OFFICER REPORT

Case No: 25/00894/S73 **Removal/Variation of Conditions**

Proposal: **Variation of Conditions 2 (Approved Plans) & 6 (Parking Layout) of 24/02078/S73 (Pursuant to 21/02807/FUL) by replacing the approved drawings to increase outside seating area, parking.**

Location: **152 Main Street Yaxley Peterborough**

Applicant: **Mr Ricciardi**

Grid Ref: **518110 291882**

DESCRIPTION OF SITE AND APPLICATION

The proposal concerns a two-storey building that was formerly a Public House. It has since been redeveloped into a Wine Bar on the ground floor, along with four residential apartments above—comprising three one-bedroom units on the first floor and one two-bedroom unit on the second floor. The redevelopment includes a rear extension and various structural and aesthetic modifications. The building features a mansard-style roof and a combination of rendered and brick-faced exterior walls. It is situated in a mixed-use area, surrounded by both residential dwellings and nearby commercial establishments.

The site is located within the Yaxley Conservation Area and is within close proximity to 2no. Grade II Listed Buildings:

- No. 183 Main Street, Yaxley
- No. 179 Main Street, Yaxley

This Section 73 application relates to application 21/02807/FUL which granted planning permission for the change of use of the Public House to Wine Bar and 4 No. Apartments (3 x 1 Bedroom first floor, 1 x two bedroom second floor), rear extension, replacement roof to former cellar, widening of staircase, creation of external walkway with balustrading to first floor, 4 No. dormer windows to front and replacement doors and windows (Anthracite Grey). A subsequent section 73 application (application ref 24/02078/S73) was also permitted on the site in March 2025 which included alterations to the approved plans and parking layout.

This retrospective application seeks to amend Conditions 2 (Approved Plans) and 6 (Vehicle Parking) of 24/02078/S73 (Pursuant to 21/02807/FUL). The application seeks to amend the approved drawings to increase outside seating area, alterations to vehicle parking layout. This application also seeks to vary Condition 6 of 24/02078/S73 (Pursuant to 21/02807/FUL) as the parking arrangement has been altered from the approved plan listed in the compliance condition.

For the avoidance of doubt the retrospective application shall be referred to as 'the proposal' through the remainder of this report.

During the course of the application amended plans had been submitted to increase the length and extent of the acoustic fencing along the northern boundary of the outdoor seating area, as well as a reduction to the extent of hard surfacing within the root protection area of the tree in the northwestern corner of the site, which resulted in a reduction to vehicle parking spaces. In light of this, the local highways authority, the Arboricultural officer and neighbours have been reconsulted on the amended layout.

In addition to the above, during the course of the application, a Tree Preservation Order was applied to the large mature Sycamore to the rear of the application site. Impacts to the TPO tree are discussed in a latter section of this report.

Officers have scrutinised the plans and have familiarised themselves with the site and surrounding area.

NATIONAL GUIDANCE

The National Planning Policy Framework (12th December 2024) (NPPF 2024) sets out the three objectives - economic, social and environmental - of the planning system to contribute to the achievement of sustainable development. The NPPF 2024 at paragraph 10 provides as follows: 'So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11).'

The NPPF 2024 sets out the Government's planning policies for (amongst other things):

* delivering a sufficient supply of homes;
* building a strong, competitive economy;
* achieving well-designed, beautiful and safe places;
* conserving and enhancing the natural, built and historic environment.

Planning Practice Guidance and the National Design Guide are also relevant and material considerations.

For full details visit the government website: https://www.gov.uk

PLANNING POLICIES

Huntingdonshire's Local Plan to 2036 (Adopted 15th May 2019)

LP 1 - Amount of development
LP 2 - Strategy for Development
LP 5 - Flood Risk
LP 6 - Waste Water Management
LP 8 - Key Service Centres
LP 11 - Design Context
LP 12 - Design Implementation
LP 13 - Placemaking
LP 14 - Amenity
LP 15 - Surface Water
LP 16 - Sustainable Travel
LP 17 - Parking Provision and Vehicle Movement
LP 22 - Local Services and Community Facilities
LP 29 - Health Impact Assessment
LP 30 - Biodiversity and Geodiversity
LP 31 - Trees, Woodland, Hedges and Hedgerows
LP 34 - Heritage Assets and their Settings

Huntingdonshire Design Guide Supplementary Planning Document (2017):

* Place Making Principles - Part 3.1 Place Making Principles and 3.7 Building Form

Local policies are viewable at https://www.huntingdonshire.gov.uk

RELEVANT PLANNING HISTORY

24/02078/S73-Variation of conditions 2 (plans listed in table) and 6 (vehicle parking) of 21/02807/FUL- Permitted 13.03.2025

21/02807/FUL-Change of use of Public House to Wine Bar and 4 No. Apartments (3 x 1 Bedroom first floor, 1 x two bedroom second floor), rear extension, replacement roof to former cellar, widening of staircase, creation of external walkway with balustrading to first floor, 4 No. dormer windows to front and replacement doors and windows (Anthracite Grey)- Permitted 09.12.2022

24/01027/TRCA-Horse Chestnut - Prune by 1.2 meters and crown by 1.8 meters.- Consent 25.07.2024

CONSULTATIONS
Conservation Officer- No comment.

Environmental Health Officer- No objection. It is noted the amended plans include a slightly larger outdoor drinking area and 2 more parking spaces but this is unlikely to affect the sound levels and the conditions already agreed.

CCC Highways- No objection. Given that the changes do not appear to affect the access or the proposed parking from that approved the LHA raise no objection to the variation in conditions. The proposal does not affect the access and there are adequate spaces for vehicles to manoeuvre into and out of the parking spaces.

Parish Council- No objection. The Parish Council supports the proposal. The parish did however question how the permeable surface of the car park would maintain the condition of the tree to the rear of the parking area.

Arboricultural Officer-No objection. A Tree Preservation Order has recently been applied to the large mature Sycamore due to the amenity value it provides locally. The proposal already has extant permission for the parking in this location, and the Officer considers the encroachment into the Root Protection Area would be less than the critical 20% allowable under planning guidance. The installation of a knee rail to protect the soil beneath the tree is important to its successful retention. The Officer supports the application as the proposed measures should prevent on-going damage to the trees on/off site.

REPRESENTATIONS
One third party representation has been submitted in objection to the proposed amendments to the scheme raising the following concerns:

- Owner repeatedly carries out works without planning permission, then applies retrospectively.
- Mature tree deliberately killed; replanting conditions ignored.
- No soundproofing installed despite promises.
- Constant noise from music and patrons, including vulgar language.
- Club patrons park illegally, block driveways, and behave aggressively.
- Pavement drinking and smoking occur without a licence.
- Area around the club is poorly maintained and littered.
- Conservation area negatively impacted by nightclub-style operations.

It is noted that some of the matters raised by third parties cross over into the remit of premises licencing. Officers have raised the neighbours' concerns to the councils licencing team.

An extension to the outdoor seating area has already been permitted under 24/02078/S73 for which the conditions imposed in regard to hours of operation are reflective of the original permission 21/02807/FUL. Should this application be permitted, it would be unreasonable for Officers to impose an altered hours of operation condition to address the neighbours' concerns, given the applicant could implement the previous permissions (24/02078/S73 and 21/02807/FUL) with longer operational hours. In this case, Officers can only assess the planning matters associated with extending the external seating area by an additional 41m2 and alterations to the parking arrangement.

SUMMARY OF ISSUES

Planning Practice Guidance (PPG) recognises that new issues may arise with granted planning permission, which may require the modification to approved proposals. The guidance advises that a new planning application will be required if modifications are fundamental or substantial. Where fewer substantial changes are proposed a non-material amendment application can be submitted. Alternatively, a Section 73 application, where there is a relevant condition that can be varied, can be submitted to address modifications to granted permission.

The PPG advises that "where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. A decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity, decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission unless they have already been discharged".

The main issues to be considered in the determination of this application are as follows: -
*Principle of development
*Design, Visual Amenity, Impacts to the Conservation Area and nearby Listed Buildings.
*Trees
*Highways and Parking
*Residential Amenity
*Other Matters

*Principle of Development
The proposed amendments are set out above and all other parts of the development remain unchanged and therefore the previous planning permissions remain relevant and unamended.

Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. In this instance, the application seeks to vary condition 2 of 24/02078/S73 through the submission of amended and additional drawings. Furthermore, this application also seeks to vary condition 6 of 24/02078/S73 as the parking arrangement has been altered from the approved plan listed in the compliance condition.

It is acknowledged that third parties have raised concerns regarding the current operation of the premises. While some of these issues fall under the remit of licensing legislation, it is important to note that the principle of development in planning terms, including the use of the ground floor as a wine bar, has already been established and does not form part of the consideration for this application. In assessing this application under the relevant planning legislation, Officers will have regard to the development plan and all other material planning considerations. These include the design and appearance of the proposal, its impact on the conservation area and nearby listed buildings and trees, highway safety and parking provision, as well as the effect on the residential amenity of neighbouring properties. As previously detailed, under this application Officers can only considered the impacts of the additional 41m2 extension to the outdoor seating area and alterations to the parking arrangement.

*Design and Visual Amenity, Impacts to the Conservation Area and nearby Listed Buildings
In respect of any buildings or other land in a conservation area, the Local Planning Authority (LPA) are required to pay special attention to the desirability of preserving or enhancing the character or appearance of that area, through the Planning (Listed Buildings and Conservation Areas) Act 1990 at Section 72. Additionally, the LPA is required to pay special regard to the preservation of the listed buildings and their settings, as per Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

This statutory duty is reflected in Policies LP11, LP12 and LP34 of the Huntingdonshire Local Plan to 2036 whereby, developments should respond positively to their context, draw inspiration from the key characteristics of its surroundings and contribute positively to the area's character and identity.

This application seeks to enlarge the external seating area previously permitted by an additional 41m², achieved by extending into the rear car parking area. The extended seating area would be enclosed with timber horizontal fencing. As the proposed extension would be a continuation of the existing seating area using the same boundary treatment, officers consider it to be acceptable in terms of design and its impact on visual amenity.

As detailed under application ref 24/02078/S73 the bin store would be located on the southwestern boundary of the site whereby the bins would be visible from the public highway. Condition 10 was imposed on the consent to secure the details of the means of enclosure, appearance and materials of the bin store. In this case, the applicants seek to enclose the bin store with 1.8m high close board fencing with access gates. As the bins would be screened from public view Officers consider the proposed bin store acceptable.

It is also noted the Conservation Officer was consulted as part of the application and raises no comment on the proposed amendments.

Overall, the plans are considered to respond positively to the context within the surrounding built form and contributes positively to the areas character and identity. The proposed alterations would preserve the character and appearance of the existing building, the streetscene of Main Street, the setting of nearby Listed Buildings and the Yaxley Conservation Area. The proposal is therefore considered to accord with Policies LP11, LP12 and LP34 of the Huntingdonshire Local Plan to 2036, the Huntingdonshire Design Guide (2017), the National Design Guide and section 16 of the NPPF (2024).

*Trees
Policy LP31 of the Huntingdonshire Local Plan to 2036 requires proposals to demonstrate that the potential for adverse impacts on trees, woodland, hedges and hedgerows has been investigated and that a proposal will only be supported where it seeks to conserve and enhance any existing tree, woodland, hedge or hedgerow of value that would be affected by the proposed development. As the application site is located within Yaxley Conservation Area, the trees within the designated area are afforded with protection.

During the course of application ref 24/02078/S73 it was considered by the Arboricultural Officer that the removal of a tree to the rear of the building would be acceptable, given the trees poor condition and safety risks. Notwithstanding this, a replacement planting condition was imposed on the consent (Condition 9).

It is also noted that there is another tree to the rear of No.152 Main Street, during the course of this application this tree was afforded with a Tree Preservation Order. The large mature Sycamore tree was afforded a TPO due to its amenity value it provides locally. The tree can be seen from Mainstreet and contributes to the green nature of the Conservation Area.

It is noted that the parish raised concerns regarding the use of permeable surfaces in proximity to the tree and the impacts to its health. During the course of the application amended plans had been submitted to reduce the extent of hard surfacing within the root protection area of the tree in the northwestern corner of the site. The Arboricultural Officer consulted on the application noted the proposal already has extant permission for the parking in this location, and the Officer considers the encroachment into the Root Protection Area would be less than the critical 20% allowable under planning guidance. The proposal includes the installation of a knee rail to protect the soil beneath the tree which is important to its successful retention. The Arboricultural Officer supports the application as the proposed measures should prevent on-going damage to the trees on/off site.

Whilst the amended scheme has resulted in the loss of vehicle parking spaces, which is discussed in a following section of this report, on balance, the applicant has amended the scheme in a manner that supports the preservation of the protected tree located in the northwestern corner of the site.

The application is therefore considered to accord with Policy LP31 of the Huntingdonshire Local Plan to 2036.

*Highways and parking
Policy LP17 of the Local Plan to 2036 seeks to ensure that new development incorporates appropriate space for vehicle movements, facilitates access for emergency vehicles and service vehicles and incorporates adequate parking for vehicles and cycles.

Under application ref 21/02807/FUL 16no. off street vehicle parking spaces and two disabled bays was permitted. Under application ref 24/02078/S73 19 no. off-street car parking spaces including two disabled bays was permitted.

This application seeks to extend the patron outdoor seating area into the permitted car park. During the course of the application an amended site layout was submitted which took into account the root protection area of the TPO sycamore tree and the extended outdoor seating area. The proposed block plan would provide 12 no. customer parking spaces and 4 no. vehicle parking spaces allocated to occupants of the apartments. The reconfiguration of the car park would provide an arrangement of 14no. off-streetcar parking spaces including two disabled bays.

Officers note that the proposal results in a minor increase in the wine bar's capacity. However, as this relates solely to external seating, which is likely to be used less frequently due to weather conditions, the proposed extension is not considered to result in a significant increase in patron capacity, and subsequently, is unlikely to generate a notable increase in parking demand.

As detailed above, under application reference 21/02807/FUL, permission was granted for 16 off-street vehicle parking spaces, including two disabled bays. The current proposal would result in a reduction of two standard parking spaces compared to the original approval, thereby providing a total of 14 vehicle spaces and retaining a single disabled bay.

Given that HDC does not have a specific parking policy stipulating the number of vehicle spaces required for this type of use, and on-street parking along Main Street is unrestricted, Officers are satisfied that the amended parking arrangement is sufficient to accommodate the demand generated by the permitted use. Furthermore, the proposed extension is not considered to result in a significant increase in patron capacity.

Whilst events held at the wine bar may result in additional cars parked in the local area, the Local Planning Authority has no evidence that this would result in severe impacts on the road network and would not result in an unacceptable impact on highway safety or amenity. Refusal against Local Plan Policy LP17 is therefore not considered justified in this instance and has not been recommended by the Local Highway Authority.

Furthermore, the Local Highways Authority have been reconsulted on the amended block plan as part of this application and raise no concerns regarding the proposed increase to the wine bars capacity and minor reduction in vehicle parking, in regard to highways safety impacts.

As such, the proposed development is therefore considered to be acceptable in terms of highway safety and would therefore be in accordance with Policies LP 16 and LP 17 of the Huntingdonshire Local Plan (2019) and Section 9 of the National Planning Policy Framework (2024).

*Residential Amenity
Policy LP14 of the Local Plan to 2036 states a proposal will be supported where a high standard of amenity is provided for all users and occupiers of the proposed development and maintained for users and occupiers of neighbouring land and buildings.

Anti-Social Behaviour and Noise

Premises that want to provide activities that are licensable under the Licensing Act 2003, such as the retail sale of alcohol, or providing hot food after 23:00 hours, are controlled by both the planning and licensing regimes. Planning legislation controls the long-term use of land and will often aim to preserve residential amenity, and the Licensing Act focuses on the control of activities on a shorter-term basis and aims to prevent public nuisance.

In this instance, the use of the wine bar as existing has controlled opening hours, the restricted use of the outdoor space after 23:00 and controlled use of amplified music outside under planning permission 21/02807/FUL and subsequent permission 24/02078/S73.

It appears that neighbours' concerns regarding anti-social behaviour relate to the operations of the wine bar and its patrons. Notwithstanding this, the Parish representing the wider community raised no concerns with the proposal to increase the bars capacity. Given the site is located in a mixed-use area with other drinking establishments, it would be unreasonable to assume anti-social behaviour in the area is directly associated with the use of the existing wine bar.

As detailed in preceding sections of this report, the use of the land/building as a wine bar has already been considered acceptable by the Council and conditions were imposed on the consent to protect residential amenity. An extension to the outdoor seating area has already been approved under application 24/02078/S73, with operational hours conditioned in line with the original permission granted under 21/02807/FUL. If this current application is approved, it would be considered unreasonable for officers to impose revised operating hours to address neighbour concerns, as the applicant retains the right to implement the previously approved schemes with longer hours. Therefore, the scope of this assessment is limited to the planning considerations associated with the proposed 41m² extension to the external seating area and the associated changes to the parking layout.

It is acknowledged that third parties raised concerns that the proposed alterations would increase capacity and cause further residential amenity harm through noise impacts. The proposal seeks to extend the outdoor seating area by an additional 41m2 which would increase capacity at the wine bar to a limited extent.

The external seating area is separated from the common boundary with No.150 Main Street by 6.8 metres. Whilst there may be some noise impacts associated with an increased number of patrons using the extended external seating area, the seating area would be set further away from the rear elevation of No.150 Main Street than the permitted scenario under 24/02078/S73. Furthermore, the Environmental Health Officer was consulted as part of the application and noted that whilst the proposal seeks a slightly larger outdoor drinking area, this is unlikely to affect the sound levels, and the conditions already agreed.

During the course of the application amended plans had been submitted to increase the length and extent of the acoustic fencing along the eastern boundary of the outdoor seating area. The northwest boundary of the seating area would be enclosed with concrete/timber posts with horizontal timber panels both sides, with PIR installation between them and erected at a height of 2.8-2.5m. The proposed installation to a degree would help to mitigate noise impacts associated with the outdoor seating area.

It is also noted that 152 Main Street is situated within a mixed-use area. Opposite the site is another Public House, the Three Horseshoes, while to the south are the Fire and Rescue Station, a carpet store, and an estate agency—all in close proximity to the application site. The Three Horseshoes operates under licensing restrictions, including a requirement for alcohol consumption in the beer garden or marquee to cease by 23:00, and limitations on live and recorded indoor music between 11:00 and 23:00. Given this context, it is reasonable to expect a certain level of ambient noise in the area, irrespective of the proposed development.

This application proposes a modest extension to the existing external seating area. If approved, the applicants would remain bound by the conditions attached to the original planning permission. The concerns raised by neighbouring occupants are more appropriately addressed through the licensing process, which governs operational matters beyond the scope of planning.

Therefore, on balance, subject to conditions, the proposal is considered to accord with Policy LP14 of the Huntingdonshire Local Plan to 2036 in this regard.

*Other matters
If approved, an application under Section 73 of the Town and Country Planning Act 1990, in effect issues a new, separate, planning permission. Subsequently, the conditions applied to the previous permission to which this application relates must be reviewed against the conditions test set out in paragraph 57 of the NPPF 2024. Should the conditions pass the test they shall be included on any approval of this application.

The wording of condition 1 (Time Limit) imposed on 24/01078/S73 will be amended so to not extend the time within which the works must be started in accordance with Section 91 of the Town and Country Planning Act 1990. The list of approved drawings will be varied to include the amended drawings. The wording of condition 2 (approved plans) will remain to ensure the development is carried out in accordance with the approved plans list. Condition 6 (Car Parking Layout) will also be varied to include the amended site layout drawing.

The compliance conditions imposed on 24/01078/S73 in regard to materials (Condition 3), the use permitted as a wine bar (Condition 4), operating hours and use of external seating area (Condition 5), noise mitigation (Condition 7), no amplified outdoor music (Condition 8) shall be replicated on this application under section 73 of the Town and Country Planning Act 1990.

*Conclusion
Having regard to national and local planning policies, and having taken all relevant material considerations into account, it is recommended the application should be approved for the proposed amendments. It is recommended that the wording of all conditions on the previous permission (24/01078/S73) be replicated on this application under section 73 of the Town and Country Planning Act 1990, excluding conditions 1, 2 and 6 which shall be amended as outlined above.

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CONTACT OFFICER:
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