

DELEGATED REPORT

Report by Claire Booth	Date of report: 22/07/2025	Ref: 71908/FUL
Registration: 27/05/2025	LDFC: 26/06/2025	Expiry Date: 22/07/2025
Site Visit:	Site Notice: 02/06/2025	Press Date: 05/06/2025
Objections: 2	Con Area: HOLC	Adv Type: LBCA
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: MIOT

Proposal: Erection of 2 no. timber framed gazebos over part of existing external seating area with new ramped access and stepped access

Location: Shoulder Of Mutton, Holcombe Village, Bury, BL8 4LZ

Description

The application site relates to the car park area of a public house which is Grade II Listed and situated at the junction of Lumb Carr Road and Helmshore Road within the centre of Holcombe village and within the Holcombe Conservation Area.

The frontage of the pub is directly adjacent to the main road and there is a fairly extensive car park which has an in and out entrance, and enclosed outdoor seating area on land to the north east elevation of the listed Pub. In addition to the above, one entrance point to car park is blocked due to part of the car park being occupied by approximately 20 pub benches (tables).

Holcombe Emanuel Church, Grade II Listed, exists further to the west of the car park.

A Public Right of Way (62 RAM) runs down a cobbled walkway between the Public House and the car park associated with the Public House. The PROW is at a lower level than the existing pub car park.

Directly adjoining the Public House are 2 Grade II listed cottages, no 1 Alba Street adjoined to the south elevation and 3 Alba Street to the east elevation of the Public House. Opposite the application site is the junction of the main road with Moor Lane. Higher House, a Grade II listed property on Moor Lane and Higher House Cottage, a Non-designated Heritage Asset, accessed off Moor Lane sit opposite the application site. A restaurant and a row of residential terrace properties sit diagonally opposite the front elevation of the Pub.

The Public House building itself is of solid stone construction with quoins to the main building and a pitched roof with a slate covering. Attached at the rear of the building are single and two storey additions, comprising stone walls and a mix of pitched and flat roofs.

Pub benches are laid out adjacent to the boundary of the car park with the PROW and block one end of the former 'in and out' car park.

Planning permission is sought to erect a covered outside seating area on an area of decking in the location where a few pub benches are currently informally sited.

Two pitched roof structures are proposed to cover a formalised additional outside seating area. The proposed gazebos would be constructed from timber slats and posts (colour grey) with plastic screen above 110mm with a shingle felt covered pyramid hip roof. It proposes a concrete bund around part of its footprint and a covered access ramp from the car park to allow the step up needed due to the proposed decked area. The covered

outside seating area, proposes an external bar in the rear corner of the proposed Gazebo.

The car park area for the pub which is currently partly out of use for vehicular parking purposes by the placement of beer garden tables, is proposed to be formally reduced in size by the proposed erection of decking and erection of gazebos. The existing dropped kerb entrance is to be removed and reinstated as a formal kerb.

Relevant Planning History

51696 - EXTERNAL ALTERATIONS AND REPLACEMENT FLUE - Approved with Conditions, 08/10/2009

51697 - LISTED BUILDING CONSENT FOR STRUCTURAL AND MAINTENANCE REPAIRS, EXTERNAL AND INTERNAL ALTERATIONS AND REPLACEMENT FLUE - Approved with Conditions, 08/10/2009

51701 - 2 NO. EXTERNALLY ILLUMINATED LETTER SIGNS; 2 NO. EXTERNALLY ILLUMINATED WALL BOARDS; 1 NO. AMENITY BOARD - Approve with Conditions 16/10/2009

52754 - Certificate of lawfulness for proposed bin store - Lawful Development, 23/06/2010

53955 - Change of use of part of car park to walled sitting area and re-marking of car parking spaces; Re-surfacing of existing beer garden at the rear and erection of new fence - Approved, with Conditions, 20/07/2011

56079 - Non-material amendment following grant of planning permission 53955 for change of use of part of car park to walled sitting area and re-marking of car parking spaces; Re-surfacing of existing beer garden at the rear and erection of new fence:

1. Castellations to walled sitting area with 5 no. lantern type lights
- Approved, 20/03/2013

57204 - Listed building consent for replacement of damaged roof timbers - Approved with Conditions, 08/04/2014

71909 - Listed building consent for erection of 2 no. timber framed gazebos over part of existing external seating area with new ramped access and stepped access - Withdrawn, 02/06/2025 as the proposals do not require LBC.

Publicity

Due to the application site being within the car park associated with the Grade II listed Public House, Holcombe Conservation Area, and potentially affecting a Public Right of Way, the application has been advertised in both the Bury Times newspaper, and by Site Notices, which were erected on Monday, 02 May. 15 nearby properties have also been sent notification letters.

2 Representations have been received raising the following representations:

- Raises concerns that both the structure and the bar area under the proposed Gazebo's would be within eyeline of habitable room windows at lower ground level and ground/ first floor level causing a loss of privacy to a Lounge on ground level and a kitchen-diner on lower ground level.
- Recommends the location of the proposed Gazebo is moved forwards towards the front of the Pub and that the proposed bar area is moved to the other end of the Gazebo to minimise the impact on the amenity.
- Concerned that the proposed development is huge, almost echoing the footprint of the original pub and asserting the proposed development does not preserve the character

- and charm of this central key area of the historic village.
- Asserts lighting must be strictly controlled to be sensitive to the conservation area and not be a nighttime nuisance to nearby neighbours.
- Questions whether bollards will be fixed to prevent cars driving into the covered seating area and asserts that without such protection, the proposal could be a safety risk if not clear preventative measures are included in the plans.
- States, the pub as yet has no disabled parking areas, and states disabled spaces are now mandatory.
- Asserts the proposal is a complete change of use in a built area, which also includes a bar sited at the far end. They feel a smaller area might be less dominant and a bar on the long wall adjacent to the PROW/pub more convenient for all, and less invasive to the rather close neighbours, reducing noise, light, loss of privacy and abuse from any anti-social behaviour.

Statutory/Non-Statutory Consultations

Conservation Officer - Raises objections

Traffic Section - Raises objections.

Public Rights of Way Officer - No objections, subject to the PROW remaining clear and any temporary closures necessary during construction being applied for in advance.

Environmental Health - Pollution Control - No objections.

Pre-start Conditions - Not applicable.

Development Plan and Policies

EN2/2	Conservation Area Control
EN2/3	Listed Buildings
EN2/2	Conservation Area Control
EN1/2	Townscape and Built Design
EC4/1	Small Businesses
EN7/2	Noise Pollution
JP-C1	Our Integrated Network
JP-C5	Streets For All
JP-C6	Walking and Cycling
JP-C8	Transport Requirements of New Development
JP-P2	Heritage
JP-G9	The Green Belt
NPPF	National Planning Policy Framework
NPPG	National Planning Policy Guide

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF), the adopted Places for Everyone Joint Development Plan Document (PfE) and the saved policies within the adopted Bury Unitary Development Plan (UDP), together with other relevant material planning considerations.

The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP and PfE Policies will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

- The elimination of discrimination, harassment and victimisation;
- The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;
- The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

The first consideration in the assessment of this application is the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66(1) of the Act states that in considering whether to grant planning permission for development that affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in the exercise of planning functions special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

In respect to Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Governance and Legal Director of English Heritage ('Legal Developments' Conservation Bulletin Issue 71: Winter 2013) states that the courts have said that these statutory requirements operate as 'a paramount consideration' and 'the first consideration for a decision maker'.

Paragraph 202 of the National Planning Policy Framework (NPPF) states that heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of

Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

Paragraph 210 of the NPPF states in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 212 of the NPPF states when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 213 of the NPPF states any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
- b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

Paragraph 215 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Paragraph 216 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Paragraph 219 of the NPPF states that local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

Paragraph 220 of the NPPF states that not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 214 or less than substantial harm under paragraph 215, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole.

The application site is the car park area adjacent to the northeast gable end of the Shoulder of Mutton public house, a grade II listed building. The site is within the Holcombe Village conservation area.

The Shoulder of Mutton P.H is part of a core of listed buildings and Non-Designated Heritage Assets (NDHAs) at the core of conservation area, and which make a very strong

contribution to the special distinctiveness, character and appearance of it.

The proposed development would be within the settings of the Shoulder of Mutton - Grade II listed; 1 and 3 Alba Street - Grade II listed; 24 and 26 Holcombe Village - Grade II listed and Higher House, Moor Lane - Grade II listed and the following NDHAs - 18 to 20 Holcombe Village and Former Barn and Cottage, Higher House, Holcombe Village.

Conservation Area

Holcombe Conservation Area lies on a sloping site to the south of Helmshore Road. To the north of the application site, the land rises up to Holcombe Tower and the Pennine Moors beyond. To the south, the land drops steeply towards Holcombe Brook.

The settlement form follows the traditional Pennine moorland pattern with the buildings clustered together along the narrow roadways. Towards the centre the positioning of the buildings is such as to create a number of irregularly shaped and orientated buildings linked by cobbled passages and unmade lanes. This, together with the different roof heights and building shapes, emphasises the organic growth of the settlement and the close knit community around which it was built.

An area such as this is characterised by houses and buildings of different sizes, scale and grandeur depending on their role in the village historically. At present, the Shoulder of Mutton, is a large rectangular building occupying a prominent position within the heart of the Conservation Area.

Holcombe conservation area has different elements to its special distinctiveness, character and appearance from its semi-rural moorland character in the west to the built environment core of the village and application site. The built environment is characterised by simple plan form, vernacular development in local stone consisting of two and three storey dwellings and non-domestic premises and their boundary treatments in an ad hoc or piecemeal fashion.

The village at which the Shoulder of Mutton could be considered to be at its heart has changed little and as a key component to the special distinctiveness, character and appearance of that part of the conservation area is sensitive to change.

The proposed gazebos would be constructed from timber slats and posts (colour grey) with plastic screen above 110mm and shingle felt covered pyramid hip roof. There would also be a concrete bund around part of its footprint.

New development within a conservation area should be expected to enhance the character and appearance of the conservation area.

It should be noted that within Holcombe Conservation Area Appraisal, the application site does not constitute an opportunity site for new development with regard to identified strengths, weaknesses, opportunities or threats within the conservation area.

The proposed development and associated works would represent an incongruous, contemporising and urbanising feature within the conservation area by virtue of its design, size, scale, mass and materials and as an alien feature that would be totally at odds with the architectural grain of that part of the conservation area, thereby it fails to preserve or enhance its character or appearance, contrary to the requirements of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) and Policy EN2/2: 'Conservation Area Control' of the Development Plan.

In line with the requirements of the NPPF, the proposed development would represent less than substantial harm within the terms of paragraphs 215 and 220 of the NPPF.

From a heritage conservation point of view the applicant has not identified any public

benefit that would outweigh the harm identified to the character and appearance of the conservation area.

Listed Buildings

The Shoulder of Mutton P.H is in a prominent position and as a very important listed building (Grade II) within this Conservation Area. Higher House, a Grade II listed building, raised up on the higher land opposite the application site overlooks the site and is thus within the setting of the proposed development.

The built historic core of the village consisting of the heritage assets identified, combined represent a group setting by virtue of their adjacency to each other.

The proposed development would be within the group setting of the heritage assets identified as well as the setting of the Shoulder of Mutton.

The proposal would in part obscure architectural features of the northeast gable of the Shoulder of Mutton, causing a visual jarring and harm to its architectural interest which would lead to an unacceptable loss of significance, which would be contrary to the aims of paragraph 210 of the NPPF in requiring new development to enhance significance and make a positive contribution to local character and distinctiveness. It would also harm the way the Shoulder of Mutton would be experienced when approached from Moor Road and Helmshore Road and when travelling up to the village via The Rake.

The proposal would be viewed within the wider group settings of Higher House, Moor Road, Holcombe Village and Helmshore Road causing harm to their architectural interest leading to an unacceptable loss of significance to the other assets identified, contrary to Policy EN2/2 of the Unitary Development Plan.

The harm caused to the settings of the designated and non-designated assets represents less than substantial harm within the terms of paragraphs 215 and 220 of the NPPF. From a heritage conservation point of view the applicant has not identified any public benefit that would outweigh the harm identified to the special architectural or historic interest of the designated and non-designated assets.

In conclusion, the proposal would represent a contemporary, urbanising and incongruous feature in the sensitive historic core of Holcombe Village within the conservation area and the settings of designated and non-designated heritage assets without any, or sufficient public benefit, contrary to the requirements of the NPPF. As such, the application cannot be supported in heritage conservation terms.

The sites location in the Green Belt

The application site is located within the allocated Green Belt. Development in the Green Belt is inappropriate unless one of the exceptions, listed within the NPPF, paragraph 154, applies. Paragraph 154 g) allows for the 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. A tarmacked car park would fall under this criterion.

In terms of impact on openness, the proposed development would be sited as close to the existing P.H as possible, taking account of the Public Right of Way which separates the car park area from the P.H.

In views from Chapel Lane and Moor Lane the open car park provides a sense of openness within the Green Belt. However, due to the treescape that exists along the rear boundary of the P.H's car park, the impact on the openness of the Green Belt would not be substantial. For this reason, the proposal is considered to be an acceptable form of development within the Green Belt.

Amenity

As advised in the section above, the proposed development would result in the introduction of an incongruous, discordant and unsympathetic addition that fails to respond positively to the character of the existing building and the locality in which it is set, resulting in the visual detriment of the host property and the character and visual amenities of the area.

The placement of the area of pub benches at the side of the P.H came about during the Covid Pandemic in 2020 when pubs could only open if patrons sat outside. As stated previously, the placement of beer garden tables within the car park did not require planning permission due to their nature.

3 Alba Street, a split-level property, is attached to the rear of the P.H. The rear elevation of which is directly adjacent to the Public Right of Way (PROW). The rear elevation contains two habitable room windows on two levels of their home. One window serves a kitchen-diner at the ground level (lower ground level in their home) and a window at first floor level (ground floor level within their home) serving the main living area. These windows overlook the cobbled PROW. Currently, the occupiers have an outlook of the historic cobbled walkway that exists to the rear of the main part of the P.H which extends beyond the west facing elevation of the P.H to provide an unrecorded right of way/ pedestrian route up to the existing car park. The occupants of 3 Alba Street also have views of the stone boundary walling that encloses part of the existing car park, and have views of the boundary and area where two tables are proposed to be sited at the rear of the proposed Bar/ Gazebos, which is slightly set down from the tarmaced existing car park. The proposed development would be within approximately 15m of the habitable room windows of the neighbours property and therefore these occupants will experience increased noise and disturbance from the proposed development and will experience an increase in patrons sitting outside in all weathers, thereby an increase in noise disturbance from the proposed development. In addition, due to the proposal seeking to install seating, within the raised sunken cobbled area adjacent to the side of the proposed covered seating area, which is currently used for storing materials associated with the P.H use, they will also experience people overlooking the PROW and their property/ habitable room windows. This would be detrimental to the amenity of these nearby occupiers.

The proposed development, by reason of the proposed use would give rise to noise, disturbance and loss of privacy conditions to the occupants of 3 Alba Street that would adversely affect the residential amenities enjoyed by the occupiers of that adjoining property, contrary to Policies EC4/1: Small Businesses, EN1/2: 'Townscape and Built Design' of the Development Plan and EN2/7: 'Noise' of the Unitary Development Plan.

Highway Safety Matters

The application proposes to re-use an existing access/ egress point at the end of the car park closest to the Public House, albeit alter it by narrowing it and re-instating an area of pavement, The application also and proposes to add and mark out two disabled parking bays.

The Local Highway Authority has raised objections to the proposed alterations to the proposed altered vehicular access stating it would result in the creation of sub-standard egress arrangements at an already hazardous location on the highway network in close proximity to both the existing B6214 Helmsore Road/Chapel Lane junction and the priority give-way at Lumb Carr Road and through an existing outside seating area, which would be detrimental to road and pedestrian safety. They also raise objections based on the proposed alterations at the interface between the site and the existing kerblin on Holcombe Village resulting in an unacceptable adverse impact on the integrity of the adopted highway.

For the above reasons, the proposals conflicts with P/E Policies JP: C1: 'An Integrated Network' JP-C5: 'Streets for All' and JP-C6: Walking and Cycling and JP-C8: Transport

Requirements of New Development.

Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Refuse

Conditions and Reasons:

- 1 The proposed development and associated works would represent an incongruous, contemporising and urbanising feature within the conservation area by virtue of its design, size, scale, mass and materials and as an alien feature that would be totally at odds with the architectural grain of that part of the conservation area, thereby it fails to preserve or enhance its character or appearance, contrary to the requirements of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), Policy EN2/2: 'Conservation Area Control' of the Development Plan and the National Planning Policy Framework.
- 2 The proposal would represent a contemporary, urbanising and incongruous feature in the sensitive historic core of Holcombe Village within the conservation area and the settings of designated and non-designated heritage assets without any, or sufficient public benefit, contrary to the requirements of S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) and the National Planning Policy Framework.
- 3 The proposed development would result in the introduction an incongruous, discordant and unsympathetic addition that fails to respond positively to the character of the existing building and the locality in which it is set, resulting in the visual detriment of the host property and the character and visual amenities of the area, contrary to the requirements of Policy EN2/1: 'Townscape and Built Design' of the Bury Unitary Development Plan and the National Planning Policy Framework.
- 4 The proposed development, by reason of the proposed use would give rise to noise, disturbance and loss of privacy conditions to the occupants of 3 Alba Street that would adversely affect the residential amenities enjoyed by the occupiers of that adjoining property, contrary to Policies EC4/1: Small Businesses, EN1/2: 'Townscape and Built Design' of the Development Plan and EN2/7: 'Noise' of the Unitary Development Plan and the National Planning Policy Framework.
- 5 The proposals would result in the creation of sub-standard egress arrangements at an already hazardous location on the highway network in close proximity to both the existing B6214 Helmshore Road/Chapel Lane junction and the priority give-way at Lumb Carr Road and through an existing outside seating area, which would be detrimental to road and pedestrian safety, contrary to PfE Policies JP: C1: 'An Integrated Network' JP-C5: 'Streets for All' and JP-C6: Walking and Cycling and JP-C8: Transport Requirements of New Development.

- 6 The proposed alterations at the interface between the site and the existing kerblin on Holcombe Village would result in an unacceptable adverse impact on the integrity of the adopted highway to the detriment of highway safety. The proposal is thus contrary to PfE Policies JP: C1: 'An Integrated Network' JP-C5: 'Streets for All' and JP-C6: Walking and Cycling and JP-C8: Transport Requirements of New Development.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
CB	22/07/2025	DM	22/7/5