



Report to Planning Committee 8 May 2025

Business Manager Lead: Oliver Scott – Planning Development

Lead Officer: Ellie Sillah Senior Planner

Report Summary			
<b>Application No.</b>	24/01621/FUL		
<b>Proposal</b>	Change of use of land to form beer garden to include associated seating and structures, children's play area and associated car parking (retrospective) and proposed erection of glazed structure and associated landscape and bio-diversity/ecological enhancements		
<b>Location</b>	Old Volunteer Public House, 61 Caythorpe Road, Caythorpe		
<b>Applicant</b>	Mr Sean Reddington	<b>Agent</b>	Mr George Machin
<b>Web Link</b>	<a href="#">24/01621/FUL   Change of use of land to form beer garden to include associated seating and structures, children's play area and associated car parking (retrospective) and proposed erection of glazed structure and associated landscape and bio-diversity/ecological enhancements   Old Volunteer Public House 61 Caythorpe Road Caythorpe NG14 7EB</a>		
<b>Registered</b>	09.10.2024	<b>Target Date/Extension of Time</b>	04.12.2024 EOT agreed until 12.05.2025
<b>Recommendation</b>	Refuse for the reason/s set out at Section 10.0 of this report.		

### Procedural Matters

This application is being referred to Planning Committee by the Business Manager for Planning Development due to the high level of public interest in the application under the Planning Scheme of Delegation.

#### **1.0 The Site**

- 1.1 The application site comprises 'The Old Vol' public house and the surrounding land. The site lies within the Nottingham Green Belt and is located on the northern side of Caythorpe Road.

- 1.2 There is a former barn which has been converted to use as offices to the north-west – this has been identified as a historic building of local interest.
- 1.3 A public bridleway runs across the fields approximately 120m away to the east.
- 1.4 The site has the following constraints:
- Car Dyke (an open watercourse) runs immediately along the eastern side of the public house, and the site lies within Flood Zones 2, 3a and 3b.
  - The site lies within the Trent Valley Internal Drainage Board area.
  - Within the Nottingham-Derby Green Belt
  - Coal Authority Low Risk Area

## 2.0 **Relevant Planning History**

- 01/00435/FUL – Proposed extension to cellar. Approved, May 2001.
- 07/01148/FUL - Proposed single storey extension to rear and new entrance ramp and decking with awnings. Approved, October 2007.
- 07/01790/FUL – Single storey extension to rear. New entrance ramp and decking with awning (Re-submission). Approved, February 2008.
- 13/01733/FUL - Change of use of the storage area of the public house to new offices. Approved, January 2014.
- 15/02218/FUL - Refurbishment and alterations to provide first floor restaurant area. Inclusion of a first floor external terrace area. Approved, February 2016.
- 19/02083/FUL – Single storey extension to front elevation. Approved, January 2020.
- 22/02121/FUL - Erection of new retractable pergola system canopy structure in existing beer garden. Under consideration. Withdrawn, June 2023.
- 22/02067/FUL - Proposed First Floor extension at rear of existing public house to create new bar area. New external access stair. Withdrawn, June 2023.
- 24/00650/FUL - Change of use of land to form beer garden and erection of glazed structure. Refused for the following reasons:

01

*In the opinion of the Local Planning Authority, the proposed glazed structure is a new building in the Green Belt which does not meet any of the exceptions allowed by paragraph 154 of the National Planning Policy Framework. It is therefore inappropriate development in the Green Belt which by definition is harmful to the Green Belt and which should not be approved except in very special circumstances, with no such very special circumstances applying in this case. Furthermore, it is of a modern design which fails to respect the local style and to use traditional materials, failing to protect and enhance the surrounding landscape. It also harms the openness of the Green Belt.*

*The development is therefore contrary to Spatial Policy 4B 'Green Belt Development', Core Policy 9 'Sustainable Design', Core Policy 13 'Landscape Character', Policy DM5 'Design' and fails to comply with paragraphs 152-156 of national Green Belt policy set out in the National Planning Policy Framework*

*(December 2023). It also fails to have regard to the Landscape Character Assessment SPD.*

02

*The proposal is for a use classified as 'more vulnerable' in the government's flood risk vulnerability classification within Flood Zone 3. In the opinion of the Local Planning Authority, insufficient information has been submitted to establish that the proposal would not be at unacceptable risk from flooding or that it would not increase the risk of flooding elsewhere.*

*The proposal therefore fails to comply with Core Policy 9 'Sustainable Design', Core Policy 10 'Climate Change' and Policy DM5 'Design'.*

03

*The development would add an additional 450 sqm of indoor space to the public house, which would be likely to increase the amount of custom and therefore the number of vehicles accessing the site. In the opinion of the Local Planning Authority, insufficient evidence has been submitted to establish that the proposal would not be harmful to the safety, convenience and free flow of traffic using the highway.*

*The proposal therefore fails to comply with Spatial Policy 7 'Sustainable Transport' and Policy DM5 'Design'.*

### **3.0 The Proposal**

- 3.1 The application seeks permission for the change of use of the land to the east of the pub to use as a beer garden. This includes the installation of various structures such as seating pods. In addition, there is a fenced off section for a children's play area/miniature village. To the western side of the public house is an area used for overflow car parking which has been hard surfaced. All of these elements of the proposal are retrospective.
- 3.2 The application also proposes the construction of a new single storey glazed structure within the beer garden. This is as per application reference 24/00650/FUL (however the previous application did not include the retrospective development).
- 3.3 The new building would have a footprint of approximately 450 sqm and would be approximately 2.9m high at its maximum. It would be constructed using glazed aluminium framed panels for the majority of the walls, with some limited areas of the walls would be finished using fixed horizontal slatted aluminium panels in neutral RAL-9001 ST (i.e. coloured cream / grey). The proposed site plan and proposed elevations are shown below:



### 3.4 Documents assessed in this appraisal:

- 2409 S02 200 REV P03 Proposed Elevations received 12<sup>th</sup> September 2025
- 2409 S02 400 REV P01 Visual Impact Assessment received 12<sup>th</sup> September 2025
- Flood Risk Assessment received 12<sup>th</sup> September 2024
- Flood Map received 13<sup>th</sup> January 2025
- 2409-S02-001-P03 Site Location Plan and Block Plan received 10<sup>th</sup> January 2025
- 1000B Proposed Site Layout received 10<sup>th</sup> January 2025
- 2409-S02-050-P03 Existing Site Plan received 10<sup>th</sup> January 2025
- 2409-S02-060-P03 Proposed Site Plan received 10<sup>th</sup> January 2025
- Landscape Enhancement Plan received 17<sup>th</sup> January 2025
- Area Analysis received 14<sup>th</sup> January 2025
- Flat Retractable Pergola Brochure

## 4.0 **Departure/Public Advertisement Procedure**

4.1 Occupiers of 248 properties have been individually notified by letter. A site notice has also been displayed near to the site.

4.2 Site visit undertaken on 10<sup>th</sup> January 2025.

## 5.0 **Planning Policy Framework**

### 5.1. **Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)**

- Spatial Policy 1 - Settlement Hierarchy
- Spatial Policy 4A – Extent of the Green Belt
- Spatial Policy 4B– Green Belt Development
- Spatial Policy 7 - Sustainable Transport
- Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities
- Core Policy 9 -Sustainable Design
- Core Policy 10 – Climate Change
- Core Policy 12 – Biodiversity and Green Infrastructure
- Core Policy 13 – Landscape Character
- Core Policy 14 – Historic Environment

### 5.2. **Allocations & Development Management DPD (2013)**

- DM5 – Design
- DM7 – Biodiversity and Green Infrastructure
- DM9 – Protecting and Enhancing the Historic Environment
- DM12 – Presumption in Favour of Sustainable Development

5.3. The [Draft Amended Allocations & Development Management DPD](#) was submitted to the Secretary of State on the 18th January 2024 and was publicly examined in November. However, the outcome of the examination is not yet published and whilst the plan is at an advanced stage of preparation, there are unresolved objections to amended versions of the above policies emerging through that process. Therefore, the

level of weight which those proposed new policies can be afforded is currently limited. As such, the application has been assessed in-line with policies from the adopted Development Plan.

#### 5.4. **Other Material Planning Considerations**

- National Planning Policy Framework 2024
- Planning Practice Guidance (online resource)
- National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019
- Landscape Character Assessment SPD 2013

### 6.0 **Consultations and Representations**

- 6.1. Comments below are provided in summary - for comments in full please see the online planning file.

#### **Statutory Consultations**

#### 6.2. **Environment Agency –**

We object to the proposed development as it falls within a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. The application is therefore contrary to the National Planning Policy Framework (NPPF) and planning practice guidance (PPG). We recommend that planning permission is refused on this basis.

#### 6.3. **Nottinghamshire County Council (Highways) –**

- 6.4. Most recent comments (received 18.2.25) The highway authority would have no objection to the planning application on highway capacity or safety grounds subject to planning conditions.

#### 6.5. **Caythorpe Parish Council –**

- 6.6. (Raised concerns but neither object nor support)

- 6.7. Overall feeling that the garden was reasonable and a positive addition to the pub and presented few intrinsic difficulties when used considerately. It is well constructed and is especially attractive for young people and families. However, prior issues (late night noise in summer) have not been remedied and the addition of a covered outdoor space could facilitate large parties and weddings and was felt likely to worsen the intrusion in terms of traffic and noise. Despite being in favour of the outside space as a beer garden and children's play area, residents did not want to support further expansion due to noise concerns. The expansion of the site into the green belt was a subordinate but still significant issue, as was the creation of the car park on a meadow area, although the benefit of getting cars off the road and improving safety is acknowledged. Whether the social benefit of the enterprise supersedes the intrusion into the greenbelt is an issue the Parish expects the committee to evaluate. It is recognised the pub venue contributes positively to the local and wider economy.

Previous tenants of the pub have struggled to maintain a viable business, likely due to isolated location and nearby competitors. The support indicated by numerous positive comments demonstrates the success and value of the business but also illustrates the wide geographical area from which patrons travel. Many of those commenting enjoy an occasional visit but do not have to live next to the pub and experience the disturbance.

- 6.8. The preference of the PC (overall) was for the garden space to continue in its present form (ideally with reduced noise disturbance) with the natural limitations provided by season and weather to maintain a tolerable equilibrium between the needs of the business and quality of life for the community.

### **Representations/Non-Statutory Consultation**

6.9. **NSDC Conservation –**

- 6.10. The property is considered to be a Non-designated Heritage Asset. Conservation has some concern about the impacts on the setting of the NDHA but acknowledge that a balanced judgement is required, and the impact does not have a direct impact on the historic planform or architectural character of the NDHA itself.

- 6.11. **NSDC Ecologist –** No comments received to date.

6.12. **NSDC Environmental Health –**

- 6.13. No objection in principle to change of use, however there have been complaints regarding loud music from the premises linked to music events held in the outdoor area, and is the subject of ongoing enquiries. Where permission is granted, a scheme for noise control measures could be dealt with by planning condition.

- 6.14. **NCC Lead Local Flood Authority –** No bespoke comments made.

6.15. **Trent Valley Internal Drainage Board –**

The Board maintained Car Dyke, an open watercourse, exists to the Western boundary of the site and to which BYELAWS and the LAND DRAINAGE ACT 1991 applies. The Board's consent is required to erect any building or structure (including walls and fences), whether temporary or permanent, or plant any tree, shrub, willow or other similar growth within 9 metres of the top edge of any Board maintained watercourse or the edge of any Board maintained culvert. The Board's consent is required for any works, whether temporary or permanent, in, over or under, any Board maintained watercourse or culvert. The Board's consent is required for any works that increase the flow or volume of water to any watercourse or culvert within the Board's district (other than directly to a main river for which the consent of the Environment Agency will be required). The Board's consent is required irrespective of any permission gained under the Town and Country Planning Act 1990. The Board's consent will only be granted where proposals are not detrimental to the flow or stability of the watercourse/culvert or the Board's machinery access to the watercourse/culvert which is required for annual maintenance, periodic improvement and emergency works. The applicant should therefore note that the proposals described within this

planning application may need to be altered to comply with the Board's requirements if the Board's consent is refused. Surface water run-off rates to receiving watercourses must not be increased as a result of the development.

6.16. **Comments have been received from 235 third parties/local residents** including 190 comments of support, 42 objections, and 3 neutral comments which include positive and negative comments (these are included within the points below). The comments are summarised below:

6.17. **Support:**

- Friendly and welcoming – would be a great loss to surrounding community and villages
- Very popular venue - nice beer garden with dedicated children's area, great venture and place to go
- Beer garden set up is incredible with the children's area and the food is delicious
- Difficult to find venues as a family with small children with safe outside space for them to play whilst attending a pub – proposed structure would allow the space to be enjoyed in winter months also
- Outdoor space is inclusive
- Structure would allow business to thrive and provide employment
- Great asset to local area, well run establishment, no issues of antisocial behaviour
- Outdoor area gives chance for families to meet, relax and make memories
- Provides local employment and money to local amenities – economic growth
- Ancillary roles also created such as food marketing, management, health and safety and events management
- Huge decline in pubs over the years – businesses should be supported
- Lack of covered area is restrictive for autumn/winter months - Proposed structure can be used in all weathers
- Run some great family events, brilliant music - great place for special occasions
- Noise could be limited including a curfew (noise should not be reason to refuse the application)
- One of the best venues in the local area and Nottingham, people come from miles to visit
- Completely support expansion as local venue – fantastic team that will only get better with more employment opportunities



- Proposed structure not imposing nor overlooked and would reduce noise
- Benefits to local community and economy outweigh potential issues
- Worked here over summer – fulfilling, enjoyable and rewarding. Supportive team and competitive wages.
- Fantastic business, run really well
- Improvements made by latest owners are a credit to them – premium facility
- Supports local artists
- Objection from the EA is noted however in January 2024 there was unprecedented flooding yet Caythorpe Village was not flooded and The Old Vol was unaffected

#### 6.18. **Objections/Concerns:**

- Proposed structure is inappropriate and not in keeping
- Noise pollution - concerns regarding noise from all year round events that would be held (based on events that have been held at the venue previously)
- Little consideration for neighbours, especially during summer months
- No evidence that new glazed structure would reduce/limit noise
- Concerns regarding additional traffic generated by events (potential accidents, speeding, increased disturbance)
- Located on 'blind bend'
- Transport Statement and supplementary document do not adequately assess the impact of the development on the highway network
- Pub garden and car park constructed on Green Belt without planning permission
- No very special circumstances - would set dangerous precedent for Green Belt
- Concern that proposal would increase flood risk in area
- Security and safety concerns for residents of dwellings adjacent to the carpark area
- Beer garden is modern in design and does not conserve the heritage style of the pub
- Negative impact on character of Caythorpe village and quality of life
- Glazed structure would be visually prominent
- Overdevelopment of rural site

- Limited bus service to Caythorpe, nearest train station is Lowdham (1/2 a mile away) and not safe for pedestrians – not sustainable location
- Insufficient parking provision
- Not well managed – excessive traffic, very little benefit
- Concerns regarding noise from construction
- Concerns about property prices in area
- Not welcoming, expensive, not 'village pub' - most users from outside of area
- Ecology concerns (field covered in hardstanding)
- Concerns of criminal activity (EG drink driving) and anti-social behaviour
- Village pub would be welcome but this venue is more suited to a city
- Unclear if planning permission is required for the events held at the venue such as 'Oktoberfest' and the 'Ibiza White Party'
- Existing problems with venue would be exacerbated by allowing glazed structure
- Noise impact assessment carried out in February when no event was on therefore is not accurate reflection
- Social media campaign initiated by The Old Vol misrepresents the current planning situation, implying Newark and Sherwood Council will be responsible for the closure of the Old Vol if the application is not approved.

## **7.0 Comments of the Business Manager – Planning Development**

### **7.1. The key issues are:**

1. Principle of development
2. Impact on visual amenity, heritage assets, landscape and the openness of the Green Belt
3. Impact on residential amenity
4. Highways impacts
5. Flood risk and drainage
6. Biodiversity

### **7.2. The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through**

both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 'Presumption in Favour of Sustainable Development' of the Allocations and Development Management DPD.

### Principle of Development

#### *Community Facility and Employment*

- 7.3. Spatial Policy 8 of the Amended Core Strategy supports the enhancement of existing community facilities in the District, and aims to protect against their loss. The supporting text for the policy is clear that public houses are classed as a community facility. The proposed development (retrospective and proposed) is associated with the existing public house, The Old Vol, and would provide additional indoor/outdoor space that could be used all year round to support the local business and employment. A document has been submitted, titled 'Old Volunteer - Area Analysis', compiled by the applicant's accountant. The document provides a financial overview of the business. It sets out that between January 2024 to November 2024 the total local supplier spend by the business was £476,162.75. The local suppliers include various cleaning, catering, entertainment, food and produce companies, amongst others. At present, without the proposed glazed structure for the outdoor area, the business is operating at a loss during the winter months, which is the reason for the proposed structure. The glazed structure would allow use of this outdoor area all year round, increasing capacity for the pub. This would support the existing use as a public house, a community facility and local business, in line with the aims of SP8.
- 7.4. In addition to the glazed structure, the application seeks permission for the various structures on site, and the overflow parking area, that do not currently benefit from planning permission. The structures in the beer garden area to the east include 'pods' and timber structures, along with a miniature village children's play area. These structures and the car park are all associated with the public house and are considered to be an expansion of the existing use, in line with SP8.
- 7.5. Core Policy 6 supports development which provides local employment within the district. The Area Analysis documents states the garden has created/protected 45 jobs which have been filled by local people, and that the glazed structure would further increase the hours of work for those currently employed, as well as create 15 more jobs within the local area. It states that the loss of the garden area would see job losses and almost certain business closure. The proposal would increase employment within the area, protect existing jobs and in turn contribute to the local economy. As such, the proposal is in line with Core Policy 6.

#### *Green Belt*

- 7.6. Spatial Policy 1 'Settlement Hierarchy' of the Amended Core Strategy DPD sets out the settlement hierarchy for the District, with Caythorpe identified as an "other village". It also states that outside of Newark and identified Service Centres and Principal Villages, development within the Green Belt will be considered against Spatial Policy 4B 'Green Belt'.

- 7.7. Spatial Policy 4B 'Green Belt Development' of the Amended Core Strategy DPD states that development in the Green Belt not identified in this policy will be judged according to national Green Belt policy. SP4B does not mention the extension of existing businesses, or community facilities, therefore the decision maker is directed to the NPPF.
- 7.8. Part 13 of the NPPF seeks to protect Green Belt land and emphasises its importance. Paragraph 153 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness <sup>55</sup>. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 7.9. Paragraph 154 sets out that development in the Green Belt is inappropriate unless one of the following exceptions applies:
- a) buildings for agriculture and forestry;
  - b) the provision of appropriate facilities (in connection with the existing use of land or a change of use), including buildings, for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
  - c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
  - d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
  - e) limited infilling in villages;
  - f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
  - g) limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.
  - h) Other forms of development provided they preserve its openness and do not conflict with the purposes of including land within it. These are:
    - i. mineral extraction;
    - ii. engineering operations;

- iii. local transport infrastructure which can demonstrate a requirement for a Green Belt location;
  - iv. the re-use of buildings provided that the buildings are of permanent and substantial construction;
  - v. material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and
  - vi. development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.
- 7.10. The proposal does not neatly fit within any of the exemptions listed with paragraph 154.
- 7.11. The beer garden (as constructed) is located immediately adjacent the public house to the east, and is bound by the round to the south, with heavy screening from trees and hedgerow to the boundaries. From the streetscene the beer garden is not readily visible. Due to the low heights of the seating pods and timber structures, and the proximity to the existing built form and road, it is not considered that it has a significant impact on the openness of the wider Green Belt.
- 7.12. The same can be said for the overflow car park area which is situated to the west of the building, adjacent to the road and the built form. It is not considered that this area has a significant contribution to the wider Green Belt or its openness, however given the nature of the use, the openness would only be visually affected at times when cars were parked in the area. As the overflow area, it is likely this car park would only be at capacity when events are held at the public house, therefore for the most part, it is not considered that the use of this land would significantly affect the openness of the Green Belt, and is acceptable in principle. In addition, an area of landscaping is proposed to the north of the car park area, which would add further screening from the wider Green Belt.
- 7.13. The proposed glazed structure would be the largest structure within the beer garden and although 'lightweight' in design, would be a new building, therefore inappropriate development within the Green Belt by definition. The structure would be located centrally, between two of the existing timber structures within the garden (a bar and toilet block), and would measure a maximum of 33.3m in width, 16m in depth, and 2.9m in height with a flat roof. The majority of the elevations would be glazed therefore would have a lightweight appearance. Plus, the position of the structure in close proximity to the public house and Caythorpe Road, would minimise any potential impact on the openness of the Green Belt.
- 7.14. Although it is considered the proposal would not have a significant impact on the wider Green Belt and its openness for the reasons set out above, the new development by definition (according to paragraph 153 of the NPPF) would be inappropriate, and should not be approved unless very special circumstances exist. This is discussed below.

### *Very Special Circumstances*

- 7.15. There is no definition for what can and cannot be considered very special circumstances, however previous decisions across the country have considered economic benefits and community benefits to equate to very special circumstances in certain instances.
- 7.16. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. The submitted document, 'Old Volunteer - Area Analysis', demonstrates that without the beer garden and proposed glazed structure, the business would be running at a loss, and without it, the business could not continue in the long term. The glazed structure would increase the capacity of the public house, allowing it to operate and use the outdoor space all year round. It would create 15 additional jobs, as well as safeguard the existing employees of the business.
- 7.17. There has been significant public interest in this application with well over 200 comments being submitted, with a significant proportion in support of this application (comments are summarised in the comments section earlier in this report). The objections from local residents are noted (and discussed within the relevant sections of this report) however there is strong support for the local business, which in turn contributes to the local economy through local spend (detailed in the document), amounting to £476,162.75 last year (2024).
- 7.18. The purpose of SP8 is to protect and enhance leisure and community facilities, and to prevent the loss of existing facilities. Approving the application would be in line with the aims of this policy. In addition, Core Policy 6 seeks to strengthen the economy of the District through maintaining and enhancing the employment base of our towns and settlements, including their town and village centres, and supporting the economies of our rural communities. As an existing business, the proposal would support the existing employment and increase local employment opportunities, therefore would accord with Core Policy 6.
- 7.19. The NPPF also strongly supports economic growth. Paragraph 85 states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. Paragraph 88 sets out that planning decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, new buildings; as well as the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.
- 7.20. It is acknowledged that the previous planning application was refused on grounds relating to the Green Belt, however the application was materially different in that no very special circumstances had been put forward as part of the submission.

- 7.21. Taking all of the above into account, it is considered that the harm identified to the Green Belt (inappropriate development by definition) would be outweighed by the economic benefit to local suppliers, the continued provision of local employment, plus additional jobs as a result of the proposal, and the benefit of retaining and enhancing an existing community facility. These benefits together are considered to amount to very special circumstances and therefore the proposal would be acceptable in principle. The site specific impacts of the proposal are discussed below.

#### Impact on Visual Amenity and the Character of the Area

- 7.22. Core Policy 9 ‘Sustainable Design’ of the Amended Core Strategy DPD requires new development proposals to, amongst other things, “achieve a high standard of sustainable design and layout that is capable of being accessible to all and of an appropriate form and scale to its context complementing the existing built and landscape environments”. In accordance with Core Policy 9, all proposals for new development are assessed with reference to Policy DM5 of the Allocations & Development Management DPD, which, amongst other things, require new development to reflect the rich local distinctiveness of the District’s landscape and character through scale, form, mass, layout, design, materials and detailing.
- 7.23. Core Policy 14 ‘Historic Environment’ of the Newark and Sherwood Core Strategy DPD requires the continued conservation and enhancement of the character, appearance and setting of the District’s heritage assets and historic environment, in line with their identified significance.
- 7.24. Policy DM9 ‘Protecting and Enhancing the Historic Environment’ of the Allocations and Development Management DPD states that all development proposals affecting heritage assets and their settings should utilise appropriate siting, design, detailing, materials and methods of construction.
- 7.25. Policy DM5 ‘Design’ of the Allocations and Development Management DPD states that all proposals for new development shall be assessed against a number of criteria, including a requirement that new development must reflect the rich local distinctiveness of the District’s landscape and character through scale, form, mass, layout, design, materials and detailing.
- 7.26. Core Policy 13 states that, based on the assessment provided by the Landscape Character Assessment SPD, the Council will work with partners and developers to secure new development which positively addresses the implications of relevant landscape Policy Zone(s), ensuring that landscapes have been protected and enhanced.
- 7.27. The visual impact of the building would be mitigated to at least some degree by its limited height of just 2.9m, lightweight design, and screening to the boundaries of the site. The change of use to a beer garden to the east and the car park to the west are retrospective. Photos of the site taken from Caythorpe Road are shown below. As can be seen in the photos, there is existing screening which reduces the visual impact of

the proposal. It is not considered that the proposed glazed structure, although large in footprint, would be readily visible or prominent from the street scene.



- 7.28. The glazed structure would have the most impact within the site itself. The Old Volunteer Public House is an attractive and characterful building which is considered to be a non-designated heritage asset due to its historic interest, architectural interest and aesthetic appeal. While it has been extended over time, the historic planform and architectural character of the building is still clearly legible.
- 7.29. The use of a flat roof and modern materials such as aluminium framed glazing and aluminium panels within a metal frame would not be reflective of the traditional character of The Old Volunteer itself, nor the majority of the buildings along this part of the Caythorpe Road.



- 7.30. Nonetheless, paragraph 209 of the NPPF advises that in weighing applications which affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm and the significance of the heritage asset.
- 7.31. Given the lightweight design and limited height of the proposed structure, it is not considered that the impact on the setting would be unacceptable.
- 7.32. The Council's Landscape Character Assessment SPD identifies the surrounding landscape as forming part of the Trent Washlands Regional Character Area, with the site itself located in the Caythorpe and Gonalston Meadowlands Policy Zone. The SPD identifies this as an area of landscape to be conserved.
- 7.33. As regards the built features of the environment, the SPD lists a number of actions, including:
- Conserve and reinforce the local character of Caythorpe and Gonalston by ensuring future development respects the local style, scale, and the use of traditional materials.
  - Conserve the existing field pattern by locating new small scale development within the existing field boundaries.
- 7.34. Although the proposal would expand the public house use to the east and west, the boundaries would be retained. The use would not encroach northwards into the wider landscape and on balance, it is considered the visual impact would be acceptable.

#### Impact upon Residential Amenity

- 7.35. Policy DM5 'Design' of the Allocations and Development Management DPD states that separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy. It also states that development proposals should have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact.
- 7.36. Given that the proposal would be set back from the nearest neighbouring dwelling by approximately 55m, there would be no harm residential amenity through being overbearing or causing an unacceptable loss of light or privacy.
- 7.37. It is acknowledged that the fact that the majority of the walls of the proposed building would be glazed, and this is likely to reduce their sound insulation. The majority of objections received relate to concerns regarding noise due to events that are held at the venue. There are concerns that the glazed structure would allow events to be held all year round (rather than just the summer months) and that this would cause disturbance and exacerbate existing issues. The proposed structure would not directly result in excessive noise, however it is acknowledged that it would provide the means for the applicant to hold events, potentially with live music, throughout the year as it would no longer be weather permitting (as it is currently). The Environmental Health Officer has reviewed the application and recommended a condition to secure noise mitigation measures if the application is to be approved. This is considered reasonable

and therefore subject to a suitably worded condition, it is considered the noise impacts of the proposal would be acceptable.

- 7.38. In addition, the separation distance to nearby dwellings is considered to be sufficient that the general background noise of people using a pub would not be harmful to residential amenity either.
- 7.39. Given the above, the proposal would accord with Policy DM5 and Part 12 of the NPPF regarding amenity.

#### Impact upon Highway Safety

- 7.40. Spatial Policy 7 'Sustainable Transport' of the Amended Core Strategy DPD requires development proposals to provide safe, convenient and attractive access for all, to be appropriate for the highway network, and to ensure that the safety, convenience and free flow of traffic using the highway are not adversely affected. They should provide appropriate and effective parking.
- 7.41. Policy DM5 'Design' of the Allocations and Development Management DPD states that provision should be made for safe and inclusive access to new development.
- 7.42. The previous application (which was refused on highways grounds due to insufficient information) did not include the retrospective car park area to the west of the pub. This area has been included as part of the redline of the site location and forms part of the current application. Parking provision is now more than sufficient for the proposed increase in floorspace that would be created by the structure.
- 7.43. NCC Highways has been consulted on the application. Although a number of concerns were raised regarding the existing access, and the location of the public house (not a sustainable location), the most recent comments recommend 6 conditions that would address the concerns should the application be approved. In summary these include:
  - 2 Conditions to ensure the parking is provided as shown on drawing number MA12040-1000-Rev B, surfaced in bound material and retained for the lifetime of the development;
  - Condition requiring improvements to the existing access in the interest of highway and pedestrian safety;
  - Condition ensuring the turning space is surfaced in a hard bound material (to prevent loose material being deposited onto the public highway);
  - Condition to secure provision of cycle storage; and
  - Condition for a car park management plan to be submitted to set out management of the car park when events are held at the venue.
- 7.44. The conditions are considered reasonable and would be attached if approved.
- 7.45. The comments stating that the location of the site is not sustainable have been considered, however given the fact that the pub is an existing community facility, it

already largely relies on the use of private vehicles. Therefore, providing there are no critical issues with highway capacity or safety (in which case the Highways Authority would have objected), it does not seem reasonable to refuse the application on grounds of location.

- 7.46. Concerns from local residents regarding highway capacity have been raised in numerous objections, however as there is no objection from the Highway Authority, it is not considered that the potential increase in traffic would be unacceptable, or should be a reason to refuse the application.

#### Flood Risk and Drainage

- 7.47. Core Policy 9 'Sustainable Design' of the Amended Core Strategy DPD states that new development will be expected to demonstrate a high standard of sustainable design, setting out a number of specific requirements, including the pro-active management of surface water.
- 7.48. Core Policy 10 'Climate Change' states that the Council is committed to tackling the causes and impacts of climate change, including through steering new development away from those areas at highest risk of flooding, and also through ensuring that new development positively manages its surface water run-off to ensure that there is no unacceptable impact in run-off into surrounding areas or the existing drainage regime.
- 7.49. Policy DM5 'Design' states that all proposals for new development shall be assessed against a number of criteria, including the avoidance of areas at highest risk of flooding.
- 7.50. Paragraph 170 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
- 7.51. The site is located within Flood Zones 2, 3a and 3b, with the proposed glazed structure and beer garden located in 3b. The proposal is for a building to be used as an extension of the pub, which is classed as a 'more vulnerable' use in the government's vulnerability classification.
- 7.52. The Environment Agency has objected to the proposal as it is located within the functional floodplain (Flood Zone 3b) which is land defined by the PPG as having a high probability of flooding. NPPF Annex 3 classifies development types according to their vulnerability to flood risk. PPG Table 2 provides guidance on which developments are incompatible with certain Flood Zones.

**Table 2: Flood risk vulnerability and flood zone ‘incompatibility’**

Flood Zones	Flood Risk Vulnerability Classification				
	Essential infrastructure	Highly vulnerable	More vulnerable	Less vulnerable	Water compatible
Zone 1	✓	✓	✓	✓	✓
Zone 2	✓	Exception Test required	✓	✓	✓
Zone 3a †	Exception Test required †	X	Exception Test required	✓	✓
Zone 3b *	Exception Test required *	X	X	X	✓ *

Key:

✓ Exception test is not required

7.53. X Development should not be permitted

7.54. The development contains a mix of uses classed as more vulnerable (“drinking establishments”) and less vulnerable (“car parking”) in accordance with Annex 3 of the NPPF. Table 2 of PPG makes it clear that this type of development is not compatible with this Flood Zone and therefore should not be permitted.

7.55. The car parking area to the north of the building, sits within the 1 in 30-year flood extent and is therefore within Flood Zone 3b (functional Floodplain) therefore in conflict with Table 2 of the PPG. The parking includes provision for disabled and motorbike parking. This creates concern that more vulnerable people would be trying to access their vehicles during a flood event, putting them at increased risk of being unable to evacuate or becoming stuck while trying to evacuate in vehicles. Vehicles can begin to float in less than 60cm of water- less if it is fast-flowing- this area of parking puts many vehicles at risk of floating, particularly motorbikes which would more easily become mobile and therefore a risk to people and other vehicles in the area. The location of this parking puts third party property at risk of flooding and would draw people into the area to use and rescue their cars, creating an increased risk to people.

7.56. The parking area described above in Flood Zone 3b is the existing area used for parking. The proposed area to the west is mostly in Flood Zone 2 according to the maps, therefore alternative, safer parking would be provided as a result of the proposal. It is noted however there is no intention of closing the existing parking area therefore flood risk would still be an issue.

7.57. The beer garden and proposed glazed structure would also be located within the functional floodplain (3b). This is development also incompatible with the Flood Zone designation. People would be encouraged to congregate in an area at high risk of

flooding in lower return period events (more frequent flood events). It is also a location where the only access/egress from the beer garden are bridges across the watercourse that would be in flood, putting people at risk during evacuation. The proposed covered seating area is a new solid structure within the functional floodplain. This would provide all year-round occupancy to the space which puts people at risk during the winter months when flooding more frequently occurs. This new solid structure within the functional floodplain would deflect flood flows which could increase the flood risk to third parties.

- 7.58. To overcome the EA's objection, it has been advised that the applicant should relocate the incompatible uses to an area outside the functional floodplain (1 in 30-year flood extent from the Cocker Beck).
- 7.59. The beer garden is retrospective, and it is not clear where the beer garden could be relocated to without potentially causing new or additional issues (such as bringing noise closer to residential dwellings, or reducing parking capacity). The applicant, and local residents, have stated that the site has never flooded (to their knowledge), however for the purposes of the planning application the flood data from the Environment Agency should be used. No evidence has been provided to show that the site does not flood or should not be classified as Flood Zone 3b.
- 7.60. A unilateral undertaking was suggested by the agent to contribute a sum of money to the Lowdham Flood Action Group, which would have a positive impact, however there are no specified works to mitigate the direct impact of the proposal.
- 7.61. Paragraph 58 of the NPPF sets out that planning obligations must only be sought where they meet all of the following tests:
  - (a) necessary to make the development acceptable in planning terms;
  - (b) directly related to the development; and
  - (c) fairly and reasonably related in scale and kind to the development.
- 7.62. The proposed contribution is not considered to meet the above tests and therefore would not be a solution to overcome the objection from the Environment Agency, or ensure flood risk is not increased as a result of the proposal.
- 7.63. The submitted flood risk assessment sets out proposed mitigation measures (such as raised floor levels for the structure) and concludes that subject to those measures the proposed development would not be at significant flood risk nor increase the risk of flooding to others. This may be true, however the FRA does not address the sequential test (which even if limited to the site would not be passed as parts of the site are within Flood Zone 2). In addition, Table 2 from the PPG is included within the FRA which clearly sets out that 'more vulnerable' development in Flood Zone 3b should not be permitted.
- 7.64. Based on the above, the proposed use and glazed structure would be inappropriate development within the functional floodplain, and it cannot be concluded that the

development would be safe for its lifetime without increasing flood risk elsewhere. Therefore, the proposal would not comply with Core Policy 10, DM5, or Part 14 of the NPPF (and the PPG).

7.65. Ecology and Biodiversity Net Gain

7.66. Core Policy 12 of the Amended Core Strategy DPD deals with Biodiversity and Green Infrastructure and states that the Council will seek to secure development that maximises the opportunities to conserve, enhance and restore biodiversity.

7.67. Policy DM5 (Design) of the Allocations & Development Management DPD states (in part 5) that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced.

7.68. Policy DM7 of the Allocations & Development Management DPD deals with Biodiversity and Green Infrastructure, requiring new development to protect, promote and enhance green infrastructure to deliver multi functional benefits and contribute to the ecological network.

7.69. No comments have been received to date from the Council's ecology team.

7.70. The proposal is exempt from biodiversity net gain, as a retrospective planning permission application made under section 73A of the Town and Country Planning Act 1990.

7.71. Nonetheless, the current proposal includes some landscape and biodiversity enhancements to the west part of the site, and the north and east boundary, including native hedgerow planting, new grassland, and additional native trees planting. If the application was to be approved further detail and implementation could be secured by condition.

7.72. Comments have been received noting concern for wildlife considering no ecology appraisals were carried out prior to the aggregate being laid or prior to the construction of the beer garden.

7.73. Although the retrospective nature is not something to be encouraged, it is not considered there would be any protected species harmed (no demolition has taken place and no trees taken down). Given that the proposed structure would be within the beer garden, which is retrospective, it is not considered the structure would result in any additional impact on wildlife and biodiversity within or near to the site.

7.74. Subject to the implementation of the landscaping (which would be secured by condition) the proposal would be in line with Core Policy 12 'Biodiversity and Green Infrastructure' of the Amended Core Strategy DPD (adopted March 2019) and Policies DM5 'Design' and DM7 'Biodiversity and Green Infrastructure' of the Allocations & Development Management DPD (adopted July 2013).

7.75. Other Matters Raised in Representations

- It is not unlawful to submit a retrospective planning application, and such

applications must be considered individually on the basis of their planning merits, irrespective of their retrospective status.

- The comments regarding the ‘misleading’ social media campaign are noted, however the proposal has been assessed in line with the Council’s Development Plan and the NPPF based on the submitted information and plans. The high number of comments has informed the decision to refer the application to the planning committee, however, has not altered how the application has been assessed or the recommendation. The assessment has considered relevant planning matters which have all been weighed in the planning balance in accordance with the NPPF.

## **8.0 Implications**

- 8.1. In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

### **8.2. Legal Implications – LEG2425/2949**

- 8.3. Planning Committee is the appropriate body to consider the content of this report. A Legal Advisor will be present at the meeting to assist on any legal points which may arise during consideration of the application

## **9.0 Conclusion**

- 9.1. In summary, the proposal for the change of use of land to a beer garden and car park area, and the construction of a glazed structure within the beer garden is considered, on balance, acceptable in principle due to very special circumstances including safeguarding and enhancing a local community asset and business, and the economic benefits in terms of local spend and employment. These benefits together are considered to amount to very special circumstances that outweigh the harm to the green belt that would occur as a result of the new glazed structure and beer garden. It is not considered there would be a significant impact on the openness of the Green Belt, or the character of the wider area and landscape due to the proximity to the existing built form, the public highway, low height of the structure, and existing and proposed screening from trees and hedgerow.
- 9.2. Comments from local residents include a high level of support for the venue, as well as objections from locals, mostly raising concerns with noise and highways safety. Noise and impact on amenity were not reasons for refusal on the previous application for the glazed structure, and the Council’s Environmental Health officer has commented that a condition would be sufficient to ensure noise mitigation measures are implemented. As such, the impact on amenity is considered acceptable (subject to condition).

- 9.3. In terms of Highways, the previous reason for refusal has been overcome by including the retrospective car parking area in the application to provide sufficient parking, and NCC Highways recommending conditions to ensure safe and suitable access. Subject to the conditions, the impact on the highways network and safety would be acceptable.
- 9.4. Although the proposal is largely retrospective, during the lifetime of the application the applicant has worked positively and proactively with the Council to try and resolve some of the issues raised with the previous application, and it is considered that the Green Belt issue and Highways issue have been resolved subject to conditions. However, the applicant and agent were aware that the site (and specifically the beer garden, children's play area, and location for the proposed structure) is located in flood zone 3b (functional flood plain) whereby the proposed development is regarded as incompatible and should not be approved. This is not an issue that can easily be overcome. Had the application not been retrospective, there may have been an opportunity to relocate the proposed garden and structure to an area at lesser risk of flooding, and the other benefits of the proposal (noted above) may have outweighed the flood risk.
- 9.5. Given the concerns and objection from the Environment Agency due to the location in Flood Zone 3b, it is recommended that the application is refused. It is acknowledged that in this instance there will be repercussions in terms of enforcement action, and for the business, considering the amount of money invested to date to construct the beer garden, however there will be the opportunity to appeal the decision and the retrospective nature of the application should not impact how the development is assessed (positively or negatively). Carrying out development without first obtaining planning permission is done at the risk of the developer.
- 9.6. It is also noted that the comments from the Parish Council are not opposed to the development that has taken place to date, but do object to the proposed structure.
- 9.7. The suggestion was put forward to the agent to omit the structure and simply apply for what is there, however after speaking with the Environment Agency, although the omission of the structure would be a preferable option (as there would be less obstruction for flood waters) they would still maintain their objection.
- 9.8. Considering the financial matters set out in the Area Analysis document, the applicant chose to continue with the application with the proposed structure included.
- 9.9. To conclude, the proposal represents incompatible development within Flood Zone 3b therefore would increase flood risk for users of the development, and within the surrounding area. The proposal is therefore contrary to Core Policy 9 'Sustainable Design', Core Policy 10 'Climate Change' and Policy DM5 'Design' and Part 14 of the NPPF.



## **10.0 Reason for Refusal**

01

The proposal is for a use classified as 'more vulnerable' in the government's flood risk vulnerability classification, and would be located within Flood Zone 3b (the functional floodplain) whereby development should not be permitted in accordance with Table 2 of the PPG. No sequential test has been carried out, which if limited to the application site, would demonstrate there are areas at a lower risk of flooding, and would not be passed. The development is therefore inappropriate development in Flood Zone 3b and it has not been demonstrated that the development would be safe for its lifetime without increasing flood risk elsewhere. Therefore, the proposal does not comply with Core Policy 9 'Sustainable Design', Core Policy 10 'Climate Change' and Policy DM5 'Design' and Part 14 of the NPPF (and the PPG).

### **Informatives**

01

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason for refusal. However, the Council has worked positively and proactively with the applicants to overcome previous reasons for refusal.

02

For the avoidance of doubt, this application has been refused on the basis of the following drawings and additional information:

- 2409 S02 200 REV P03 Proposed Elevations received 12<sup>th</sup> September 2025
- 2409 S02 400 REV P01 Visual Impact Assessment received 12<sup>th</sup> September 2025
- Flood Risk Assessment received 12<sup>th</sup> September 2024
- Flood Map received 13<sup>th</sup> January 2025
- 2409-S02-001-P03 Site Location Plan and Block Plan received 10<sup>th</sup> January 2025
- 1000B Proposed Site Layout received 10<sup>th</sup> January 2025
- 2409-S02-050-P03 Existing Site Plan received 10<sup>th</sup> January 2025
- 2409-S02-060-P03 Proposed Site Plan received 10<sup>th</sup> January 2025
- Landscape Enhancement Plan received 17<sup>th</sup> January 2025
- Area Analysis received 14<sup>th</sup> January 2025
- Flat Retractable Pergola Brochure

### **BACKGROUND PAPERS**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Application case file.

## Committee Plan - 24/01621/FUL

