord with the NPPF when it is taken as a whole and, therefore this is a material consideration that is considered to justify granting planning permission notwithstanding the conflicts with the development plan that have been identified.

7.11. Conclusion

7.11.1. For the reasons given above, whilst noting that the Council previously refused a similar application at the site, it is considered that the planning application can be supported subject to the imposition of the conditions that are set out below.

7.11.2. In considering the application, account has been taken of the information included with the application submission, the National Planning Policy Framework and the Development Plan, and all other material considerations including representations made including the views of statutory and non-statutory consultees and members of the public.

7.11.3. It is noted that the Officer Report for the previous application recommended that planning permission was granted for a temporary period. This is not considered to be necessary for the reasons given above, but if the Planning Committee were to identify any concerns or wish to apply weight differently, it would be necessary to consider whether they could be addressed through allowing the development on a temporary, trial basis. A suitable period could be 2 years as previously recommended.

7.12. Recommendation

7.12.1. Grant planning permission subject to the following conditions:

Time Limit

1. The development hereby permitted shall be commenced before the expiration of three (3) years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town & Country Planning Act 1990 (as amended).

Drawings

2. The development hereby permitted shall be carried out in accordance with the approved plans and documents listed below.

Site Location Plan

AT-18-100-A - Site Layout as Proposed

26.015.SN.002 - Proposed Site Plan

Standard 6 Seater A-Frame Table Detail (Received 13/03/2026)

Reason: For the avoidance of doubt and in the interests of proper planning.

Noise Management Plan

3. Prior to the use of the development, a Noise Management Plan covering the entirety of the operation shall be submitted to and approved in writing by the local planning authority. The plan shall include but not be limited to examples such as hours of operation, noise from external activities and details of mechanisms to address complaints.

The development shall only be used in full accordance with the approved Noise Management Plan.

Reason: In the interests of the protecting the living conditions of the occupiers of nearby residential properties.

Means of Enclosure

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order), no gate, fence, wall or other means of enclosure shall be erected, constructed, maintained, improved or altered under the terms of Class A of Part 2 of Schedule 2 of that Order unless planning permission has first been granted by the Local Planning Authority. Moreover, notwithstanding the provisions of Class G of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order), no moveable structures shall be provided at the site other than those that have specifically been approved by the permission hereby granted.

Reason: In the interests of the protecting the living conditions of the occupiers of nearby residential properties and in the interests of visual amenity.

External lighting

5. No artificial lighting floodlighting, security lighting or other external lighting shall be installed or operated at the site in connection with the use hereby permitted.

Reason: In the interests of the protecting the living conditions of the occupiers of nearby residential properties and in the interests of visual amenity.

Hours of Use

6. The land shall not be used by customers of the adjoining public house before 11.00am or after 9.00pm on any day.

Reason: In the interests of the protecting the living conditions of the occupiers of nearby residential properties.

Amplified Sound

7. The area to which this planning approval relates shall not be used, at any time, for any live music, and no recorded or amplified music shall be played from the site.

Reason: In the interests of the protecting the living conditions of the occupiers of nearby residential properties.

Picnic Tables / Benches

8. No more than 10 picnic tables / benches of the type shown on the Standard 6 Seater A-Frame Table Detail (Received 13/03/2026) documents that have been submitted with the application shall be sited at the application site in conjunction with the use hereby approved and no picnic tables / benches shall be positioned other than as shown on plan AT-18-100-A hereby approved, no picnic tables / benches of any other type shall be sited at the application site unless details of such provisions have first been submitted to and approved in writing by the Local Planning Authority and no picnic table / bench shall be fixed to the ground at any time.

Reason: In the interests of residential and visual amenity.

