

Item No. Report of the Interim Director of Planning, Regeneration & Public Realm**Address** BLACK HORSE PH HIGH ROAD EASTCOTE**Development:** Retention of an external retractable canopy, outdoor gazebos and outdoor TVs (retrospective application)**LBH Ref Nos:** 271/APP/2022/1443**Drawing Nos:** 6021-21-102
6021-21-100
6021-21-101
Location Plan
Design and access statement
Heritage Statement**Date Plans Recieved:** 04/05/2022**Date(s) of Amendment(s):****Date Application Valid:** 04/05/2022**1. SUMMARY**

This application seeks planning permission to retain an external retractable canopy, outdoor gazebos and outdoor TVs within the garden of the Grade II listed Black Horse public house.

The proposed development due to its cumulative scale, design and use of materials is harmful to the setting of the Grade II Listed Public House in which it is sited. For these reasons the development also adversely affects the visual amenities of the area and fails to enhance or preserve the character and appearance of the Eastcote Village Conservation Area. Furthermore, there are no identified public benefits that outweigh the less than substantial harm to these heritage assets.

The development has also resulted in an outdoor area that is capable of being more intensively used, due to its capacity to be used by more people for extended hours of use over a greater period throughout the year. It is also recognised that the nature of the structures means that it is difficult to incorporate physical noise attenuation measures, and no noise report has been submitted to demonstrate how noise management plans and other mitigation measures would be adopted to protect the amenity of neighbouring residences. The development is therefore detrimental to the residential amenity of neighbouring occupiers due to harmfully increased noise and disturbance associated with its use.

Accordingly, the application is recommended for refusal as specified in the reasons for refusal contained in section 2 and discussed throughout this report.

2. RECOMMENDATION**REFUSAL for the following reasons:****1 NON2 Non Standard reason for refusal**

The retention of the external retractable canopy, outdoor gazebos together with the outdoor TVs, by reason of their siting within the curtilage of the Grade II Listed Public House and their cumulative number, scale, design and use of materials, is harmful to the character, appearance and setting of the Grade II Listed Public House, to the visual

amenities of the area and fails to enhance or preserve the character and appearance of the Eastcote Village Conservation Area. Furthermore, there are no identified public benefits that outweigh the less than substantial harm to these heritage assets. The proposal is therefore contrary to Policies HE1 and BE1 of the Hillingdon Local Plan: Part One Strategic Policies (2012), Policies DMHB 1, DMHB 2, DMHB 4, and DMHB 11 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020), Policies D3 and HC1 of the London Plan (2021), and Chapters 12 and 16 of the National Planning Policy Framework (2021).

2 NON2 Non Standard reason for refusal

The retention of the external retractable canopy, outdoor gazebos and outdoor TVs results in an outdoor area that is detrimental to the residential amenity of neighbouring occupiers by reason of increased noise and disturbance associated with its use. The proposal would therefore be contrary to Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (2012), Policies DMHB 11 and DMTC 4 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020), Policies D3 and D14 of the London Plan (2021) and the National Planning Policy Framework (2021).

INFORMATIVES

1 I52 Compulsory Informative (1)

The decision to REFUSE planning permission has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

2 I53 Compulsory Informative (2)

The decision to REFUSE planning permission has been taken having regard to the policies and proposals in the Hillingdon Local Plan Part 1 (2012) and Part 2 (2020) set out below, including Supplementary Planning Guidance, and to all relevant material considerations, including The London Plan (2021) and national guidance.

DMHB 11	Design of New Development
DMHB 2	Listed Buildings
DMHB 1	Heritage Assets
DMHB 4	Conservation Areas
LPP D4	(2021) Delivering good design
LPP HC1	(2021) Heritage conservation and growth
LPP G7	(2021) Trees and woodlands
LPP D3	(2021) Optimising site capacity through the design-led approach
LPP D5	(2021) Inclusive design
NPPF12	NPPF 2021 - Achieving well-designed places
NPPF16	NPPF 2021 - Conserving & enhancing the historic environment

3 I71 LBH worked applicant in a positive & proactive (Refusing)

In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies from the Local Plan Part 1, Local Plan Part 2, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service.

3. CONSIDERATIONS

3.1 Site and Locality

The Black Horse public house is located on the south-eastern side of High Road, Eastcote, some 100m to the south west of its junction with Azalea Walk. The site comprises a two-storey detached Grade II listed building. The building itself dates from the nineteenth century and comprises a two storey stock brick building with a shallow pitched slate roof. To the left and right flanks are single storey additions. The building is set back from the road and has a small enclosed garden to the rear and side, with car parking to the front.

Adjoining the site to the north-east is Black Horse Parade, a three-storey retail parade comprising six retail units with residential flats on the floors above, segregated from the High Road by a lay-by. Adjoining the site to the south-west and on the opposite side of the road are residential houses. Flag Walk adjoins the site at the rear with 9 Flag Walk adjoining the south-western site boundary.

The site is covered by TPO 690 and is located within the Eastcote Village Conservation Area.

3.2 Proposed Scheme

Retrospective planning permission is sought to retain the external retractable canopy, five outdoor gazebos and two outdoor TVs set within timber frames. These are sited within the beer garden.

The retractable canopy measures 11.7m x 6.1m with a height of 3m. This provides a covered area for outdoor seating.

Four of the gazebos measure 3m x 3m with a height of 2.95m and the fifth gazebo measures 3m x 4.2m with a height of 2.9m. These gazebos are grouped together on site to form one larger area for koroga dining.

One timber framed TV enclosure measures 2m x 1.5m with a height of 2.5m. The other enclosure measures 3.2m x 0.6m, also with a height of 2.5m.

3.3 Relevant Planning History

271/ADV/2012/102 The Black Horse High Road Eastcote

Erection of 1 replacement totem sign in front forecourt in same location as the existing totem sign that is to be removed.

Decision: 05-02-2013 Approved

271/ADV/2012/49 The Black Horse High Road Eastcote

Installation of signange comprising 1 replacement totem sign, 2 "A" Boards, 1 sign hung in-front of picket fence, and 3 hung banners (Application for Advertisement Consent).

Decision: 15-10-2012 Refused

271/APP/2005/1769 Black Horse Ph High Road Eastcote

ERECTION OF TIMBER DECKING FRONT TERRACE INCORPORATING DISABLED ACCESS RAMP AND 1.2 METRE HIGH FENCING TO THE FRONTAGE OF BUILDING

Decision: 04-08-2005 Approved

271/APP/2005/1770 Black Horse Ph High Road Eastcote

ERECTION OF TIMBER DECKING FRONT TERRACE INCORPORATING DISABLED ACCESS RAMP AND 1.2 METRE HIGH FENCING TO THE FRONTAGE OF BUILDING (APPLICATION FOR LISTED BUILDING CONSENT)

Decision: 04-08-2005 Approved

271/APP/2010/2982 Black Horse Ph High Road Eastcote

Erection of a single storey rear extension with roof lantern, increase in height of front parapet wall and installation of additional roof lantern to existing side extension and alterations to windows.

Decision: 25-03-2011 Refused

271/APP/2010/2983 Black Horse Ph High Road Eastcote

Erection of a single storey rear extension with roof lantern, increase in height of front parapet wall and installation of additional roof lantern to existing side extension and alterations to windows (Application for Listed Building Consent).

Decision: 25-03-2011 Refused

271/APP/2010/2984 The Black Horse High Road Eastcote

Erection of a single storey side/rear extension.

Decision: 18-02-2011 Refused

271/APP/2010/2985 The Black Horse High Road Eastcote

Erection of a single storey side/rear extension (Application for Listed Building Consent.)

Decision: 18-02-2011 Refused

271/APP/2011/1266 Black Horse Ph High Road Eastcote

Erection of rear extensions to public house involving demolition of existing outbuildings.

Decision: 05-12-2011 Approved

271/APP/2011/1267 Black Horse Ph High Road Eastcote

Erection of rear extensions to public house involving demolition of existing outbuildings. (Application for Listed Building Consent)

Decision: 05-12-2011 Approved

271/APP/2012/493 Black Horse Ph High Road Eastcote

Alterations to approved planning applications (ref:271/APP/2011/1267 & 271/APP/2011/1266).Changes including: locations of doors and windows, roof light details, parapet capping details, kitchen extracts and rear landscaping modifications.

Decision: 26-04-2012 Approved

271/APP/2012/494 Black Horse Ph High Road Eastcote

Alterations to approved planning applications (ref:271/APP/2011/1267 & 271/APP/2011/1266) including: locations of doors and windows, roof light details, parapet capping details, kitchen extracts and rear landscaping modifications (Application for listed building consent)

Decision: 26-04-2012 Approved

271/APP/2016/4279 Black Horse Ph High Road Eastcote
Retention of existing garden shelter

Decision: 20-01-2017 Refused

271/APP/2022/1442 Black Horse Ph High Road Eastcote
Retention of an external retractable canopy, outdoor gazebo and outdoor TV's (retrospective application) (Application for Listed Building Consent)

Decision: 19-04-2023 Withdrawn

271/D/85/1524 Black Horse Ph High Road Eastcote
Listed building consent to dev/alter (P)

Decision: 05-03-1986 Approved

271/E/85/1569 Black Horse Ph High Road Eastcote
Extension/Alterations to Retail premises (P) of 10 sq.m.

Decision: 05-03-1986 Approved

271/F/85/3113 Black Horse Ph High Road Eastcote
Advertisement (P)

Decision: 05-03-1986 Approved

271/TRE/2012/36 The Black Horse High Road Eastcote
To carry out tree surgery, including a reduction by up to 2m of the branches that overhang the building (Black Horse P.H.), to one Ash (T2) on TPO 690 (shown as T1 on application). Pruning to be graded so that it blends in with the non-pruned sides of the tree.

Decision: 26-04-2012 Approved

271/TRE/2020/32 Black Horse Ph High Road Eastcote
To carry out tree surgery, including a reduction of the branches overhanging 9 Flag Walk by 2-3m, to one Ash, T1 on TPO 690.

Decision: 28-02-2020 Approved

Comment on Relevant Planning History

An associated application for listed building consent was submitted with this application (ref. 271/APP/2022/1442). However, as confirmed by the Council's conservation officer the proposal does not require listed building consent as none of the structures are attached to the building, so would not affect its historic fabric. Nevertheless, the impact on the setting of this heritage asset is considered within the assessment of this application for planning permission. The applicant has subsequently withdrawn the application for listed building consent.

It is noted that an application to retain a garden shelter was refused in January 2017 (ref. 271/APP/2016/4279). Subsequently an enforcement notice was issued in August 2017, which was appealed and the appeal dismissed by the Planning Inspector in April 2018 (refs. ENF/954/16 and APP/R5510/C/17/3180099). The last inspection by enforcement officers (April 2022) confirmed that the unauthorised garden shelter had not been removed in its entirety and therefore the requirements of the enforcement notice had not been complied with. Site visits carried out for the purpose of this application (29

September 2022 and 16 January 2023) make apparent that this shelter has either not been removed in its entirety or has been replaced by another unauthorised structure. For the avoidance of doubt, this structure does not form part of this planning application and has been referred to the Council's planning enforcement team for further investigation.

4. Planning Policies and Standards

Development Plan

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

The Development Plan for the London Borough of Hillingdon currently consists of the following documents:

The Local Plan: Part 1 - Strategic Policies (2012)
The Local Plan: Part 2 - Development Management Policies (2020)
The Local Plan: Part 2 - Site Allocations and Designations (2020)
The West London Waste Plan (2015)
The London Plan (2021)

Material Considerations

The National Planning Policy Framework (NPPF) (2021) is also a material consideration in planning decisions, as well as relevant supplementary planning documents and guidance.

Local Plan Designation and London Plan

The following Local Plan Policies are considered relevant to the application:-

Part 1 Policies:

PT1.HE1 (2012) Heritage
PT1.BE1 (2012) Built Environment

Part 2 Policies:

DMHB 11 Design of New Development
DMHB 2 Listed Buildings
DMHB 1 Heritage Assets
DMHB 4 Conservation Areas
LPP D4 (2021) Delivering good design
LPP HC1 (2021) Heritage conservation and growth
LPP G7 (2021) Trees and woodlands
LPP D3 (2021) Optimising site capacity through the design-led approach
LPP D5 (2021) Inclusive design
NPPF12 NPPF 2021 - Achieving well-designed places
NPPF16 NPPF 2021 - Conserving & enhancing the historic environment

5. Advertisement and Site Notice

- 5.1** Advertisement Expiry Date:- Not applicable
5.2 Site Notice Expiry Date:- **6th July 2022**

6th July 2022

6. Consultations

External Consultees

A petition against the application with 27 signatures was received by the Council. The desired outcome for the signatories was that planning permission be refused.

12 neighbouring properties were consulted by letter dated 31-05-22. A site notice was displayed on 08-06-22 and the application was notified in the Gazette on 15-06-22.

One letter of objection was received and the matters raised are summarised as follows:

1. The use of the pub garden has grown significantly over the past few years to expand into an outdoor entertainment space and resultant regular disturbance to local residents
2. Nuisance and noise disturbance to the neighbouring dwellings from the increased capacity
2. Noise disturbance particularly evident at weekends (daytime and evenings) and screening of sports events can occur a few times a week
3. Outdoor activity has continued up until the licenced closing time with the outdoor screen having been used until 11pm (contrary to the submitted information that states the use will cease by 10pm)
4. Broadcasting sports with sound system is advertised on the Black Horse website and experience of loudness can only have been with the use of sound system (contrary to the submitted information that the tv is not connected to any outdoor speakers)
5. Design of canopy/outdoor equipment/structures does not include any noise mitigating measures
6. Concerns that pub management do not fulfil their obligations in supervising patrons with respect to excessive and unreasonable noise disturbances
7. Concerns with noise nuisance from the use of the outside areas, but also associated vibration, light pollution, smoke and noxious smells, the numbers of persons using the outside area, hours of operation of the outside area including the times for using barbecues/cooking facilities
8. Resident unable to use/enjoy their garden, and unable to open windows which is particularly uncomfortable during warm weather. In summary this is because the outdoor area has been designed and experienced as an outdoor entertainment area, which may be acceptable for an indoor environment but unsuitable for an outdoor setting in a quiet residential neighbourhood.

One letter of support was received and the matters raised are summarised as follows:

1. Outdoor television is always on mute
2. The retractable covering is only in use when there is inclement weather and is not an eyesore and cannot be viewed from the main road
3. The existing tentage in the rear garden also provides a rain shelter as well as allowing the pub to make a living with their karoga events
4. The proposals are not detrimental to Conservation Area
5. The pub was first licensed in the 1740s and has been there long before people with an issue with the pub

PLANNING OFFICER RESPONSE: The above comments concerning the impact upon residential amenity, with specific reference to noise and disturbance, are addressed in section 7.08 of this report. The comments in support of the proposal are noted.

Internal Consultees

COUNCIL'S CONSERVATION OFFICER

The Black Horse Public House is a grade II pub dating from the nineteenth century. It has stock brick elevations under a slate roof with a garden to the rear and a large area of hard standing in front. It is listed partly for its prominent position on the High Road. The site is within the Eastcote Conservation Area.

This application seeks retrospective consent for an external retractable canopy, outdoor gazebos and outdoor TVs. To be clear my comments are based on the existing and proposed plans accompanying the application. None of the proposal is attached to the listed building so that listed building consent is not required.

The retractable canopy is acceptable, it has a sleek design and although quite tall, its dark colour and retractable canopy ensures that the rear of the pub can still be appreciated. It is also possible to remove it. Combined with the suggestion of restricted hours (closing it before 10pm) will ensure that its impact on the setting of the listed building is minimal.

Two televisions are proposed on the south-west side of the garden, one substantially larger than the other. These are set into a timber frame with a small tiled pitched roof. While it might be acceptable to have one of these, it is harder to justify two. The larger TV closer to the car park is too tall in this context and its ridge sits well above the existing boundary fence. Were this one to be removed from the application then the smaller TV tucked into the corner might be more acceptable in the context of the listed building.

It is also proposed to install four 3x3 metre gazebos and one 3x4.2 metre gazebo directly behind the public house on the northern eastern end of the site. These are grouped together and following a site visit (16.01.23) currently have tarpaulins over the sides and parts of the roof. The effect is cluttered, temporary and ad hoc in character impacting the openness to the rear of the public house. In accompanying photographs the gazebos are shown as lightweight and open, nowhere does it describe that they will have sides in differing materials. Collectively they block views of the rear of the public house. It is considered that this aspect of the proposal is particularly harmful to the setting of the listed building. It might be possible to install a well-designed open sided awning subject to detail, but what is proposed here is not acceptable in this context. Given that it is not visible from the public realm of the conservation area it is not considered harmful to the conservation area.

Recommendation: Refusal on the basis of harm to the setting of the listed building from the gazebos, due to their design, materials, cluttered effect and impact on openness to the rear of the listed building. This is in line with Planning (Listed Buildings and Conservation Areas) Act 1990, 66 (1) and Local Plan Part 2, DMHB 2 (D).

PLANNING OFFICER RESPONSE

These comments are noted and discussed further in section 7.03 of this report.

COUNCIL'S NOISE OFFICER

The potential for statutory noise nuisance weighs substantially against the granting of consent. Recommend Refusal.

PLANNING OFFICER RESPONSE

This objection is noted and more in depth comments received are discussed and incorporated into the assessment of impacts on neighbours in section 7.08 of this report.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The Design and Access Statement (DAS) states that the outdoor gazebos are used as an outdoor koroga area which enables patrons to cook their own food in a group setting. The DAS states that the gazebo area is an important function of the business as the koroga accounts for a majority of the business revenue. However, no evidence has been put forward that clearly illustrates that the public house could not continue to operate were the gazebos to be removed or alternative structures adopted.

Nevertheless, the development seeks to enhance the commercial offering of the existing public house, which in principle is acceptable and supported by strategic policies that seek to foster economic growth and sustainability. However, while the principle of the proposal is acceptable, this is subject to other planning considerations. As discussed throughout this report, there are concerns with harm to heritage assets and the residential amenity of neighbouring residents which form the reasons for refusal detailed in section 2 of this report.

7.02 Density of the proposed development

Not applicable.

7.03 Impact on archaeology/CAs/LBs or Areas of Special Character

IMPACT UPON LISTED BUILDING AND CONSERVATION AREA

POLICY CONTEXT:

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a Listed Building or its setting, the local planning authority "shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that Local Planning Authorities must pay "special attention to the desirability of preserving or enhancing the character or appearance of the conservation area."

Paragraph 134 (Chapter 12) of the NPPF (2021) states, inter alia, that "development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design...conversely, significant weight should be given to...(b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings."

Paragraph 199 (Chapter 16) of the NPPF (2021) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).

Paragraph 202 (Chapter 16) of the National Planning Policy Framework (2021) 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.

Policy D3 of the London Plan (2021) requires that development proposals should enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions.

Policy HC1 of The London Plan (2021) states that development proposals affecting

heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings. The cumulative impacts of incremental change from development on heritage assets and their settings should also be actively managed. Development proposals should avoid harm and identify enhancement opportunities.

Policy BE1 of the Hillingdon Local Plan: Part One Strategic Policies (2012) seeks a quality of design in all new development that both enhances and contributes to the area in terms of form, scale and materials, is appropriate to the identity and context of the townscape and would improve the quality of the public realm and respect local character.

Policy HE1 of the Hillingdon Local Plan: Part One Strategic Policies (2012) seeks to conserve and enhance Hillingdon's distinct and varied environment, its settings and wider historic landscape. This is reinforced by Policies DMHB 1 and DMHB 2 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020), which states that the Council will expect development proposals to avoid harm to the historic environment, and that planning permission will not be granted for proposals which are considered detrimental to the setting of a Listed Building.

Policy DMHB 4 of the Hillingdon Local Plan : Part 2 - Development Management Policies (2020) states that new development, including alterations and extensions to existing buildings, within a Conservation Area or on its fringes, will be expected to preserve or enhance the character or appearance of the area. It should sustain and enhance its significance and make a positive contribution to local character and distinctiveness.

Policy DMHB 11 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020) advises that all development will be required to be designed to the highest standards and incorporate principles of good design.

ASSESSMENT:

This application seeks to retain the four 3x3 metre gazebos and one 3m x 4.2m gazebo directly behind the public house. The 3x3 metre gazebos feature a pitched roof up to a maximum height of 2.95m, and the 3x4.2 metre gazebo features a hipped roof with a maximum height of 2.9m. The gazebos are grouped together and as per officer site visits (on 24.09.2022 and 16.01.2023) there are tarpaulins over the side and parts of the roof and are constructed of varying materials. The gazebos cover approximately 47sqm of the rear garden of the application site and are prominently located within the rear of the site. It is noted that this application seeks to retain the structures as existing, which as noted above includes enclosed sides and parts of the roofs of the gazebos.

The Conservation Officer has stated that the proposed gazebos appear as cluttered, temporary and ad hoc in character, and impact the openness to the rear of the public house. The gazebos appear to be constructed of differing materials and the collective volume and design of the gazebos obscure views of the listed building's southern elevation. These appear unduly prominent within the setting of the Listed Building and the Conservation Area. Due to their cumulative size, siting and materials, it is considered that the proposed gazebos would be tantamount to visual clutter when viewed within the setting of the Listed Building. Whilst the proposed gazebos may not be readily visible from the street scene, conservation areas are not designated as a series of street scenes, and rear aspects of sites can also contribute to how the heritage assets are experienced, and can be visible from neighbouring sites and within the site itself. In this regard, although the development may not be readily visible from the street scene, and while acknowledging the comments from the Conservation Officer, it does not lessen the duty to preserve or

enhance the character and appearance of the conservation area, which the development does not achieve.

The retractable canopy and awnings are located along the southwestern section of the rear garden. The retractable canopy is constructed of three black metal steep posts and frame covering a length of approximately 6.1m. The awning is constructed of a retractable black fabric awning and measures a maximum height of 3m. In isolation, the retractable canopy may be acceptable given its sleek design, dark colour and retractable canopy. However, in combination with the gazebos and outdoor TVs, the cumulative visual impact of the development is cluttered and unsympathetic to the heritage assets - the Grade II listed building and the Eastcote Village Conservation Area.

Two outdoor TVs are proposed to be retained. One is smaller and located within the southern corner of the rear garden, and a larger one is located along the western boundary. The outdoor TVs are enclosed within a timber frame, slate roof covering and feature a dark brown roller shutter. The smaller outdoor TV located in the southern corner is relatively modest in size and in isolation, may be acceptable within the setting of the listed building as blending more discretely into the corner of the site. However, the larger TV along the western boundary is located closer to the car park and the ridge sits well above the existing boundary fence adversely affecting the visual amenity of the site. In combination the two outdoor TVs contribute to the collective visual clutter that fails to preserve or enhance the setting of the listed building and character of the conservation area.

Overall, it is considered that the cumulative impact of the gazebos, retractable canopy, and two outdoor TVs harmfully clutter the immediate setting of the listed building and obscure views of the southern rear elevation of the listed building. This harmfully disrupts the appearance and appreciation of the architectural merits of this Grade II listed building. The materiality of the gazebos lack quality, and fails to relate to or be sympathetic to the existing traditional materials that characterise the host property.

In light of the above, it is considered that the proposed development would fail to preserve or enhance the setting of the listed building (Black Horse) or the character and appearance of the Eastcote Village Conservation Area. The harm arising from the proposed development is considered to be less than substantial. In line with paragraph 202 of the NPPF (2021), the public benefit of the proposal must be weighed against the harm. Whilst the gazebos, retractable canopy and outdoor TVs would assist the applicant's business by enhancing their offering to customers, these are principally private benefits and no public benefits have been demonstrated in the submission. In addition no evidence has been submitted to demonstrate the impact of the proposal upon the viability of the Public House, which may potentially be considered a community hub. As such, it is concluded that there are no identified public benefits that would outweigh the demonstrated harms to the significance of the listed building and the conservation area. The proposal would therefore conflict with Policies HE1 and BE1 of the Hillingdon Local Plan: Part One Strategic Policies (2012), Policies DMHB 1, DMHB 2, DMHB 4, and DMHB 11 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020), Policies D3 and HC1 of the London Plan (2021), and Chapters 12 and 16 of the National Planning Policy Framework (2021).

7.04 Airport safeguarding

Not applicable.

7.05 Impact on the green belt

Not applicable.

7.07 Impact on the character & appearance of the area

This is discussed in section 7.03 of this report.

7.08 Impact on neighbours

London Plan (2021) Policy D3 seeks to optimise design capacity through a design-led approach. Among other considerations, this also requires new development to 'achieve safe, secure and inclusive environments' and 'help prevent or mitigate the impacts of noise and poor air quality'.

London Plan (2021) Policy D14, in part, requires development proposals to mitigate and minimise 'the existing and potential adverse impacts of noise on, from, within, as a result of, or in the vicinity of new development without placing unreasonable restrictions on existing noise-generating uses'.

Policy DMHB 11 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020) states that all development should not have an adverse impact on the amenity, daylight and sunlight of adjacent properties and open space.

Policy DMTC 4 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020) states that proposals for drinking establishments will only be supported provided that they would not cause unacceptable disturbance or loss of amenity to nearby properties.

The main impact of the development on neighbouring amenity is noise and disturbance from people using the outdoor canopy, gazebos and the use of the outdoor TVs. The additions to the site would clearly encourage a greater level of use - in numbers of people using the garden, the duration throughout the day and the duration throughout the year. The applicant has not submitted a noise report demonstrating any mitigation measures and how noise management plans would be adopted to ensure that a robust approach is taken with regards to protecting the amenities of nearby residents.

The application site is located within a predominantly mixed use area, with residential dwellings located to the north, east, south and west. The neighbouring properties of primary concern are located south and west of the site along Flag Walk and part of Azalea Walk. The Council's Noise Officer has expressed significant concerns with the noise impacts of the proposal. The officer notes that outdoor social and entertainment activity, that typically includes sound amplification, creates noise that is likely to affect neighbours. There are few if any standards that exist to guide assessment and decision making. The effect thresholds tend to be much more uncertain and generally lower than in the case of anonymous noise sources, industrial and commercial sources, or utilities work, where recipients generally understand the need for the activity that causes the noise. In addition, mitigation of the noise where the source is 'out in the open' is practically difficult, so depending on the time of day, other activity and proximity it would still be clearly audible to someone wishing to pursue the quiet enjoyment of their own property. In summary, the potential for statutory noise nuisance weighs substantially against the granting of consent.

The Design and Access Statement (DAS) has proposed that it is the intention to retract the canopy by 10pm Monday to Sunday as well as Bank Holidays, and for the Outdoor TVs to be limited in use to the spring and summer months. It is proposed that it would only be used between April to September between the hours of 12pm to 10pm. It is acknowledged that the DAS states that the outdoor TV is not connected to outdoor speakers, and there remains no plans for this. However, this appears to contradict the business' website that states that "we have a big projector screen and an outdoor screen in the beer garden and you can sit back and enjoy the game with the best sound system bringing to you every live game". It seems unrealistic and potentially difficult to enforce for the outdoor TVs to have no audio.

Nevertheless, the gazebos and canopy are capable of being used all year round and for extended hours, unlike a beer garden, which is normally used in the warmer, drier months. The covered areas are likely to be busy and could be the source of considerable noise and disturbance. Given the proximity of residential dwellings to the proposed site, the use of the gazebos, retractable canopy and TVs, could involve the use of amplified music or even just noise nuisance from an increased number of people over an extended period of time, in a structure with poor noise attenuation properties. It would lead to noise levels audible and greater than those expected over a longer period throughout the year. Whilst the proposed conditions are acknowledged, it is unclear how they could be enforced and they are insufficient to protect the adjacent residential properties from noise disturbance.

Taking the above into consideration, the retention of the external retractable canopy, outdoor gazebos and outdoor TVs would be to the detriment of the amenity of the occupants of adjacent residential properties by reason of increased noise and disturbance associated with its use. The proposal would therefore be contrary to Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (2012), Policies DMHB 11 and DMTC 4 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020), Policies D3 and D14 of the London Plan (2021) and the National Planning Policy Framework (2021).

7.09 Living conditions for future occupiers

Not applicable.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

Not applicable.

7.11 Urban design, access and security

This is discussed in section 7.03 of this report

7.12 Disabled access

Not applicable.

7.13 Provision of affordable & special needs housing

Not applicable.

7.14 Trees, landscaping and Ecology

There are no tree removals or works proposed as part of this application. The external structures that form part of the pub garden landscaping form this application and their impact is discussed throughout this report.

7.15 Sustainable waste management

The existing waste management arrangements will be maintained.

7.16 Renewable energy / Sustainability

Not applicable.

7.17 Flooding or Drainage Issues

The area of the works is not subject to flood risk zones 2 or 3, a critical drainage area or an area susceptible to surface water flooding. Therefore in planning terms there are no concerns with any potential flood or drainage risks from the development.

7.18 Noise or Air Quality Issues

This is discussed in section 7.08 of this report.

7.19 Comments on Public Consultations

This is discussed in section 6 of this report.

7.20 Planning obligations

Not applicable.

7.21 Expediency of enforcement action

Should this application be refused, the matter of the development having been implemented without the benefit of planning permission will be referred to the Council's

planning enforcement team.

7.22 Other Issues

Not applicable.

8. Observations of the Borough Solicitor

General

Members must determine planning applications having due regard to the provisions of the development plan so far as material to the application, any local finance considerations so far as material to the application, and to any other material considerations (including regional and national policy and guidance). Members must also determine applications in accordance with all relevant primary and secondary legislation.

Material considerations are those which are relevant to regulating the development and use of land in the public interest. The considerations must fairly and reasonably relate to the application concerned.

Members should also ensure that their involvement in the determination of planning applications adheres to the Members Code of Conduct as adopted by Full Council and also the guidance contained in Probity in Planning, 2009.

Planning Conditions

Members may decide to grant planning consent subject to conditions. Planning consent should not be refused where planning conditions can overcome a reason for refusal. Planning conditions should only be imposed where Members are satisfied that imposing the conditions are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. Where conditions are imposed, the Council is required to provide full reasons for imposing those conditions.

Planning Obligations

Members must be satisfied that any planning obligations to be secured by way of an agreement or undertaking pursuant to Section 106 of the Town and Country Planning Act 1990 are necessary to make the development acceptable in planning terms. The obligations must be directly related to the development and fairly and reasonably related to the scale and kind to the development (Regulation 122 of Community Infrastructure Levy 2010).

Equalities and Human Rights

Section 149 of the Equalities Act 2010, requires the Council, in considering planning applications to have due regard to the need to eliminate discrimination, advance equality of opportunities and foster good relations between people who have different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The requirement to have due regard to the above goals means that members should consider whether persons with particular protected characteristics would be affected by a proposal when compared to persons who do not share that protected characteristic. Where equalities issues arise, members should weigh up the equalities impact of the proposals against the other material considerations relating to the planning application. Equalities impacts are not necessarily decisive, but the objective of advancing equalities must be taken into account in weighing up the merits of an application. The weight to be given to any equalities issues is a matter for the decision maker to determine in all of the circumstances.

Members should also consider whether a planning decision would affect human rights, in

particular the right to a fair hearing, the right to respect for private and family life, the protection of property and the prohibition of discrimination. Any decision must be proportionate and achieve a fair balance between private interests and the public interest.

9. Observations of the Director of Finance

Not applicable.

10. CONCLUSION

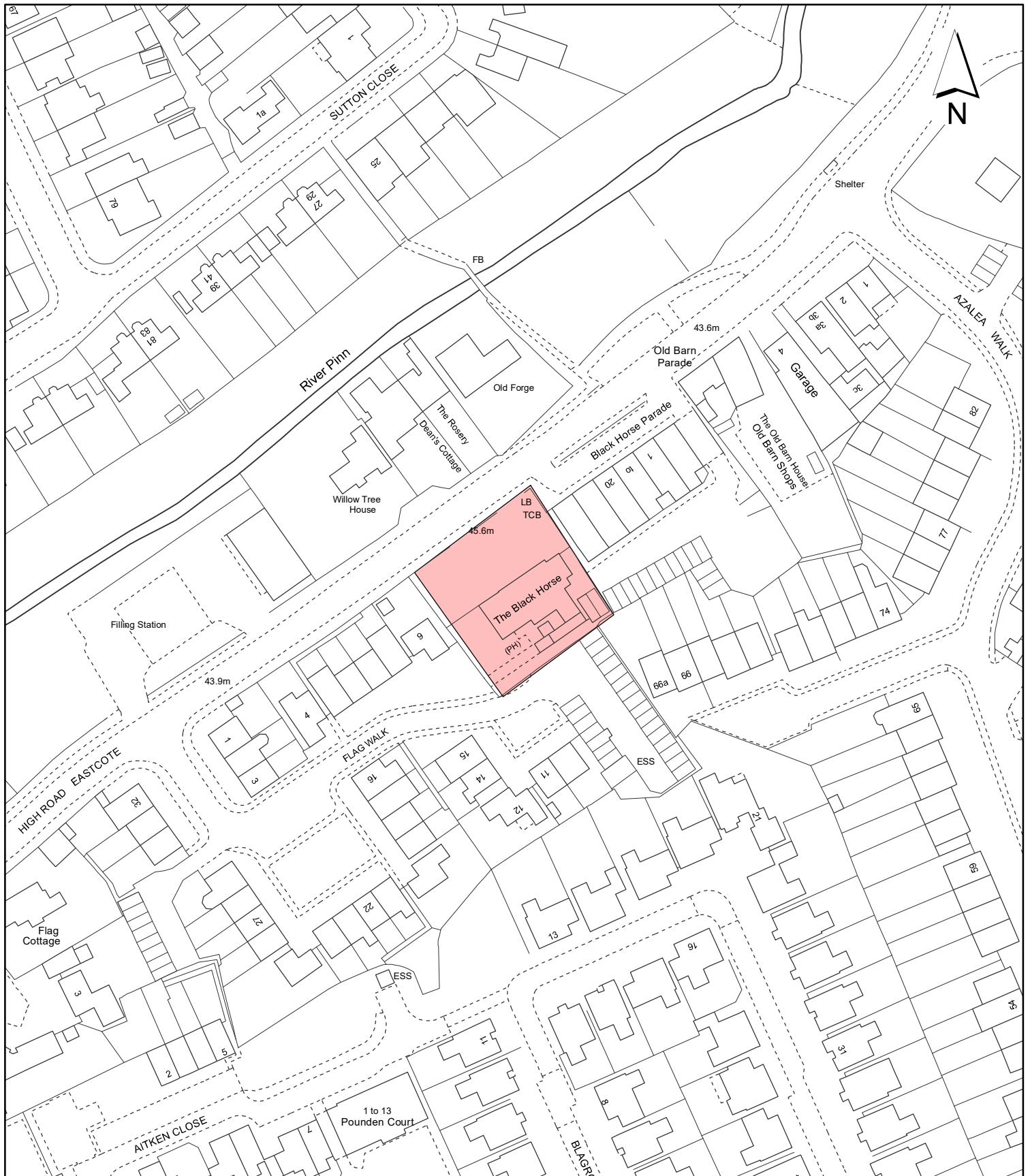
For the reasons set out in this report, it is considered that the development conflicts with national, regional and local planning policies and guidance. No material considerations exist which would outweigh the identified harm. It is therefore recommended that the application be refused on the grounds set out in Section 2 of this committee report.

11. Reference Documents

The Local Plan: Part 1 - Strategic Policies (2012)
The Local Plan: Part 2 - Development Management Policies (2020)
The Local Plan: Part 2 - Site Allocations and Designations (2020)
The West London Waste Plan (2015)
The London Plan (2021)

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Notes:

 Site boundary

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Site Address:

Black Horse PH

Planning Application Ref:
271/APP/2022/1443

Planning Committee:
Borough

Scale:
1:1,250

Date:
May 2023

LONDON BOROUGH OF HILLINGDON
Residents Services Planning Section

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