

APPLICATION NO.	P21/S5332/FUL
APPLICATION TYPE	FULL APPLICATION
REGISTERED	21.12.2021
PARISH	STOKE ROW
WARD MEMBER(S)	Jo Robb Lorraine Hillier
APPLICANT	Mr Dan Redfern
SITE	The Cherry Tree Inn, Stoke Row Road, Stoke Row, RG9 5QA
PROPOSAL	Outdoor marquee and pizza oven
OFFICER	Davina Sarac

1.0 **INTRODUCTION AND PROPOSAL**

- 1.1 This application is referred to the Planning Committee as it has been called in by a local ward Councillor on the grounds that the impact upon the setting of the listed building and the conservation area, and the residential amenity of the neighbours nearby needs careful consideration; and that the officers' recommendation conflicts with the views of Stoke Row Parish Council.
- 1.2 The application site (which is shown on the OS extract attached as **Appendix A**) consists of the Cherry Tree Inn, its gardens and parking area. Cherry Tree Inn is a grade II listed public house (approx. 200 square metres) within the settlement of Stoke Row. It is probably a late 17th century building with an early 18th century frontage constructed in red brick and flint walls with old plain-tile roof. The building has a 19th century single storey and attic extensions to left and right. It is located on the main road through the village, adjacent to the village green and within its Conservation Area. The site is also within the Chilterns Area of Outstanding Natural Beauty (AONB).
- 1.3 The application seeks planning permission for the retention of a marquee on a permanent basis on part of the existing beer garden. The marquee is already in place as shown below. It is approximately 12 metres by 12 metres in size and has a covered canopy walkway section at the front that leads up to the front of the pub.



The application also states it seeks permission for the outdoor pizza oven. However, the pizza oven is a movable structure and therefore does not require planning permission. The plans are available to view online on the Council's website (and attached as **Appendix B**).

2.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

- 2.1 Stoke Row Parish Council – Objects on the grounds that the marquee would: -
- be inappropriate and detrimental to the character of the conservation area;
 - increase in parking pressure on the village;
 - not be needed because people are returning to pubs as social distancing restrictions are being lifted;
 - not be needed for the pub to remain viable.

If the marquee is to be used for weddings the Parish would like to see Traffic Plan, Noise Mitigation, Acoustic Performance.

A lot of letters in support for the proposal are from outside of the village and county.

Regarding the pizza oven the Parish has no objections to the oven providing the site is screened in natural materials to ensure the vista of the site is not spoilt, no delivery service is allowed with on site consumption only and the oven is tested to ensure air quality, smoke paths, and odour are not impinging on surrounding residential dwellings.

- 2.2 Conservation Officer (South and Vale) - Recommend approval on the condition that it is classed as a temporary addition, with the condition that it be removed by the end of a fixed period of 3 years from the time of approval.
- 2.3 South and Vale District of CPRE - CPRE agrees with the views of the Conservation Officer and would support temporary permission for 3 years from the time of approval if planning officers are satisfied that the marquee and pizza oven are not harmful to the Conservation Area or Chilterns AONB. Some concerns over the potential increase in traffic on the narrow roads and the associated parking and road safety problems
- 2.4 Environmental Protection Team - Concerns about noise from the marquee and also concerns about odour and smoke from the pizza oven. Request further information such as a noise impact assessment, detailing the acoustic performance of the marquee.
- 2.5 Highways Liaison Officer (Oxfordshire County Council) – No objections.
- 2.6 Forestry Officer (South and Vale) – No objection. The additional planting of three more cherry trees will help to secure the attractive tree cover for the site.
- 2.7 Food Safety – No comments on the proposal.
- 2.8 Public consultation responses – The Council received a total of 131 responses. Of these responses the majority were in support of the proposal. I have summarised the main points that were raised both for and against the proposal: -

In Support of the proposal:

- Marquee is a great attribute to the pub and village enabling customers to spread out and eat without feeling overcrowded with

Objections to the proposal:

- Object to the marquee being permanent, it was great during the pandemic but not as a permanent fixture.

good ventilation in these uncertain times.

- Marquee does not have detrimental effect on the village.
 - Only visible from a small area of the approach as you pass and its value far outweighs any concerns of how it looks.
 - Pizza Oven is great addition.
 - Marquee is where people feel safe and comfortable.
 - Pub industry declined during covid and applications such as this help them recover.
 - An invaluable resource to the community during the challenging periods and continues to prove extremely popular with many visitors.
 - It has increased employment opportunities within the 18 to 25 year old age demographic, within a rural economy where this age group often find employment challenging.
 - The application is supported by the strategic objectives in the South Oxfordshire Local Plan 2011 - 2035 and does not contravene any of the objectives.
 - Unless we support these rural pubs, they will not survive. The last thing we want is to lose another local pub.
- Detrimental to character of the Listed pub and the village and conservation area.
 - Detrimental to the setting of the listed pub.
 - It is out of keeping, very large and stark and takes away from the charm of the listed pub behind it, within the conservation area.
 - The proposed development results in the intensification of use which conflicts with the special character of the area.
 - Open spaces and important views that contribute to the character of the area will not be retained.
 - The marquee is not sympathetic to the original structure in design, scale, and materials. It dominates and overwhelms the listed building
 - All 'socially distanced' dining restrictions now removed so fail to see the requirement to retain it now.
 - Increase in traffic and inadequate off street parking for enlarged customer base.
 - Pizza Oven is out of keeping and the fumes and smells from it would be unneighbourly.
 - Noise disturbance. Marquee is not sound proof.
 - Several accidents involving cars outside the pub on the main road.

3.0 RELEVANT PLANNING HISTORY

3.1 None relevant to this application.

4.0 ENVIRONMENTAL IMPACT ASSESSMENT

4.1 Not applicable for an application of this nature.

5.0 POLICY & GUIDANCE

5.1 **National Planning Policy Framework (NPPF) and Planning Practice Guidance (NPPG)**

**Planning (Listed Buildings and Conservation Areas) Act 1990 (s66, s72)
Countryside and Rights of Way Act 2000 (s85)**

5.2 Development Plan Policies

South Oxfordshire Local Plan 2035 (SOLP) Policies:

CF1 - Safeguarding Community Facilities

DES6 - Residential Amenity

ENV1 - Landscape and Countryside

ENV12 - Pollution - Impact of Development on Human Health, the Natural Environment and/or Local Amenity (Potential Sources of Pollution)

ENV6 - Historic Environment
ENV7 - Listed Buildings
ENV8 - Conservation Areas
STRAT1 - The Overall Strategy
TRANS5 - Consideration of Development Proposals

5.3 Neighbourhood Plan

Stoke Row does not have a neighbourhood plan.

5.4 Supplementary Planning Guidance/Documents

South Oxfordshire Design Guide 2016 (SODG 2016)

5.5 Other Relevant Legislation

Human Rights Act 1998

The provisions of the Human Rights Act 1998 have been taken into account in the processing of the application and the preparation of this report.

Equality Act 2010

In determining this planning application the Council has regard to its equalities obligations including its obligations under Section 149 of the Equality Act 2010.

6.0 PLANNING CONSIDERATIONS

6.1 The relevant planning considerations are the following:

- **Principle of the development**
- **Whether the development would preserve or enhance the character or appearance of the Stoke Row Conservation Area, and conserve and enhance the setting of the grade II listed building.**
- **Whether the development would preserve or enhance the landscape and scenic beauty of the Chilterns Area of Outstanding Natural Beauty (AONB).**
- **Residential amenity**
- **Access and Parking**
- **Other material planning considerations**

Principle of the Development

6.2 The marquee is currently erected and has been in place since last year. Permitted development rights regarding the erection of temporary buildings and structures are outlined within Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Specifically, section Class BB of Part 4 of Schedule 2 allows for the provision of any moveable structure, under the prior approval process for those erected within the curtilage of listed building. The section most relevant to this proposal is the following:

Permitted development

BB. *The provision of one moveable structure within the curtilage, and for the purposes, of—*

(a) a listed building used for a purpose within—

(i) article 3(6)(p) or (q) (drinking establishments etc.) of the Use Classes Order; or

(ii) Class E(b) (sale of food and drink etc.) of Schedule 2 to that Order; or

(b) a historic visitor attraction.

Development not permitted

BB.1. Development is not permitted by Class BB—

- (a) on land which is or forms part of a scheduled monument or land within its curtilage;
- (b) if any part of the moveable structure would be within 2 metres of the curtilage of any adjacent land that is used for a purpose within Part C (residential uses) of Schedule 1 to the Use Classes Order;
- (c) if it would result in provision of a moveable structure being made within the curtilage of a building under Class BB on a total of more than 120 days in the relevant period;
- (d) if the height of the moveable structure would exceed 3 metres;
- (e) if the footprint of the moveable structure would exceed the lesser of—
 - (i) 50% of the footprint of the building, or
 - (ii) 50 square metres;
- (f) if the moveable structure is used for the display of an advertisement.

The marquee is within the curtilage of a listed building. Its currently 12.1 metres by 12.2 metres (147.6 square metres) and 4.4 metres in height. Therefore, the marquee would not meet criteria (d) and (e) of Class BB.1 of Part 4 of Schedule 2 of the GPDO.

However, the fallback position is such that the applicant could take down the marquee and apply to put up a smaller marquee that complies with criteria (d) and (e) above under permitted development rights for 120 days of the year every year. However, the applicant would like to retain the existing marquee on a more permanent basis due to an ongoing desire to provide a more flexible outdoor space for customers as the pub is seeking to recoup some of its losses from being closed during the covid 19 pandemic.

- 6.3 Furthermore, the government has understandably placed emphasis on measures to support the hospitality business during the covid 19 pandemic, and the permitted development right as outlined above is part of this. Policy CF1 of the SOLP seeks to safeguard essential community facilities, such as public houses, in recognition of the role such facilities play in the quality of life and social cohesion of local communities. The marquee is designed to improve the functionality of the outside space at the premises and in this regard helps to improve the viability of the business. In light of this, and the fallback position of the provision of a moveable structure (such as a marquee) for 120 days in a 12-month period, I consider the principle of the development is acceptable, subject to other material considerations.

Whether the development would preserve or enhance the character and appearance of the Stoke Row Conservation Area, and conserve and enhance the setting of the grade II listed building.

- 6.4 The site is within the Stoke Row Conservation Area and the position of the marquee forms part of the setting of the host Grade II listed building. Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 state, respectively, that the local planning authority shall have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses, and that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. These requirements are reflected in the NPPF and through Policies ENV6, ENV7 and ENV8 of the SOLP 2035.
- 6.5 The marquee is a lightweight structure of transient appearance comprising an aluminium interior frame and PVC outer cover. It is sited on an area of the pub's existing beer garden as shown on the submitted plans. The marquee structure is not attached to the listed building, although one of the posts is positioned right up against it

and the canopy touches the roof canopy of the door. Listed building consent is not required. The marquee is located forward of the grade II listed building but off set to the eastern side within the existing pub garden. The marquee is visible from public views especially in winter months when there is less foliage on the trees within the pub garden. It does obscure some views towards the pub from some angles, but the main frontage of the pub is still highly visible and not blocked by the marquee when viewed from the front entrance of the site from the main road and from the western approach.

- 6.6 The pub garden forms part of the setting of the listed building and the character of the conservation area in which it sits within. The Stoke Row conservation area is focused around the village green which is its historic core. The Stoke Row Conservation Area Character Study (2000) sets out that the open spaces, particularly the green itself, and groups of trees predominate, and the cottages and other buildings are subservient to this. Most buildings are small cottages but there are also larger properties with spacious grounds. The significance of the conservation area is therefore derived from the pattern of development, the open and verdant nature of the area and the historic fabric and vernacular details of the buildings which are interspersed within it. The Cherry Tree Inn pub garden contributes to the conservation area with the listed building, its trees and open front garden enclosed by a simple post and rail fencing along Cherry Tree Close and a hedge along the main road.
- 6.7 Officers consider that the position of the marquee does have a visual impact when viewed from the street scene, but this is somewhat limited to mainly from the eastern side of the main road and the grassed area in front of the Stoke Row Chapel and from some views from Alma Green opposite. The marquee would be set forward of the grade II listed pub and while it is partly screened by existing trees (predominately in summer months) it is visible from public views, from the grassed area opposite the chapel and from the main road adjacent to the pub and therefore visually prominent. However, it is set back from the main road, with more than 50% of the pub garden remaining open, this would help retain some of the existing openness of the pub garden. Officers consider the marquee does not enhance or preserve the setting of the listing building or the appearance of the conservation area as some of the openness of the pub garden is lost along with views to the pub.
- 6.8 The Conservation Officer raised no objection to the application and suggests that the marquee is permitted on a temporary basis only with the condition that it be removed by the end of a fixed period of 3 years from the time of approval. The Conservation Officer has stated that the harm identified to the historic environment would warrant this restriction. It is clear that the marquee would provide ongoing benefits to the viability of the business and the clientele from having a more flexible and adaptable external drinking environment. Therefore, the retention of the marquee for a limited period of 3 years would provide benefits to the community, this is evident from the support the application has received. The less than substantial harm caused by the marquee is offset by enforcing this condition, as well as present public benefits. Its height would mean that it would remain comfortably subservient to the main grade II listed building. There are other outbuildings and ancillary development visible from within the conservation area, and whilst the materials used for the marquee are not consistent with other such ancillary buildings, given that it would be temporary only, and given the fallback position of moveable structures being allowed under permitted development for 120 days a year, officers consider the application would not warrant refusal.
- 6.9 Furthermore, a landscape plan has been submitted showing that the applicant proposes additional planting of three more cherry trees within the pub garden. There are many mature and semi-mature trees which contribute to the character of the conservation area and to the setting of historic buildings. The most important groups

are to be found to the south of Red Cow House and to the north of the Chapel, while several trees on the village green, to the front of Alma Green and within the gardens of The Cherry Tree, are significant in their own right. This additional planting will help to secure the attractive tree cover for the site and would provide long term benefits by enhancing the setting of the listed building and appearance of the conservation area even after the marquee is removed following the temporary three year period.

Whether the development would preserve or enhance the landscape and scenic beauty of the Chilterns Area of Outstanding Natural Beauty (AONB)

- 6.10 The site lies within the Chilterns AONB, where the National Planning Policy Framework (NPPF) directs that great weight should be given to conserving and enhancing the landscape and scenic beauty of the area. This is reflected in Policy ENV1 of the SOLP 2035 which states that development in an AONB will only be permitted where it is appropriate to the economic and environmental wellbeing of the area or promotes understanding or enjoyment of the AONB. It is clear that the pub and the marquee are enjoyed by both locals and those who live further away.
- 6.11 The loss of part of the beer garden's open space would be harmful in the context of the wider AONB, particularly bearing in mind the fall-back position as to the permitted development rights for moveable structures for 120 days for a 12 month period. Although the marquee is visible in views from the road, the character of a low density settlement village within the AONB would remain essentially unaltered and the siting of the marquee would accord with those in the immediate area. Views of the site are localised amongst other things by the existing open green spaces and verdant character of the surrounding area dispersed amongst residential dwellings. Accordingly, whilst the application does change the landscape character and appearance of the area in a limited way, the proposal would not be detrimental to the wider AONB and would be beneficial to visitors to the area. The additional tree planting to increase the tree cover on site would be an enhancement to the surrounding area.

Impact on the Amenity of Neighbouring Residential Occupiers

- 6.12 The site adjoins existing residential properties to the north and west. The pub is long established, including the pub garden area and car park adjacent to the marquee. The marquee will increase the likelihood of customers using the outside space but would not materially alter the character of the pub's use and would not fundamentally change the relationship of the use with the adjoining residents. In this regard I do not consider that the marquee would give rise to any substantial intensification of use to the detriment of the neighbouring residential occupiers and would not conflict with Policy ENV12 of the SOLP.
- 6.13 A number of concerns have been raised by local residents regarding the noise disturbance from the use of the marquee, and the smell and fumes from the pizza oven. As explained above the pizza oven does not require planning permission. The Environmental Health Officer has also raised concerns about potential noise from the marquee and requested further information such as a noise impact assessment, detailing the acoustic performance of the marquee. The applicant's agent sought advice from a noise consultant regarding this matter. He stated that for a robust and defensible noise impact assessment to be produced, measurements would have to be taken during the summer months late at night, representative of "the worst-case scenario". Any assessment undertaken now/soon might not be a fair reflection. In any case, they have questioned the need for the report, as the site is an existing beer garden and used very often in the summer months. Whilst I appreciate that marquee structures do not

provide particularly effective sound insulation, the structure does provide some noise attenuation compared to an open garden.

- 6.14 According to Environmental Health records there has only been one noise complaint in the past year about the pub which did not lead to any further action being taken. The noise consultant is correct in terms of it being a bad time to make the noise measurements and officers can see their point of view about it already being a beer garden. The marquee would not materially alter the character of the pub's use and would not fundamentally change the relationship of the use with the adjoining residents. Based on the above, I do not consider that a noise impact assessment for a marquee in a pub garden is proportionate or necessarily useful in this instance. Alternatively, officers consider that restricting the hours of use of the marquee, would go some way to lessen the impact on those residents living nearby. It is proposed that the marquee be only used up to 10pm. This seems reasonable as currently there are no restrictions of use of the pub garden under the current licence. Should any unforeseen future noise issues arise these will be dealt with by the Environment Health and Licensing Team.

Access and Parking

- 6.15 Policy TRANS5 seeks to ensure that development is served by appropriate access and parking. The marquee does not affect the existing access arrangements from the main road and does not result in the loss of any current parking spaces. In light of this, the Local Highway Authority has raised no objection to the application on the basis that the outdoor marquee is not a movement generator, the seating provision within the outdoor marquee contains outdoor benches along with tables and chairs relocated from the existing establishment.
- 6.16 It is apparent from the representations received from those objecting to the application that some residents have raised issues with parking and have highlighted indiscriminate and/or obstructive parking on the surrounding carriageway outside of the application site. However, any indiscriminate or obstructive parking can be enforced by Thames Valley Police. The parking issues indicated appear to be during weekend/bank holidays, which are outside of the peak traffic periods. There may be a small element of overspill parking onto surrounding streets at busy times, but this impact on highway safety would be difficult to substantiate at appeal. In any case it is considered that the benefits to the business and its customers weigh against the impacts of indiscriminate parking which appears to be infrequent. Furthermore, officers are mindful that the Local Highway Authority did not recommend refusal on Highway Safety grounds.

Other material planning considerations

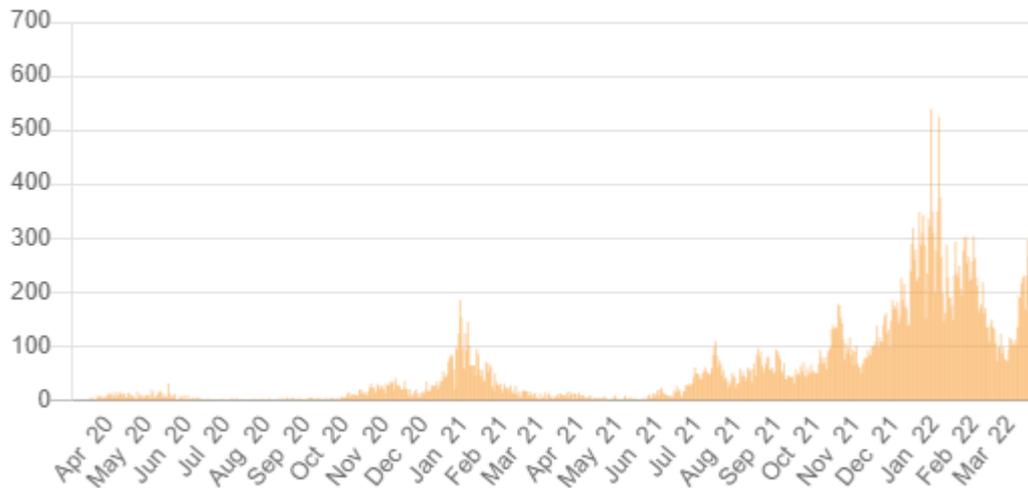
- 6.17 The marquee does not necessitate any assessment in relation to the SOLP carbon reduction policies.
- 6.18 From the representations received objecting to the application, a number of people have raised the fact that the covid 19 pandemic is no longer in an emergency state and that the restrictions have all, but a few been lifted. They go on to state the pandemic is not a justification to allow the marquee to remain. At the time of writing this report the number of cases of people testing positive for covid 19 are still high within the district. The latest figures that showed that the total number of reported cases up to 22 March 2022 is 41,166 in South Oxfordshire and the total for the whole of England being 74,804 daily new cases (data source: <https://phdashboard.oxfordshire.gov.uk/?view=cases&location=South+Oxfordshire>).

This is an increase in cases from this time last year as shown on the graph below: (The number of newly confirmed cases of COVID-19 per day up to the date shown. Source: GOV.UK)

Daily number of cases

in South Oxfordshire

Reported up to 21 Mar 2022



- 6.19 Whilst the restrictions have been lifted, the above shows that we are still living with covid 19 and that it will be around for the foreseeable future. In the first year of the covid19 pandemic, global prevalence of anxiety and depression increased by a massive 25%, according to a scientific brief released by the World Health Organization (WHO) (source: <https://www.who.int/>). Whilst for the most part the latest variant is less likely to result in deaths or hospitalisations for most people, the pandemic has affected how some people continue to live their lives and socialise. Many still feel uncomfortable around groups of people and tend to avoid crowded situations and gatherings. It is evident from the comments supporting the application, that some local residents feel more comfortable using the marquee rather than being inside the pub as it provides more space and ventilation. So, whilst, restrictions have been lifted, it is clear that the impact of how people perceive the spaces and how they use that space has changed for many people indefinitely.
- 6.20 The marquee would result in some harm to the setting of the listed building and the character and appearance conservation area. This harm results from the erosion of the openness of the existing beer garden and the materials of the marquee as identified in the previous paragraphs. The less than substantial harm caused by the marquee can be offset by enforcing a temporary time limit condition. This along with the public benefits which are clear from the number of supportive representations and the fact that many people's perception and use of the public spaces have been changed by the pandemic, have tilted the balance in favour of allowing the marquee to be retained for a temporary period of three years only.
- 6.21 Officers acknowledge that some of the representations received are from outside the village and district, but this is also indicative of the pub's importance to the local visitor economy as well as being an important local community facility.

7.0 **CONCLUSION**

7.1 Whilst there is some conflict with relevant development plan policies and national planning policy, the less than substantial harm to the historic environment is outweighed by the public benefits arising from the retention of the marquee for a temporary period of three years. Subject to the recommended hours of use condition officers also consider that the proposal would not cause material harm to the amenity of local residents.

8.0 **RECOMMENDATION**

8.1 **That planning permission be granted subject to the following conditions: -**

- 1: Planning permission for a temporary period of three years from the date of permission.**
- 2: The landscaping scheme as shown on the approved plan Tree Planting Plan shall be implemented within the first planting season following the date of this planning permission.**
- 3: The hours of use shall be restricted until 10pm.**

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