

**Application Number:** DM/2021/00771

**Proposal:** Full Planning Permission – Provision of timber decking under the existing outside seating area. The decking will include four steps and a hand rail

**Address:** Wye Knot Restaurant, 18A The Back, Chepstow

**Applicant:** Mr John Tallet

**Plans:**  
P16 Location Plan 29.04.21  
P17 Location Plan 29.04.21  
P18 Location Plan 29.04.21  
Drawing 4 Block Plan 01.07.21  
Drawing 5 Construction 01.07.21  
Drawing 6 Site levels 01.07.21  
Drawing 7 Sections 01.07.21

## **RECOMMENDATION: APPROVE**

Case Officer: Ms Kate Young  
Date Valid: 13.05.2021

### **1.0 APPLICATION DETAILS**

#### **1.1 Site Description**

1.1.1 Number 18A, The Back is located in Lower Chepstow and is being run as La Ribera Restaurant. Between the front of the restaurant and the river bank is a grassy bank which forms part of the flood defence system. The land rises up from the road at the front to the public footpath. This area is rented from the Council under licence. There are several tables and benches on the land which are used for serving food from the restaurant. There are two willow trees on either side of this seating area.

The site is located within the Chepstow Conservation Area, an Archeologically Sensitive Area and A C1 (protected) Flood Zone. The site is also in a Minerals Safeguarding Area.

#### **1.2 Value Added**

1.2.1 Following objections from members of the public the following amendments have been made to the scheme:

The decking would be placed on the ground, not dug into the bank

Newel posts and handrails have been removed from all areas except where needed for the steps.

The extent of the decking has been reduced

Installation of CCTV cameras

Removal of planters

Decking to be fully removable and lifted each week to bait rat traps

#### **1.3 Proposal Description**

1.3.1 The application seeks to place temporary decking on the existing seating area to provide a more even surface. The decking will cover a maximum area of 12 metres by 4.8 metres and will have a maximum height of 750mm (the area slopes). It will be constructed of timber floor panels each measuring 2.4m by 1.2m. There will be a few steps at the front with a hand rail to the front. The decking will be placed on concrete weights.

### **2.0 RELEVANT PLANNING HISTORY (if any)**

<b>Reference Number</b>	<b>Description</b>	<b>Decision</b>	<b>Decision Date</b>
18539	Change of use to snack bar and dwelling over	Approved	09.02.1983
21407	Covered Courtyard and toilets	Approved	08.02.1984
29647	Addition of Bedroom to first floor flat	Approved	21.10.1988
M/12674	Extension to Wye Knot Café and flat over	Approved	04.07.2006
DM/2021/00958	Converted wooden shed to Gin Bar, levelled into rented land	Pending Consideration	

### **3.0 LOCAL DEVELOPMENT PLAN POLICIES**

#### **Strategic Policies**

S8 LDP Enterprise and Economy  
S10 LDP Rural Enterprise  
S11 LDP Visitor Economy  
S13 LDP Landscape, Green Infrastructure and the Natural Environment  
S16 LDP Transport  
S17 LDP Place Making and Design

#### **Development Management Policies**

EP1 LDP Amenity and Environmental Protection  
EP3 LDP Lighting  
MV1 LDP Proposed Developments and Highway Considerations  
DES1 LDP General Design Considerations  
GI1 LDP Green Infrastructure  
NE1 LDP Nature Conservation and Development

#### **Supplementary Planning Guidance**

Sustainable Tourism Accommodation SPG 2017  
Chepstow Conservation Area Appraisal SPG 2016

### **4.0 NATIONAL PLANNING POLICY**

#### **Future Wales - the national plan 2040**

Future Wales is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. Future Wales - the national plan 2040 is the national development framework and

it is the highest tier plan, setting the direction for development in Wales to 2040. It is a framework which will be built on by Strategic Development Plans at a regional level and Local Development Plans. Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole.

## **Planning Policy Wales (PPW) Edition 11**

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socio-economic Duty.

A well-functioning planning system is fundamental for sustainable development and achieving sustainable places. PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the well-being of Wales and its communities.

### **Technical Advice Note**

TAN15 Development & Flood Risk 2004

## **5.0 REPRESENTATIONS**

### **5.1 Consultation Replies**

**Chepstow Town Council** make no observations on this application due to insufficient information

#### **MCC Estates – no Objection**

The proposals are to make the ground more useable and safer for customers of the premises and consist of small scale ground works to level part of the land and for the installation of decking to include hand-railed steps.

Estates are in discussions with the Premises Manager/Applicant regarding a License to Occupy the Council's land, and have no objection in principle to the proposals, although more detailed information is required prior to consenting to the works.

#### **MCC GI & Landscape**

For a decked area for the public to use either associated as paying clientele for the restaurant or general public set within the 'public realm' there does not appear to be any references for materials or construction to comply with any relevant BS guidance for decking.

There does not appear to be any information related to the installation methodology for work close to or within tree root zones, which appear close to the concrete support pads and southern section of deck (right hand on plan 05). The site is within the Chepstow Conservation Area so any works to trees to raise canopies or impact on the root protection zone (RPZ) for instance should also be a consideration.

For 'high-level' decks over 600mm high – parapet height should be 1100mm. There does not appear to be a measure indicating the height of the balustrade

Where parapets act as safety barriers, e.g. where there are falls are next to a deck edge, in this case to highway, they should be designed and constructed to meet the UK building regulations (the Building Regulations for England and Wales and the Technical Standards for Scotland). I would expect to see the parapet to also protect from falls off edge returns of the decking area to a point that risk is reduced and in the vicinity of the recessed steps. This does not appear to be shown on plan.

**MCC Heritage Officer** - The proposal is within Chepstow Conservation Area. The site is within Character Area 4: The Back, Gunstock Wharf and Riverside. The area is associated with Chepstow's river merchants, the river bank is now a public open space of soft landscaping and trees. It is considered there is no temporary permission as suggested by the application. The use of decking, delineates an enclosed space in association with a commercial premises which negates the open character of the area, and the river bank as an area for general public use. The application is viewed to have a detrimental impact on the special character of the conservation area and fails to comply with policy.

## 5.2 Neighbour Notification

5.2.1 The application has been advertised through formal neighbour notification and formal notice posted on site. At the time of writing 28 comments have been received from neighbours and interested parties. From these, 13 are objections and 15 are in support of the application. These objections and comments of support are summarised below.

In support of the application;

- The development will enhance the character of the area, it is tasteful and uses appropriate materials for its setting.
- The development will provide a suitable space for visitors to appreciate the wider views and context.
- The development will support the local business in difficult times and encourage people to visit and stay in the area.
- The development supports the investment and economy in terms of employment in the area.
- The business closes early and so there will be no issues with antisocial behaviour
- Improves access, providing a level and safe seating area for all to use.

In objection to the application

- The development will have a detrimental impact on the character of the conservation area and the AONB. It will disturb key views into and out of the conservation area as well as views towards the historic bridges.
- The development will have a detrimental impact on the wildlife and SSSI.
- The development is within an archaeologically sensitive area and so will require archaeological mitigation.
- The development affects the flood defences and so undermines their effectiveness.
- The development is contrary to the existing character of open public space, contrary to Policy CRF3.
- The development is contrary to LDP Strategic policies S13 and S17 as well as policies DES2 and HE1
- The development is purely for private use and stops the wider public appreciating the views.
- The decking should be reduced in size to respect the amenity of the immediately adjacent neighbours.
- There are more suitable alternative locations for such development.
- The decking will encourage anti-social behaviour, of which there is already a problem, it will not be locked in the evenings and will be open to abuse.
- The decking is positioned too close to the foot and cycle path.
- There is no need for the decking and this contravenes Sustainable Development Principles.
- There are unaddressed Health and Safety issues.
- There are inaccuracies with the application form and the plans require further information and detailing in order to make a valid decision.
- The area underneath the decking will create a space for vermin and therefore become a public health hazard.

Please note all representations can be read in full on the Council's website:

<https://planningonline.monmouthshire.gov.uk/online-applications/?lang=EN>

## 6.0 EVALUATION

### 6.1 Principle of Development

6.1.1 The principle of using this area of land for an external seating area for La Ribera Restaurant is already established and has been operating under licence with MCC Estates for some time. During the Covid 19 pandemic it has been the Council's policy to support local hospitality and to encourage

the provision of external eating areas. There are many such examples throughout the county. In this case the area is currently used with ad hoc benches for the use of customers of the restaurant. The consideration of the application is therefore the provision of the timber decking which is proposed to create a more stable platform for the tables and benches. There would be no increase in the number of tables being served and no proposed extension to the hours of operation. Strategic Policy S5 of the adopted Local Development Plan supports development proposals that provide and/or enhance community and recreational facilities within or adjoining town or village development boundaries. Under this policy in a general sense facilities used by local communities for social purposes and in a more specific sense, public houses, are considered to be community facilities. Strategic Policy S8 supports sustainable economic growth especially where the proposals enable the continued development of tourism. Development Management Policy CRF1 seeks the retention of existing community facilities.

6.1.2 Therefore the principle of development is considered to be in line with the relevant Local Development Plan Policies and is considered acceptable subject to detailed material considerations as discussed below.

## **6.2 Sustainability**

6.2.1 The Local Development Plan and PPW encourages sustainable development. In this case the restaurant already exists as does the seating area. The proposal is to enhance the dining experience for locals and tourists by creating a level platform on which to place the existing benches. The site is located within one of the main tourist areas in Chepstow, within easy walking distance of other tourist facilities and public transport routes.

### **6.2.2 Good Design**

The timber decking panels will be placed onto concrete weights and will rise up with the contours of the land underneath. There will be four steps on the southern part of the decking and this will have a hand rail to the highest side, one metre in height. The scale of the proposal is acceptable within this context as is the use of tanalised timber panels, given the former dockside character of the area. Owing to its small scale, the decking would not be visually prominent within the wider landscape. The decking would be level with the height of the bund and therefore would not protrude any higher than the existing land features. In addition the balustrade would be positioned at the highest point of the decking closest to the existing buildings and would be viewed in context with the adjacent structures. This arrangement allows the maintenance of key views across the site looking east to west and north-west towards the historic Wye Bridge.

The proposal will be of high quality, sustainable design which will respect the local character of the area. The proposal therefore accords with the main objective of Policy DES1 of the LDP. Given that the height of the decking will be level with the public footpath to the north this will ensure a safe, secure, pleasant and convenient environment which is accessible to all members of the community. The decking is not considered to have a detrimental effect on the appearance of the area. The seating area is in existence and the decking will raise the height of the tables and benches slightly but for the reasons given above it is not considered to impede natural views and panoramas through the site and the increase in height is minimal and as such would not warrant refusal of permission in respect of intrusive or unsightly.

### **6.2.3 Green Infrastructure/Place Making**

6.2.3.1 The applicants had initially proposed to place flower planters around the site but these have now been removed from the scheme as locals residents considered that this may impact on views through the site. The two existing willow trees on either side of the decking will not be impacted by the proposal. The Council's Landscape Officer has not raised any objections in relation to the visual impact of the decking on the landscape views, however concerns were raised in terms of health and safety and root protection zones (RPZ) of the existing trees. Whilst safety is important, this is not a matter for the planning application, and is dealt with under different legislation. In relation to the root protection zones it is considered that as there are no aspects of digging or ground works the RPZ will remain unaffected. However, if any grounds works are subsequently required a condition is

proposed to ensure that appropriate an arboricultural method statement would be required detailing how roots would be protected.

6.2.3.2 The decking is located close to existing willow trees and whilst these are not covered by a TPO, they are within the Conservation Area and so to lop, top or fell would require prior notification to the Council as the local planning authority. An informative would be placed on the decision notice to draw this to the applicant's attention, in the event the application is approved.

### **6.3 Historic Environment**

6.3.1 The site is located within the Chepstow Conservation Area and is seen from the Old Wye Bridge. This area is noted as character area 4 in the Chepstow Conservation Area Appraisal (CAA) SPG as The Back, Gunstock Wharf and Riverside. Characterised by its former function of docks, warehouses and former industrial buildings. The CAA references many open views up and down the river to either of the historic bridges, and that the grassed river banks with seating provide public amenity space.

The Council's Heritage Officer has raised concerns over the visual impact of the decking given the character of the area is open and the river bank is an area for general public use. However the private/public use of the land is not in itself a consideration in terms of the historic environment. The use of the space is currently occupied by patrons of the restaurant/ public house and will continue to be so by virtue of the proposals. The open character of the Conservation Area is a consideration in relation to Policy HE1. Given the decking will only provide a level surface no higher than the existing artificial flood bund, it is not considered to be overbearing or obstructive of wider views. In addition it occupies a small area between the existing (and retained) Willow trees, maintaining the many open views as identified in the CAA. There is no serious adverse effect created by the development. There are no 'protected views' as such, the CAA identifies key views to be protected, which are identified on the appraisals map, and these remain unaffected by the proposals.

Despite the objection, on balance the proposal is considered to preserve the character of the Conservation Area in line with Policy HE1 and section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **6.4 Impact on Amenity**

6.4.1 The restaurant is already operational and the seating area is well-established. The provision of the decking on the existing seating area will not impact residential amenity over and above the current arrangement. At present the adjacent land uses are a mix of commercial/ office space and residential. To the east and adjacent to La Ribera/The Wye Knot Restaurant is 18 The Back. To the eastern corner of the block of buildings is Willow Tree Cottage, another residential property forming the corner of The Back where it returns in a southerly direction away from the river to join Lower Church Street. 18 The Back is a residential property which is semi-detached to the restaurant and is positioned directly onto the street overlooking the banks of the river in the same way as the restaurant. It has a window at ground floor facing the roadway and the seating area, although the window itself would directly face a lay-by area with planters rather than the proposed decked area. The distance between the front of the property and the raised grassy bank is approximately 5m. The distance from the front of the building to the access steps is approximately 10.5m when measured at an angle (using electronic mapping). The decking will be at its highest point of 750mm at the closest point (9.5m) to the residential dwelling of 18 The Back and that would be at an acute angle. It is acknowledged that the seating area is already occupied with benches at present and while the decking would raise slightly the level of the tables/ seating it is not considered that the provision of such a level surface would intensify this use or cause any further anti-social behaviour over and above the existing situation. It is also noted that there is another outside seating area 50m to the south west in conjunction with The Boat Inn which would generate similar activity in this riverside setting.

It is, however, accepted that this would provide a raised platform which is at its highest where it is closest to the La Ribera/Wye Knott restaurant and 18 The Back. Concerns have been raised by the neighbour who, whilst in support of the business, is concerned over the impact of the proposals on their amenity. At its closest point the decking will be in line with the level of the existing grassy area, currently occupied by seating. Whilst there could be some additional impact on neighbour amenity,

it is considered that this would not result in a significant increase in impact compared to the current situation so as to warrant refusal of the application. At present the two closest residential properties of 18 The Back and Willow Tree Cottage form the immediately adjacent street frontage onto the riverside and co-exist with the current mixed use of public houses and dwellings. The addition of a raised platform which tapers to join the current level of the grassy bund is not considered to increase impact on the amenity of the adjacent land uses to an unacceptable level. Moreover, the roadway immediately in front of those neighbouring dwellings would give rise to activity from vehicular and pedestrian movements that would already have an impact on the amenity of the occupiers of those properties and thus, tempers any slight raising of the tables and chairs on the proposed decked area.

In addition Stuart House, (office use) and The Wine Warehouse (mixed residential and office use) form the two sides of the street frontages forming The Back. It is considered that these buildings are separated by a reasonable distance so that the visual impact of the decking would not have an impact on their amenity.

Therefore the proposal is considered to accord with the objectives of Policy EP1 of the LDP.

## **6.5 Highways**

### **6.5.1 Sustainable Transport Hierarchy and Access/ Highway Safety**

The proposed decking will not impinge on the road or any parking provision and therefore there is no adverse impact to highway safety.

## **6.6 Drainage**

### **6.6.1 Foul Drainage & Phosphates**

No changes to the existing foul drainage are proposed as part of this development.

Under the Conservation of Habitats and Species Regulations 2017 it is necessary to consider whether the development should be subject to a Habitat Regulations Assessment. This is in particular reference to the impact of increased concentrations of Phosphates on designated Special Areas of Conservation (SACs). Natural Resources Wales (NRW) has set new phosphate standards for the riverine SAC's of the Wye and Usk and their catchment areas. Development that may increase the concentration of phosphate levels will be subject to appropriate assessment and HRA. This application site is located within the 50 metre buffer zone for the River Wye SAC but as the proposal will not result in any increase in foul water discharge it will not have a detrimental impact on any protected SAC, and as a result no further assessment is required. In addition, the River Wye is tidal in this area where the phosphate issue is not relevant.

## **6.7 Tourism**

6.7.1 The Council seeks to support the tourism sector as it provide employment opportunities and generates income for the County. PPW 11 and the LDP support proposals that enhance sustainable tourism facilities. Policy S11 of the LDP states that development proposals that provide and/or enhance sustainable forms of tourism will be permitted subject to detailed planning considerations. The decking under the existing outdoor seating area in this sustainable location would enhance the customer experience and preserve the character of the area, resulting in the restaurant becoming more attractive to visitors.

## **6.8 Response to the Representations of Third Parties and Town Council**

6.7.1 In reviewing the representations received, there are a number of reasons for objections as follows:

- That the development would have an adverse impact on the character of the Conservation Area - this has been addressed in the preceding paragraphs. It is considered that

development, for similar reasons of scale, size and height will not have an adverse effect on the AONB or the wider landscape views.

- That the development would have an adverse effect on the SSSI - as the decking is placed on the land and is not proposed to be engineered into it, it is not considered to have an effect on wildlife. The decking is also permeable and will not have an impact on flooding or compromise the flood defences in any way.
- That the development does not accord with Strategic Policies S13, S17 and DM Policies DES2 and HE1 - for the reasons identified above it is considered that the application is in accordance with LDP policies.
- That the development is in an archaeologically sensitive area and a full watching brief is required - the development does not involve ground works which would lower existing levels. In addition the bund is made up ground being part of the relatively modern flood defences and so it is not considered that the development would affect any underground archaeology.
- That the development will have an adverse impact on the amenity of residents and encourage anti-social behaviour - as the application relates to the decking only, the use of the space is not proposed to change. It is not considered that the installation of decking will increase the use of the space over and above the existing arrangement. Therefore the impact on neighbour amenity would remain at current levels.
- That there are other more suitable locations - the application seeks permission for decking in the proposed location and it is the consideration of this location that is before the local planning authority.
- That the development is too close to the cycle and footpath - the decking is set back by 2m from the edge of the path. It is considered that this is a sufficient distance to maintain safety and amenity.
- That the development encloses an area of public open space and which will then become solely for private use - as the area of open space is currently used for the patrons of the public house, it is not considered that the installation of decking will change the use arrangements. In addition it is noted that the decking is not enclosed and that the handrail is situated to the south-eastern edge closest to the restaurant/ public house and is for safety only.
- Concerns were raised in relation to licensing which is a separate legal matter.
- That there are inaccuracies on the plans and the application forms - these have been addressed via revised plans and amended forms.
- Comments were received that the development contravenes Sustainable Development Principles, however no further details were provided.
- Concerns were raised in terms of health and safety, however this is properly addressed through separate legislation.

## **6.9 Well-Being of Future Generations (Wales) Act 2015**

6.9.1 The duty to improve the economic, social, environmental and cultural well-being of Wales has been considered, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching this recommendation, the ways of working set out at section 5 of the WBFG Act have been taken into account and it is considered that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

## **6.10 Conclusion**

6.10.1 The proposal accords with the objectives of Policy S8 of the LDP which supports proposals that assist economic growth within the County. The proposed decking will also help to promote tourism in the area in accordance with the objectives of Policy S11. The small-scale decking would preserve the appearance of this part of the Chepstow Conservation Area and would not impede views into or out of the Conservation Area. The proposal therefore accords with the objectives of Policy HE1 of the LDP. The seating area is already in existence and the proposal will provide a level area for customers - it would not increase the area in size or intensity of the use. The proposal



would not impact on residential amenity and accords with the objectives of Policy EP1 of the LDP. The proposal is considered to be policy compliant.

## **7.0 RECOMMENDATION: APPROVE**

### **Conditions:**

1 This development shall be begun within 5 years from the date of this permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990.

2 The development shall be carried out in accordance with the list of approved plans set out in the table below.

REASON: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.

3 Should any ground works involving reducing the existing ground levels at any point be required a full arboricultural method statement, detailing precisely how tree roots will be protected from any damage through any ground lowering, shall be submitted to and approved in writing by the local planning authority prior to any such works being undertaken. The ground works shall then be carried out in accordance with the approved statement.

REASON - To protect important landscape features within the site and to ensure compliance with LDP Policy G11

### **INFORMATIVES**

1 I would advise you that all trees in the vicinity of the application site are within the Conservation Area. No works to these trees (to lop, top or fell) shall be carried out without prior approval from the Local Planning Authority or you have established that such consent is not required as per Section 211 of the Town and Country Planning Act 1990.