

**Planning Committee 6 February 2018
Report of the Planning Manager (Development Management)**

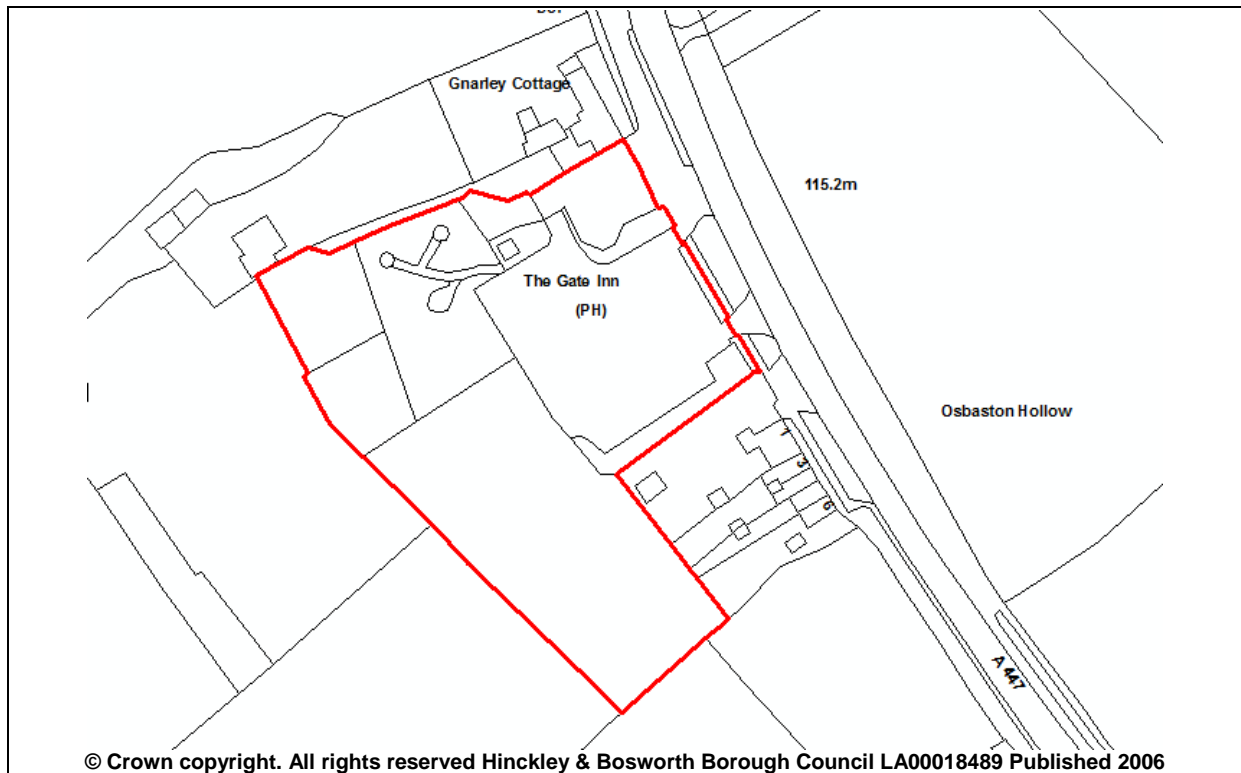


Hinckley & Bosworth
Borough Council

Planning Ref: 17/00819/FUL
Applicant: Marstons
Ward: Barlestone Nailstone And Osbaston

Site: The Gate Inn Ashby Road Osbaston

Proposal: Installation of a new remote condenser and condensing unit



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

1.2. That the Planning Manager Development Management be given powers to determine the final detail of planning conditions.

2. Planning Application Description

2.1. The applicant seeks planning permission for the installation of a new remote condenser and condensing unit. There are currently three condensers on site. One serves the walk in fridge and is contained within an enclosure, and has not led to any noise complaints. It is proposed that this will remain in-situ. The second is the existing cellar cooling condenser which is contained within an enclosure, and when the enclosure is used correctly, noise from the condenser is low. However, it is understood that there have been times when the doors have been opened, thus compromising the enclosure's performance and impacting adversely on the neighbouring property, Gnarley Cottage in terms of noise. The final condenser serves the freezer unit and this is not situated in an enclosure, the noises emitted from this unit are the primary concern and cause of complaints from the adjacent

residential property. This application seeks to remove the old remote condensers serving the cellar and the freezer unit and replace them with new units which will be enclosed.

- 2.2. To support the application, the applicant has provided a noise acoustic report which makes recommendations to address the potential impact of the proposed units on the neighbouring residential property of Gnarley Cottage.

3. Description of the Site and Surrounding Area

- 3.1. The Gate Inn is a public house that is sited within the undefined settlement known as Osbaston Toll Gate or Osbaston Hollow along the A447. The public house is immediately adjoined to the north by Gnarley Cottage; a residential property and is bound to the south by other dwellings. There is a large car park to the side and rear of the public house.

4. Relevant Planning History

09/00899/FUL	Extensions and alterations to public house	Refused	05.03.2010
10/00527/FUL	Extensions and alterations to public house including alterations to access.	Permitted	17.09.2010
10/01007/FUL	Alterations and refurbishment of premises and installation of prefabricated external cold rooms to enclosed yard area.	Permitted	30.03.2011
15/00192/FUL	Erection of a beer cellar condensing unit and acoustic enclosure (retrospective)	Permitted	30.04.2015

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.
- 5.2. One neighbour has commented neither objecting nor supporting the application. The neighbour makes the point that the current application does not correctly describe the existing situation on site; this equipment having caused noise and disturbance on the neighbouring property for many years. The neighbour is seeking to ensure that if the application is approved a suitably worded condition is imposed to ensure that the equipment is installed and maintained in accordance with the approved plans and recommendations within the acoustic report.

6. Consultation

- 6.1. Osbaston Parish Council has provided comments in support of the neighbour's comments as set out above.

6.2. HBBC Environmental Health (Pollution) has no objection subject to a condition to require appropriate acoustic enclosures are provided as stated in the noise acoustic report submitted by the applicant.

6.3. No comments were received from CAMRA

7. Policy

7.1. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM10: Development and Design

7.2. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2012)
- Planning Practice Guidance (PPG)

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity

Assessment against strategic planning policies

8.2. Policy DM1 of the Site Allocations and Development Management Policies DPD (SADMP) sets out a presumption in favour of sustainable development and states that development proposals that accord with the development plan should be approved without delay, unless material considerations indicate otherwise.

8.3. The site is located outside of the settlement boundary of Osbaston, as defined on the Policies map contained within the SADMP and therefore Policy DM4 is of relevance. Policy DM4 seeks to protect the intrinsic value, beauty, open character and landscape character of the countryside from unsustainable development. The proposed units would be erected within the existing grounds of the public house; and would therefore have no adverse impact on the intrinsic character and beauty of the countryside. It is therefore considered that the development would be in accordance with Policy DM4 of the Site Allocations and Development Management Policies DPD.

Design and impact upon the character of the area

8.4. Policy DM10 of the SADMP provides that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. Policy DM4 of the SADMP seeks to ensure that development does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside.

8.5. The proposed units would be situated on an existing close boarded fence facing the car park to the south. The units would only be visible to customers visiting the premises and are the standard condensing units which are found at public houses and therefore not considered to be out of keeping with the character of the area. It is also proposed as per the acoustic noise report that the units be enclosed; this would therefore minimise the impact of the units. Details of the proposed enclosures would be conditioned to be approved by the Local Planning Authority as part of any grant of planning permission. It is therefore considered that the development is in

accordance with Policy DM4 and DM10 of the Site Allocations and Development Management Policies DPD.

Impact upon neighbouring residential amenity

- 8.6. Policy DM10 of the SADMP states that development should be permitted providing that the development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting, air quality, noise, vibration and visual intrusion.
- 8.7. The applicant has submitted an acoustic report to assess the potential noise impact the proposed development could have on the adjoining neighbour at Gnarley Cottage.
- 8.8. Within the acoustic report a number of recommendations are set out. The assessment within the acoustic report assumes a minimum of a 1.8 metre close boarded acoustic barrier (in good condition) located in close proximity, but not connected to the freezer condenser, with the cellar cooler condenser being shielded by the pub itself.
- 8.9. Nonetheless, the calculated impact is higher than desirable, and it is considered that the units should each be provided with a carefully designed acoustic enclosure.
- 8.10. The enclosure must be designed such that the doors can remain closed whilst the condenser is in operation in the summer. It would also be beneficial for the enclosure to have its openings facing the car park to the south, in order to allow the air and sound from the units to radiate south away from the neighbouring residential property at Gnarley Cottage. It would also be advantageous for the enclosure to be oversized in order to assist with air flow around the unit and for the freezer condenser and enclosure to be situated such that they are not connected to the acoustic barrier.
- 8.11. It is therefore considered that the combination of the minimum 1.8 metre high acoustic barrier, together with the provision of enclosures to meet the above would adequately protect neighbouring residential amenity.
- 8.12. HBBC Environmental Health (Pollution) has commented on the acoustic report and agrees with the recommendations of the report. It is recommended that suitably worded conditions are imposed to ensure that appropriate measures are put in place to protect the residential amenity of the neighbour at Gnarley Cottage. Subject to this, it is therefore considered that the development is in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD.

9. Equality Implications

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
 - (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 9.3. There are no known equality implications arising directly from this development.

10. Conclusion

- 10.1. The Gate Inn is located outside of a settlement and the proposed units would therefore be located within open countryside. The units would however be sited in close proximity to other buildings associated with the public house and therefore would have no adverse impact on the character of the area or wider countryside.
- 10.2. In terms of the impact on the neighbouring residential amenity, a number of recommendations were suggested within the acoustic report to ensure noise levels are minimised. Subject to compliance with these recommendations; the proposed development would have no adverse impact on the neighbouring property of Gnarley Cottage. The proposed development would therefore be in accordance with Policy DM4 and DM10 of the Site Allocations and Development Management Policies DPD.

11. Recommendation

11.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

11.2. That the Planning Manager be given powers to determine the final detail of planning conditions.

11.3. Conditions and Reasons

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details as follows: Amended proposed ground floor plans (Drawing Number: PO817/90322/0.1) received by the Local Planning Authority on the 5 October 2017 and Land Ownership Plan received by the Local Planning Authority on the 11 August 2017.

Reason: To ensure a satisfactory impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

3. Prior to the installation of the condensing units hereby approved; details of the enclosures for the units to be provided and to be agreed in writing by the Local Planning Authority and then shall be implemented in accordance with the details and maintained in perpetuity.

Reason: To ensure that the neighbouring residential amenity is protected from any noise and disturbance from the units in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD.

4. Within one month of the new units being installed, the existing cellar condenser unit and the freezer unit shall be removed.

Reason: To ensure that the neighbouring residential amenity is protected from any noise and disturbance from the units in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD.

11.4. **Notes to Applicant**

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.