
APPLICATION DETAILS

Application No:	24/0340/FUL
Location:	The Swatters Carr, 228 Linthorpe Road, Middlesbrough, TS1 3QW
Proposal:	Installation of outdoor seating area to side of premises to include moveable furniture and moveable planters, barriers, and alteration / introduction of openings within elevations.
Applicant:	JD Wetherspoon PLC
Agent:	Harrison Ince Architects Ltd
Ward:	Central
Recommendation:	Approve Conditionally

SUMMARY

The application seeks planning approval to part pedestrianise Victoria Road, south of the site to create an outdoor seating area which will also include moveable planters and barriers. New openings/vertical glazing is also proposed to the side/southern elevation of the building.

Two objections have been raised from residents and a third from the ward Councillor with regards to noise, loss of car parking spaces, anti-social behaviour and issues relating to fly tipping and improper waste storage.

The location, scale and design of the external seating area is considered to be acceptable in relation to the existing property and its surroundings. The seating area will extend and complement the existing use which will add to the vitality and viability of the area and will not harm the function or the character of the town centre.

No Highway objections have been received subject to conditions. Concerns relating to noise have been noted and a noise assessment condition requested for the Environmental Health Service. However suitable mitigation would not be able to be provided. As a result of this, the use of the seating area has been restricted between the hours of 8am-10pm daily, which should allow the use to operate without causing undue harm to residents

The proposal is considered to be an acceptable form of development fully in accordance with National and Local policy and is therefore recommended for approval.

SITE AND SURROUNDINGS AND PROPOSED WORKS

The application site is a part three storey/part two storey end terraced property that is situated to the eastern side of Linthorpe Road at the junction of Victoria Road. The site lies within the

Linthorpe Road Southern Sector of the town as identified on the Councils Local Plan. The property is currently used as a public house.

The application seeks planning approval for the part pedestrianisation of Victoria Road, directly south of the site, to create an outdoor seating area to the side of premises which will include moveable furniture, planters and barriers, and new openings within the building's elevations.

PLANNING HISTORY

No relevant planning history

PLANNING POLICY

In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities must determine applications for planning permission in accordance with the Development Plan for the area, unless material considerations indicate otherwise. Section 143 of the Localism Act requires the Local Planning Authority to take local finance considerations into account. Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires Local Planning Authorities, in dealing with an application for planning permission, to have 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
- Any other material considerations.

Middlesbrough Local Plan

The following documents comprise the *Middlesbrough Local Plan*, which is the Development Plan for Middlesbrough:

- Housing Local Plan (2014)
- Core Strategy DPD (2008, policies which have not been superseded/deleted only)
- Regeneration DPD (2009, policies which have not been superseded/deleted only)
- Tees Valley Joint Minerals and Waste Core Strategy DPD (2011)
- Tees Valley Joint Minerals and Waste Policies & Sites DPD (2011)
- Middlesbrough Local Plan (1999, Saved Policies only) and
- Marton West Neighbourhood Plan (2016, applicable in Marton West Ward only).
- Stainton and Thornton Neighbourhood Plan (2022)

National Planning Policy Framework

National planning guidance, which is a material planning consideration, is largely detailed within the *National Planning Policy Framework* (NPPF). At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 11). The NPPF defines the role of planning in achieving economically, socially and environmentally sustainable development although recognises that they are not criteria against which every application can or should be judged and highlights the need for local circumstances to be taken into account to reflect the character, needs and opportunities of each area.

For decision making, the NPPF advises that local planning authorities should approach decisions on proposed development in a positive and creative way, working pro-actively with applicants to secure developments that will improve the economic, social and environmental conditions of the area and that at every level should seek to approve applications for sustainable development (paragraph 38). The NPPF gives further overarching guidance in relation to:

- The delivery of housing,
- Supporting economic growth,
- Ensuring the vitality of town centres,
- Promoting healthy and safe communities,
- Promoting sustainable transport,
- Supporting the expansion of electronic communications networks,
- Making effective use of land,
- Achieving well designed buildings and places,
- Protecting the essential characteristics of Green Belt land
- Dealing with climate change and flooding, and supporting the transition to a low carbon future,
- Conserving and enhancing the natural and historic environment, and
- Facilitating the sustainable use of minerals.

The planning policies and key areas of guidance that are relevant to the consideration of the application are:

CS4 – Sustainable Development
CS5 – Design
CS13 – Town Centre
DC1 – General Development
REG24 – Southern Sector
UDSPD - Urban Design SPD

The detailed policy context and guidance for each policy is viewable within the relevant Local Plan documents, which can be accessed at the following web address.
<https://www.middlesbrough.gov.uk/planning-and-housing/planning/planning-policy>

CONSULTATION AND PUBLICITY RESPONSES

Public Responses

Number of original neighbour consultations	22
Total numbers of comments received	2
Total number of objections	2
Total number of support	0
Total number of representations	2

1a Victoria Road

I would like to take this opportunity to formally object to Wetherspoons proposed plans to pedestrianise a portion of Victoria Road. While I understand the potential benefits of creating

pedestrian-friendly areas, I believe the current plans will have significant negative consequences for both the community and businesses in the area. One of my primary concerns is the potential for this pedestrianisation to create hotspots for anti-social behaviour. Areas without vehicular traffic often attract loitering, particularly during the evening, which can lead to vandalism, disorderly conduct, and other forms of disruptive behaviour. This poses a risk not only to the safety and wellbeing of local residents but also to the businesses that operate in the vicinity. Another crucial issue is the massive negative impact this change will have on local businesses due to the removal of convenient parking. Many businesses along Victoria Road rely on convenient parking options for customers and deliveries. The removal of these spaces will make it more difficult for customers to access local businesses, leading to a decline in footfall and revenue. This is especially worrying for smaller, independent businesses, which may struggle to survive in the face of these changes. While the current plans may propose that these partitions are temporary and restricted to certain times, it is almost inevitable that, over time, the seating area will expand and restrictions on usage will lessen. This is likely to lead to increased noise levels, which will cause disruption to both residents and businesses. Although initial provisions may be in place to minimise disruption, history has shown that once such areas are established, they often become permanent fixtures with less control over the impacts they create. Furthermore, it is disappointing to note the lack of consultation and engagement between Wetherspoons, Middlesbrough Council and the affected businesses and residents.

7 Victoria Road

Impact on Residential and Commercial Tenants:

The proposed development is located close to residential tenants, both in nearby properties and in the commercial units opposite the intended site. Increased noise and activity will likely disturb these residents, especially those living above the commercial units.

Loss of Parking Spaces:

The development will result in a significant loss of 18 parking spaces, which will inconvenience residents and visitors alike. This reduction in parking will also negatively impact local businesses that rely on convenient access for their customers and employees.

Improper Waste Storage:

There are concerns that Wetherspoons is not currently storing refuse properly, as it is being placed on the public footpath on Wilton Street. Additionally, empty beer kegs are being stored in the back alley of Wilton Street. This creates health and safety risks for pedestrians and contributes to increased litter and sanitation problems. The back alley of Wilton Street is already a hazard due to the accumulation of commercial waste and bins. I have photographic evidence to support these claims, which are available for inspection. If this planning application is approved, it will increase foot traffic to Wetherspoons, likely resulting in even more waste being stored on public footpaths and in the back alley.

Noise Concerns

While I understand that Wetherspoons does not play music, the installation of new bifold doors and increase outside area will amplify noise from patrons talking and shouting. This will disturb the residential tenants living above the commercial units opposite the site and local residents.

Adequate Existing Outdoor Space

There is currently an existing outdoor space, which should be sufficient for Wetherspoons' needs. Expanding further seems unnecessary and could contribute to overdevelopment in the area.

Internal/External consultee responses

Councillor Zafar Uddin

I am emailing to inform you that, with regards to the above planning application as one of the ward councillors, I would like to object against the application as described in the plans. My reasons for the objection are as follows:

The proposed development will result in a loss of several parking spaces, which will cause severe difficulties, the area is already suffering from lack of parking spaces. Linthorpe Rd, Victoria Rd, Wilton Street and other surrounding streets are always full during the day and nights. The reduction in parking spaces will cause significant difficulties for the local businesses, residents/tenants who are living above several business properties on Victoria Rd, Wilton St, and it is that this will cause a great inconvenience for their visitors, customers, and employees.

This area is already suffering from Anti-Social Behaviours (ASB). There is no doubt increased loud noise, moving vehicles up and down the Roads and doors banging more than likely to cause disturbance to those residents especially who are to be waking up early in the morning for their day-to-day activities such as going to works schools, colleges, and the universities.

This area is already suffering from a high level of fly tipping, the council workforce /the area care staff are continuing to work hard, one day they get the area tidied and cleaned up, but a couple of days later it returns to the same situation, I fear that this development will generate more fly tipping in the area.

At present Victoria Rd and Linthorpe Rd junction is blocked due to installation of 'disastrous cycle lane', I am aware that at present it is in the process of consultation to be removed, once it removed which, I believe it would be, before too long. I feel that Proposed development will cause a significant difficulty in returning the Victoria Rd in its full functioning.

Environmental Health

With the potential residential accommodation across the road I would therefore request that a noise assessment is undertaken due to the potential for disturbance to these residents. The assessment should include any noise from music, noise from customers, hours of operation and the potential for disturbance to these nearest residents. I would recommend that the assessment should be in line with BS8233 and also the IOA noise from pubs and clubs.

Highways

No objections are raised subject to conditions.

Steve Cranston – Cleveland Police

With regards to your recent planning application 24/0340/FUL for Outdoor Seating Area & alterations.

Cleveland Police encourages applicants to build/refurbish developments incorporating the guidelines of Crime Prevention Through Environmental Design (CPTED).

I would like to make you aware that Cleveland Police operate the "Secured By Design" initiative. This is a scheme which promotes the inclusion of architectural crime prevention measures into new projects and refurbishments.

Once a development has been completed the main opportunity to design out crime has gone. The local Designing Out Crime Officer should be contacted at the earliest opportunity, prior to submission and preferably at the design stage.

The National Planning Policy Framework 2023 paragraph 92(b), which states that Planning policies and decisions should aim to achieve healthy, inclusive, and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion...

The National Planning Policy Framework 2023, paragraph 130(f) which states that "Planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible... and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience".

Policy CS5 (Design) of the Local Development Framework, section e states, creation of a safe and attractive environment, at all times of the day and night, where crime and disorder, or fear of crime, does not undermine quality of life or community cohesion by incorporating the aims and objectives of both Secured By Design and Designing Out Crime concepts into development layouts and is therefore a material consideration.

Another material consideration is Section 17 of The Crime and Disorder Act 1998.

In addition, I have liaised with Cleveland Police's Licensing Dept.

Waste Services

No comments

Northern Gas Networks

As our apparatus is unaffected by the proposed work, we are pleased to tell you that we do not object to the Stopping Up Order at The Swatters Carr, 228 Linthorpe Road, Middlesbrough.

PLANNING CONSIDERATION AND ASSESSMENT

Policy

Policy CS4 requires development to contribute towards achieving sustainable development, by making the most efficient use of land. Policy CS5 requires all development to demonstrate a high quality of design, in terms of layout, form and contribution to the character and appearance of the area.

Policy CS13 encourages retail, commercial, leisure and cultural development within a centre of an appropriate type and scale commensurate with its current and future function. Policy REG20 identifies the Southern sector as the town centre growth area for retail and university uses, with other uses acceptable, provided they are complementary and will not harm the principal function of the sector.

Policy REG24 states that within the Linthorpe Road South area retail, A4 and A5 uses and uses that support the university will be acceptable and that other uses will be acceptable provided they are complementary and do not harm the principal function of the sector.

Policy DC1 requires all development proposals to take account of, or satisfy as a minimum, the effect upon the surrounding environment and amenities of occupiers of nearby properties both during and after completion.

The Council Urban Design Supplementary Document advises that careful design that is sympathetic to the building and well executed in good quality materials will help create a frontage that improves not only the building, but also the town as a whole. Individual design is important, but so is harmony with its surroundings, the alterations should not dominate the street and wider area.

Scale/Design/Appearance

The proposal relates to the development of a pavement café to the side of the property facing Victoria Road. This space would link to the existing beer garden at the front of the property which faces Linthorpe Road creating an external seating area that would wrap round the building at front and side. Victoria Road would undergo partial-pedestrianisation/re-surfacing and the parking bays which line the side of the street adjacent to the public house would be reduced in number and vehicle access altered. Ground sockets would be fitted to allow for the inclusion and removal of barrier posts to avoid the use of permanent bollards as border treatment. Loose furniture and moveable planters would occupy the space of the new pavement café so no permanent furnishings would be placed on the street.

Additionally, existing windows on the side elevation to Victoria Road are to be altered/replaced with vertical glazing which will allow for more light into the public house and ensure a better connection to the street and the proposed external area. The alterations in this case are relatively minor given that the works are largely cosmetic and overall appearance of the building will not significantly change.

The location, scale and design of the external seating area is considered to be acceptable in relation to the existing property and its surroundings. The street café will extend and complement the existing use which will add to the vitality and viability of the area and will not harm the function or the character of the town centre. Whilst the site is situated on a corner, and is highly visible, the outdoor seating area would not be a feature that would be out of keeping with this type of establishment or town centre use. The use of low-level moveable barriers and planters will ensure that the area is enclosed and defined sufficiently and in a manner that will be sympathetic to the existing site and its surroundings and will not appear conspicuous or out of keeping with the commercial nature of the area. The proposal is therefore considered to be fully compliant with Planning Policies CS5 and DC1.

Impacts of amenity

Concerns have been raised regarding levels of noise and disturbance associated with the site. Whilst it is noted that there are some residential properties along Victoria Road and Wilton Street and student accommodation directly opposite the site along Linthorpe Road, the premises is located in a town centre location where some additional level of noise and activity is to be expected. Notwithstanding this, it is recognised that the proposal will allow for more patrons to be seated outside of the premises particularly during the warmer and drier months.

The existing pub is an established town centre use and located on Linthorpe Road in part where there is already a lot of night time economy, and already has an outdoor drinking area to its main frontage which has unrestricted hours of use. However, Victoria Road is a different environment being a side street set off the main road and is unlikely to experience the same levels of noise and activity as Linthorpe Road currently.

Environmental Health have requested that a noise assessment is undertaken due to the potential for disturbance to those residents, however suitable mitigation would not be able to be provided. As a result of this, the use of the seating area has been restricted between the hours of 8am-10pm daily, which should allow the use to operate without causing undue harm to residents. Unacceptable noise levels are controlled under Environmental Health legislation, and should they occur beyond the expectations of this proposal then they would need to be considered under alternative legislation.

In respect of comments regarding anti-social behaviour, these are matters of site management and cannot be addressed under planning legislation. Notwithstanding this, the proposed barriers and planters would serve to contain people more easily within the site.

Highways

The pedestrianised area will be achieved by resurfacing the relevant section of Victoria Road and removing the kerb height level difference (bringing the carriageway level up to footway level) and thus making the whole area level. Victoria Road is already blocked off from Linthorpe Road in terms of vehicles which access it from Wilton Street and this will be retained. The works result in the existing point closure at the Linthorpe Road end of Victoria Road being relocated circa 35m further along Victoria Road. Recent planning approvals and changes to the immediate area (including the University Life Sciences BIOS building) have created new areas of public realm around the University. The proposed pedestrianisation will extend these traffic free routes to connect through to Linthorpe Road thus building further on these works and providing high quality routes.

The outside seating area will be defined using a mix of robust planters, moveable planters and barriers, in surface mounted sockets which will ensure pedestrian/cycle access through the area is maintained and kept clear from people in the outdoor seating area. Placing items within the public highway will require a licence and this will be dealt with separately to the granting of any planning consent.

All of the required highway works will be undertaken through Agreement under the Highways Act 1980 (S278) to the standards and specifications of the Highway Authority.

Currently there are a number of on-street parking spaces along Victoria Road and the proposed works will reduce the number of these from 15 to 4. The current layout of car parking along Victoria Road is along both sides with no turning facilities and as such vehicles have to undertake multi point shunt manoeuvres or reverse the full length. Such manoeuvres are not ideal and present safety hazards to pedestrians and lead to damage to highway infrastructure meaning that the existing parking arrangements are not ideal.

The car parking being retained will ensure that existing businesses/premises fronting Victoria Road have ability to load/unload as necessary. Other car parking is available within the surrounding area, including on Linthorpe Road and Wilton Street and as such it is not considered that the loss of some bays will be detrimental to businesses or residents although it is accepted that people will have to operate slightly differently in this immediate environment. Amendments to existing Traffic Regulation Orders will be funded by the applicants and progressed to ensure suitable restrictions are in place. The works therefore comply with Policy DC1 (test d).

Conclusion

The proposal has been assessed against local policy and guidance and is considered to be an acceptable form of development that will not have any notable affect on the character of the area, will serve to contain an outdoor seating area and, given its design and relationship to surrounding properties, will not have any significant impact on the amenity of occupiers of nearby properties above the existing situation and above what is anticipated in such an area subject to reasonable use and reasonable management of the area.

In view of the above, the proposal is considered to be an acceptable form of development fully in accordance with National and Local policy and is therefore recommended for approval.

RECOMMENDATIONS AND CONDITIONS

1. **Time Limit**

The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: In order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. **Hours of Use**

The outdoor seating area shall not be used outside the hours of 9am-10pm.

Reason: In the interests of amenity of residents having regard for policy DC1 of the Local Plan and section 12 of the NPPF.

3. **Approved Plans**

The development hereby approved shall be carried out in complete accordance with the plans and specifications detailed below and shall relate to no other plans:

- a. Location plan received 28th August 2024
- b. Proposed site plan (Beer garden/pavement café) Drawing No. AL01-A received 21st August 2024
- c. Proposed site elevations (Beer garden/pavement café) Drawing No. AX01-A received 21st August 2024
- d. Proposed pavement café detail Drawing No. AD01 received 21st August 2024

Reason: For the avoidance of doubt and to ensure that the development is carried out as approved.

4. **Details of Roads, Footpaths and Open Spaces Required**

Fully detailed drawings illustrating the design and materials of roads, footpaths and other adoptable open spaces shall be submitted to and approved in writing by the Local Planning Authority prior to the start of construction on site. The development shall be carried out in accordance with the approved details.

Reason; To ensure a satisfactory form of development and in the interests of highway safety having regard for policies CS5 and DC1 of the Local Plan and sections 9 and 12 of the NPPF.

5. **Openings over the highway**

No gate/door/window shall be fitted so as to open outwards over the adjacent public highway.

Reason: In the interests of highway safety and to prevent inconvenience and obstruction to other highway users having regard for policies CS5 and DC1 of the Local Plan and sections 9 and 12 of the NPPF.

6. Off-Site Highway Works

The development hereby permitted shall not be brought into use until the highway works detailed below have been carried out in accordance with the submitted drawing(s) AL01-A or such plans which are subsequently submitted to and approved in writing by the Local Planning Authority:

- a) Changes of levels to Victoria Road to create an at grade pedestrianised area;
- b) Resurfacing of the full width of Victoria Road along the length of the proposed pedestrianised area in paving to be agreed;
- c) Placement of heavy duty timber planters or other agreed measures to prevent unlawful vehicular access into the extended pedestrianised area;
- d) Amendments to existing and creation of new Traffic Regulation Orders to ensure on-street parking on Victoria Road is maintained and to prevent indiscriminate parking and,
- e) All drainage, lighting, surfacing and kerb works to deliver the above.

Reason: In the interests of providing a safe means of access to the site by all modes of transport and to, minimise disruptions to the free flow of traffic having regard for policies DC1 and CS5 of the Local plan and sections 9 and 12 of the NPPF.

7. Traffic Regulation Order

Prior to the commencement of development hereby approved the details of necessary Traffic Regulation Orders must have been agreed in writing with the Local Planning Authority. The development hereby approved must not be occupied until the process to implement the agreed Traffic Regulation Orders has been initiated.

Reason: The development is in a location that is easily accessible by public transport, near a range of amenities including shops and leisure facilities, and within a controlled parking zone having regard for policy CS4 of the Local Plan and section 9 of the NPPF.

REASON FOR APPROVAL

The application is satisfactory in that the design and appearance of the proposed external alterations and outdoor seating area accord with the principles of the National Planning Policy Framework (NPPF) and, where appropriate, the Council has worked with the applicant in a positive and proactive way in line with paragraphs 186-187 of the NPPF. In addition, the alterations accord with the local policy requirements (Policy CS13, REG24, CS4, CS5 & DC1 of the Council's Local Development Framework).

In particular the alterations are designed so that their appearance is complementary to the premises and will not have a detrimental impact on the appearance of the street scene or any adjoining resident or business. The proposed alterations will not prejudice highway safety either by obscuring visibility or be of a conspicuous or prominent appearance. The application is therefore considered to be acceptable, fully in accordance with the relevant policy guidance and there are no material considerations which indicate that the application should be refused.

INFORMATIVES

- **Works to Highway - S278**

The proposal will require alterations to the existing highway and as such will require an Agreement under Section 278 of the 1980 Highways Act. The applicant is urged to consult early with the Highway Authority (tel: 01642 728156) to discuss these proposals. This agreement must be completed and in place before work commences.

- **Objects Within the Highway - S115**

The permission hereby granted should not be construed as authority to place objects within the public highway. Highways consent is required for the creation of pavement café areas within the public highway under Section 115E of the 1980 Highways Act. The applicant is advised that prior to the commencement of works on site they should contact the Highway Authority (01642 728156).

- **Interference or Alteration of the Highway**

Interference or alteration of the highway requires a licence under the 1980 Highways Act. Connections to public sewers in the highway require a licence under 1991 New Roads and Street Works Act. The applicant should contact the Highway Authority (tel: 01642 728156) before any work commences on site, allowing a minimum of 7 days notice, or 30 days in the case of a NRASWA licence, if either or both of these licences are required.

- **Street Furniture**

Any street furniture that necessitates relocation requires early discussion to take place with the Highway Authority (tel: 01642 728156) and this work will be carried out at the cost of the applicant.

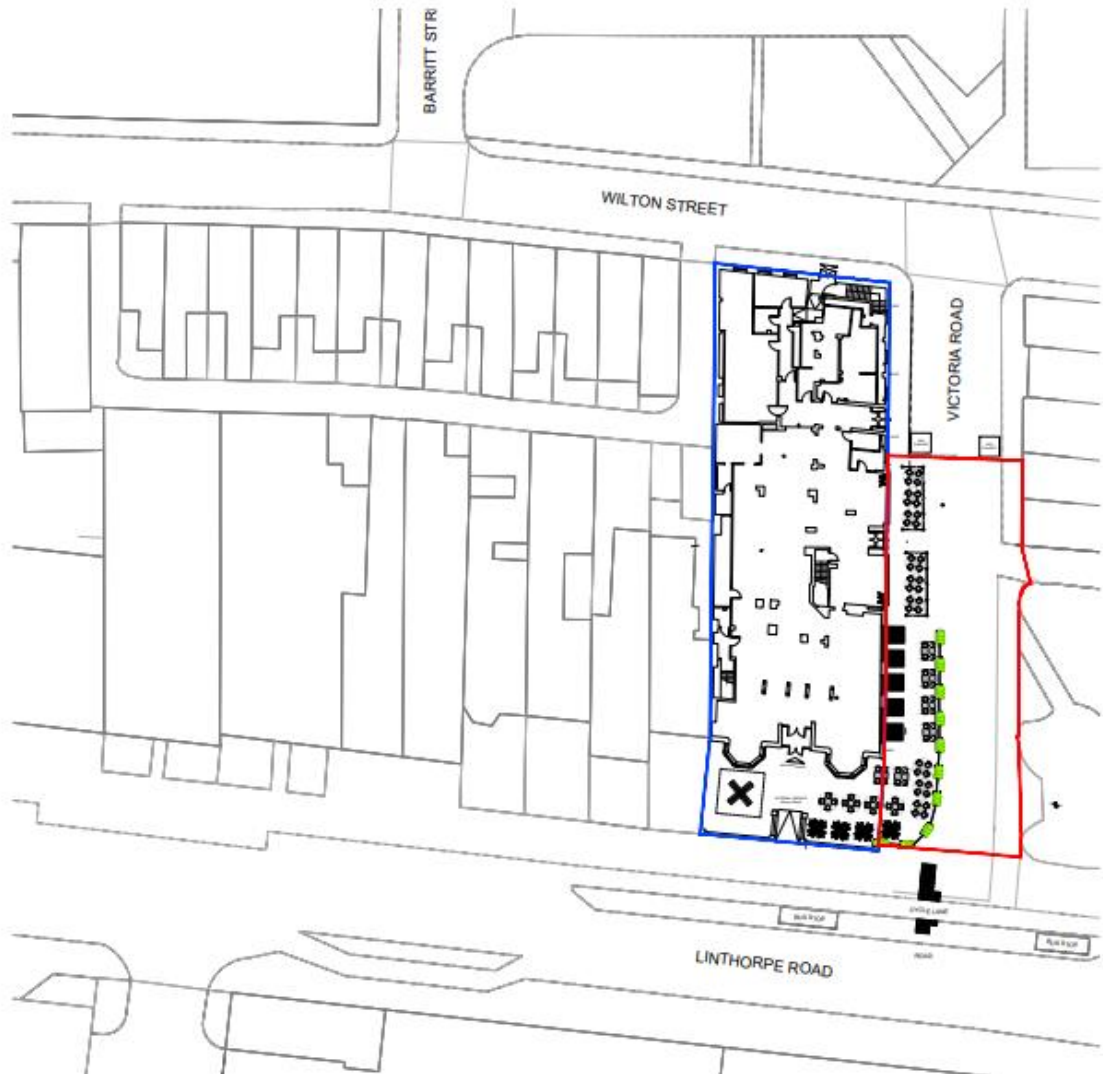
Case Officer: Joanne Lloyd

Committee Date: 7th November 2024

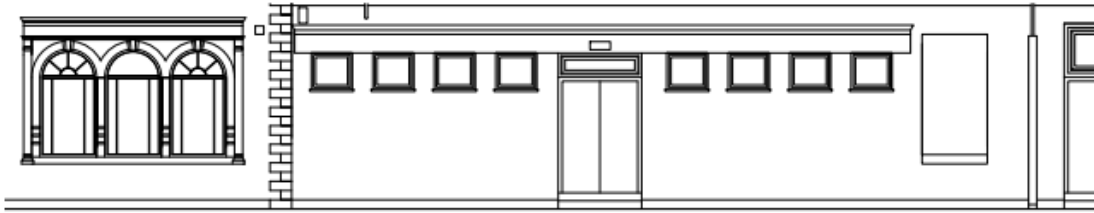
Location plan



Proposed site plan



Existing and proposed side elevations



EXISTING PAVEMENT BEER GARDEN ELEVATION

Scale 1:50



PROPOSED PAVEMENT BEER GARDEN ELEVATION

Scale 1:50