

**ROYAL BOROUGH OF WINDSOR & MAIDENHEAD  
PLANNING COMMITTEE**

**DEVELOPMENT CONTROL PANEL**

5 January 2022

**Item: 1**

<b>Application No.:</b>	21/02063/FULL
<b>Location:</b>	Mercure Castle Hotel 18 High Street Windsor SL4 1LJ
<b>Proposal:</b>	New outdoor seating area with entrance gates, decking, steps, access ramp and handrails, pergola, arbour and planters. (Retrospective)
<b>Applicant:</b>	Genesta Georgian LLP
<b>Agent:</b>	Ms Hannah Bizoumis
<b>Parish/Ward:</b>	Windsor Unparished/Eton And Castle
<b>If you have a question about this report, please contact:</b> Briony Franklin on 01628 796007 or at <a href="mailto:briony.franklin@rbwm.gov.uk">briony.franklin@rbwm.gov.uk</a>	

**1. SUMMARY**

- 1.1 Retrospective planning permission is sought for the installation of a pergola, an arbour, planters, a decked area and associated ramp, steps and handrails in association with an outdoor seating area positioned alongside the Castle Hotel and part within the carriageway arch. The structures were erected in April 2021 in response to the 'opening up' of the hospitality sector to provide an outdoor seating area for hotel guests and members of the public using the hotel.
- 1.2 The Castle Hotel is a prominent four storey, grade II listed building which lies on the High Street within the historic core of the Windsor Town Centre Conservation Area. The works carried out are considered to have a negative impact on the setting of the listed building, adjacent historic buildings and on the character and appearance of the Conservation Area. The level of harm to each of these heritage assets is less than substantial, but given that multiple heritage assets would be harmed as a result of the proposal, the cumulative harm identified is significant. The public benefits in this case do not outweigh this significant harm.
- 1.3 The outdoor seating area does not result in an unacceptable impact on the living conditions of the neighbouring residential properties subject to controlling the hours of use and the lighting.

**It is recommended that the Committee REFUSE planning permission for the following summarised reason (the full reason is identified in Section 12 of this report):**

1. The pergola, arbour, planters and associated paraphernalia, by virtue their siting, height, design and materials result in a cluttered and incongruous appearance within the carriageway arch and would have a negative impact on the setting of the host listed building, adjacent listed buildings and on the character and appearance of the Conservation Area. The level of harm caused to the individual Heritage Assets would be less than substantial, but cumulatively the harm to heritage is significant and would not be outweighed by the public benefit. The development is contrary to Local Plan policies LB2 and CA2, emerging policy HE1 and guidance set out in section 16 of the NPPF.

**2. REASON FOR PANEL DETERMINATION**

2.1 The application has been called into Committee by Cllr Rayner, if minded to refuse on the grounds of economic regeneration of Windsor, Covid and tourism.

**3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS**

3.1 The Castle Hotel lies within the historic core of Windsor Town Centre on the western side of the High Street. There is a carriageway arch alongside the hotel which formerly provided vehicular access from the High Street to the car park at the rear. Vehicular access to the car park is now gained from Bachelors Acre. The area beneath the arch is now used as an outdoor seating area for hotel guests and members of the public and includes a decked area, timber arbour, pergolas and planters.

3.2 Residential properties lie immediately adjacent to the site, to the south.

**KEY CONSTRAINTS**

3.3 The Castle Hotel is grade II listed and lies within the Windsor Town Centre Conservation Area. The neighbouring buildings, numbers 15-17 High Street and 19-23 are also grade II listed. The site lies opposite the Guildhall which is grade I listed and close to Windsor Castle, a Scheduled Ancient monument and grade I listed building.

**4. PROPOSED DEVELOPMENT & RELEVANT PLANNING HISTORY**

4.1 Retrospective planning permission is sought for the installation of a pergola, an arbour, timber planters, a decked area and associated ramp, steps and handrails in association with the outdoor seating area positioned adjacent to the hotel building and part within the carriageway arch. The structures were erected in April 2021 in response to the 'opening up' of the hospitality sector to provide an outdoor seating area for hotel guests and members of the public using the hotel.

4.2 The application follows complaints received by the enforcement team.

4.3 The development is freestanding and is not physically attached to the listed building. No separate listed building consent is therefore required. Following concerns raised by the Conservation Officer attempts were made to seek amendments to the development. However, the applicant has chosen to pursue the original submitted scheme.

4.4 There is extensive planning history relating to this site. The most relevant history is set out as follows:

Ref.	Description	Decision and Date
21/01800/FULL	Part demolition and reconstruction of existing rear boundary wall, relocation and replacement of existing car park barrier and bollards, alterations to the existing access ramp and associated works.	Permitted 13/9/21

**5. DEVELOPMENT PLAN**

**Adopted Royal Borough Local Plan (2003)**

- 5.1 The main strategic planning considerations applying to the site and the associated policies are:

Issue	Adopted Local Plan Policy
Design in keeping with character and appearance of area	DG1
Heritage	CA2, LB2
Noise	NAP3
Highways	T5

These policies can be found at

<https://www.rbwm.gov.uk/home/planning/planning-policy/adopted-local-plan>

## 6. **MATERIAL PLANNING CONSIDERATIONS**

### 6.1 **National Planning Policy Framework Sections (NPPF) (2021)**

Section 7 – Ensuring the vitality of town centres

Section 12- Achieving well-designed places

Section 16- Conserving and enhancing the historic environment

### 6.2 **Borough Local Plan: Main Modifications Version (July 2021)**

Issue	BLP MM Version Policy
Character and Design of New Development	QP3
Heritage	HE1
Noise	EP4
Sustainable Transport	IF2

- 6.3 Paragraph 48 of the NPPF sets out that decision-makers may give weight to relevant policies in emerging plans according to:

- a) *The stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
- b) *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- c) *the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

- 6.4 The Borough Local Plan Submission Document was published in June 2017. Public consultation ran from 30 June to 27 September 2017. The plan and its supporting documents, including all representations received, was submitted to the Secretary of State for independent examination in January 2018. In December 2018, the examination process was paused to enable the Council to undertake additional work to address soundness issues raised by the Inspector. Following completion of that work, in October 2019 the Council approved a series of Proposed Changes to the BLPSV. Public consultation ran from 1 November to 15 December 2019. All representations received were reviewed by the Council before the Proposed Changes were submitted to the Inspector. The Examination was resumed in late 2020 and the

Inspector's post hearings advice letter was received in March 2021. The consultation on the Main Modifications has recently closed.

6.5 The BLPSV together with the Proposed Changes are material considerations for decision-making. The weight to be given to each of the emerging policies and allocations will depend on an assessment against the criteria set out in paragraph 48 of the NPPF. This assessment is set out in detail, where relevant, in Section 7 of this report.

6.6 These documents can be found at:

<https://www.rbwm.gov.uk/home/planning/planning-policy/emerging-plans-and-policies>

### Supplementary Planning Documents

6.7

- Borough Wide Design Guide (adopted June 2020)

### Other Local Strategies or Publications

6.8 Other Strategies or publications relevant to the proposal are:

- Windsor Town Conservation Area Appraisal 2009.

More information on these documents can be found at:

<https://www.rbwm.gov.uk/home/planning/planning-policy/planning-guidance>

## 7. CONSULTATIONS CARRIED OUT

7.1 The application was advertised in the local press on the 29<sup>th</sup> July 2021 and site notices posted on the 30<sup>th</sup> July 2021.

### Comments from interested parties

7.2 27 neighbouring properties were notified directly of the application.

7.3 2 letters have been received from the occupiers of neighbouring residential properties, numbers 4 and 7 Guards View. Their comments are summarised as follows:

Comment	Where in the report this is considered
☐ Noise needs to be properly managed and opening times may need restricting	Paragraphs 8.8 & 8.9
☐ Noise and disturbance to balcony and bedroom at neighbouring flat, number 4 Guards View from customers talking and laughing, dumping of glass bottles into bins late at night and early morning, noise from bell signalling food is ready and noise from people walking on decking in hard-soled shoes.	Paragraphs 8.8 & 8.9
☐ Light pollution – lighting for seating area is too bright.	Paragraphs 8.8 & 8.9
☐ The timber arbour, pergola, hanging lights, fake plants and flowers are incongruous with the listed building in the historic core of the Conservation Area.	Paragraphs 8.2-8.7

7.4 12 letters of support have been received including from several local businesses, Cllr Rayner and The Windsor and Eton Society. The comments are summarised as follows:

Comment		Where in the report this is considered
1.	In response to the pandemic local and national guidance encourages outdoor dining areas	Paragraph 8.6
2.	Seating area is set back from the high street within the carriage arch and does not spoil or interrupt the historic views and nature of the area.	Paragraph 8.2-8.7
3.	Council should support local businesses as they respond and recover from the past 18 months.	8.6
4.	Visually improves the hotel and high street without encroaching onto the public pathway.	8.2-8.7
5.	Traffic on High Street has been reduced by use of rear entrance	8.10
6.	More staff have been recruited to meet the demand due to the popularity of the space.	8.6
7.	Brings more foot traffic to this end of the High Street which benefits local businesses.	8.6
8.	Aesthetically the outside space is attractive and a great space for tourists and locals.	8.6
9.	Need to support local businesses in volatile trading times	8.6
10.	New space is supporting tourist trade	8.6
11.	Government is encouraging businesses to adapt	8.6
12.	Additional restaurant area is supporting additional jobs, local suppliers and local businesses.	8.6
13.	Removal of traffic and pollution from the high street	8.10
14.	Hotel is ensuring that noise is being kept to an acceptable level and outside area is closing at a reasonable hour.	8.9
15.	The gazebo has significantly improved the attractiveness of the High Street and improved the economic impact of dining.	8.2-8.7
16.	Not a structure that would permanently change the setting of the grade II listed building or the setting of the Conservation Area	8.2-8.7
17.	Other outdoor seating areas serving other establishments close by are surrounded by plastic barriers which are significantly more at odds with the Conservation Area than the infill of the arch with wooden structures.	8.2-8.7
18.	Outside seating areas for dining are welcome additions for the public.	8.6
19.	Time limited permission (say five years) could be considered.	8.11
20.	The structure is not attached to the listed building and does not damage the fabric of the building.	8.5

### Consultees

Consultee	Comment	Where in the report this is considered
Conservation Officer	Support a recommendation for refusal	Paragraph 8.2-8.7
Environmental Protection	No concerns regarding this application	Paragraphs 8.8-8.9
Highways	No objection	Paragraph 8.10

## 8. MATERIAL CONSIDERATIONS

8.1 The key issues for consideration are:

- i) The Impact on Heritage Assets including the setting of listed buildings and the Conservation Area
- ii) Impact on Residential Amenity
- iii) Other Material Considerations

### **i)The impact on Heritage Assets including the setting of listed building and the Conservation Area**

- 8.2 Local Plan policy CA2 requires development in Conservation Areas to enhance or preserve the character or appearance of the area and requires alterations to existing buildings to be of a high design standard which is sympathetic in terms of siting, proportion, scale, form, height, materials and detailing to adjacent buildings and the character of the area in general. Policy LB2 deals with proposals affecting listed buildings or their settings and seeks to ensure that development proposals do not adversely affect the setting of listed buildings. Emerging policy HE1 requires the historic environment to be conserved and enhanced in a manner appropriate to its significance. Development proposals should seek to conserve and enhance the character, appearance and function of heritage assets and their settings and respect the significance of the historic environment.
- 8.3 The Castle Hotel is a prominent four storey, stucco fronted, grade II listed building which lies within the 'Historic core and High Street' character area of the Windsor Town Centre Conservation Area. It is located opposite the grade I listed Guildhall and forms part of a long run of listed buildings of varying architecture that line the western side of the High Street. The building dates from the 18<sup>th</sup> century with a later addition that includes a vehicle/carriage entrance at ground floor level. The hotel and the wider conservation area have architectural and historic significance. This is derived from the age and quality of the building and the character of the streetscape that together form a backdrop to Windsor Castle, a Scheduled Ancient monument and grade I listed building.
- 8.4 The structures, which include a timber pergola, arbour and planters are free standing and have no physical attachment to the building itself and therefore have no impact on the historic fabric of the listed building itself. The High Street frontage is however particularly sensitive and forms part of the streetscape context for several important buildings. The alterations to the rear of the building are within a secondary area and would not have a negative impact on the setting of the listed building or its wider context. The works that are visible from the High Street are however of more concern. Whilst there would be no objection in principle to the use of this area for outdoor seating associated with the hotel (as the use of this area as a carriageway did not form part of the original building), the rough timber arbour and pergola, which are decked with artificial flowers and hanging lights appear at odds with the refined architecture of the frontage. They are highly visible and given the context, they appear incongruous, creating a cluttered appearance that neither preserves or enhances the setting of the listed building nor the character of the Conservation Area.
- 8.5 The works are therefore considered to have a negative impact on the significance of the setting of the host listed building, The Mercure Castle Hotel, and on the appearance of the Conservation Area. In addition, the site lies opposite the grade I listed Guildhall, and in close proximity to Windsor Castle, a grade I listed building and Scheduled Ancient Monument. The proposed development is also highly prominent in the setting

of these important historic buildings and for the same reasons, would be harmful to the setting of these adjacent heritage assets.

- 8.6 The harm caused to each of the identified heritage assets is less than substantial and the degree of harm is of a moderate level. However, when moderate weight is given to the harm to each of the individual heritage assets, the cumulative harm to heritage becomes significant. Paragraph 202 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.'* It is acknowledged that there is local support for the development and economic and public benefits have been put forward, however these benefits have not been sufficiently evidenced such that they can be afforded more than limited weight in the balance. For example, the Planning Statement advises that the outdoor seating area allows the hotel to remain in operation, however, it has not been evidenced that the hotel would be an unviable business without the outdoor seating area. As such, the benefit of providing the development is not outweighed by the visual harm it causes. Furthermore it should also be noted that this area could still be productively used for outside seating without the timber pergola, arbour and other structures in place.
- 8.7 In this regard the development is not acceptable and should be refused on the grounds that the pergola, arbour, planters and associated paraphernalia, by virtue their siting, height, design and materials result in a cluttered and incongruous appearance within the carriageway arch and would have a negative impact on the setting of the listed building, adjacent historic buildings and on the character and appearance of the Conservation Area. The level of harm caused to the Heritage Assets would be less than substantial and of a significant level when the harm to the heritage assets is considered cumulatively and would not be outweighed by the public benefit. As such the development is contrary to Local Plan policies LB2 and CA2, emerging policy HE1 and guidance set out in section 16 of the NPPF.

#### **ii. Impact on the living conditions of the neighbouring properties**

- 8.8 Local Plan policy NAP3 states that planning permission will not be granted for proposals likely to emit unacceptable levels of noise, smells or fumes beyond the site boundaries. Emerging policy EP4 requires development proposals to consider the noise and quality of life impact on recipients in existing nearby properties to ensure they are not subject to unacceptable harm. Development that generates unacceptable levels of noise and affect quality of life will not be permitted. Effective mitigation measures will be required where development proposals may generate significant levels of noise and may cause or have an adverse impact on neighbouring residents. Emerging policy QP3 sets out design principles which includes development having no unacceptable effect on the amenities enjoyed by the occupants of adjoining properties in terms of privacy, light, disturbance, vibration, pollution, dust and smell, amongst other things.
- 8.9 The hotel lies within a town centre location where some noise is to be expected. There are residential properties situated immediately adjacent to the hotel and the outdoor seating area. There are also several hotel rooms which directly overlook the outdoor seating area. It would not be in the hotels interest for the outdoor seating area to cause noise and disturbance to its own guests and to a certain extent it would regulate itself in terms of noise and disturbance. The Environmental Protection team has also raised no concerns regarding this application. However, if planning permission is granted for the outdoor seating area it is considered reasonable and appropriate to restrict the hours of use to between 8am and 10pm to protect the amenities of the neighbouring residential properties. It is also considered that any external lighting associated with

the outdoor seating area would be turned off between the hours of 10pm and 8am to prevent any light pollution to the neighbouring properties. Subject to these conditions being secured it is not considered that the development would have an adverse impact on the living conditions of the neighbouring residential properties in this town centre location.

### **iii. Other Material Considerations**

- 8.10 The Highways section has raised no objection to the closing of the vehicular access from the High Street. Vehicular access is now obtained from Bachelors Acre at the rear of the hotel.
- 8.11 Given the harm caused to the Heritage Assets it is not considered appropriate to grant a temporary permission.
- 8.12 No details of the gates, shown to be installed on the frontage, have been provided and details of the design, height and materials for the gates would need to be secured by condition in the event of planning permission being granted.

## **9. CONCLUSION**

- 9.1 The economic and public benefits of the development put forward would not outweigh the harm to the setting of the host listed building, adjacent listed buildings and the character and appearance of the Conservation Area and the development is contrary to Local Plan policies LB2 and CA2 and emerging policy HE1.

## **10. RECOMMENDATION**

**Refuse Planning Permission**

## **11. APPENDICES TO THIS REPORT**

- Appendix A – Site Location Plan
- Appendix B – Site Plan
- Appendix C – Elevation
- Appendix D – Details

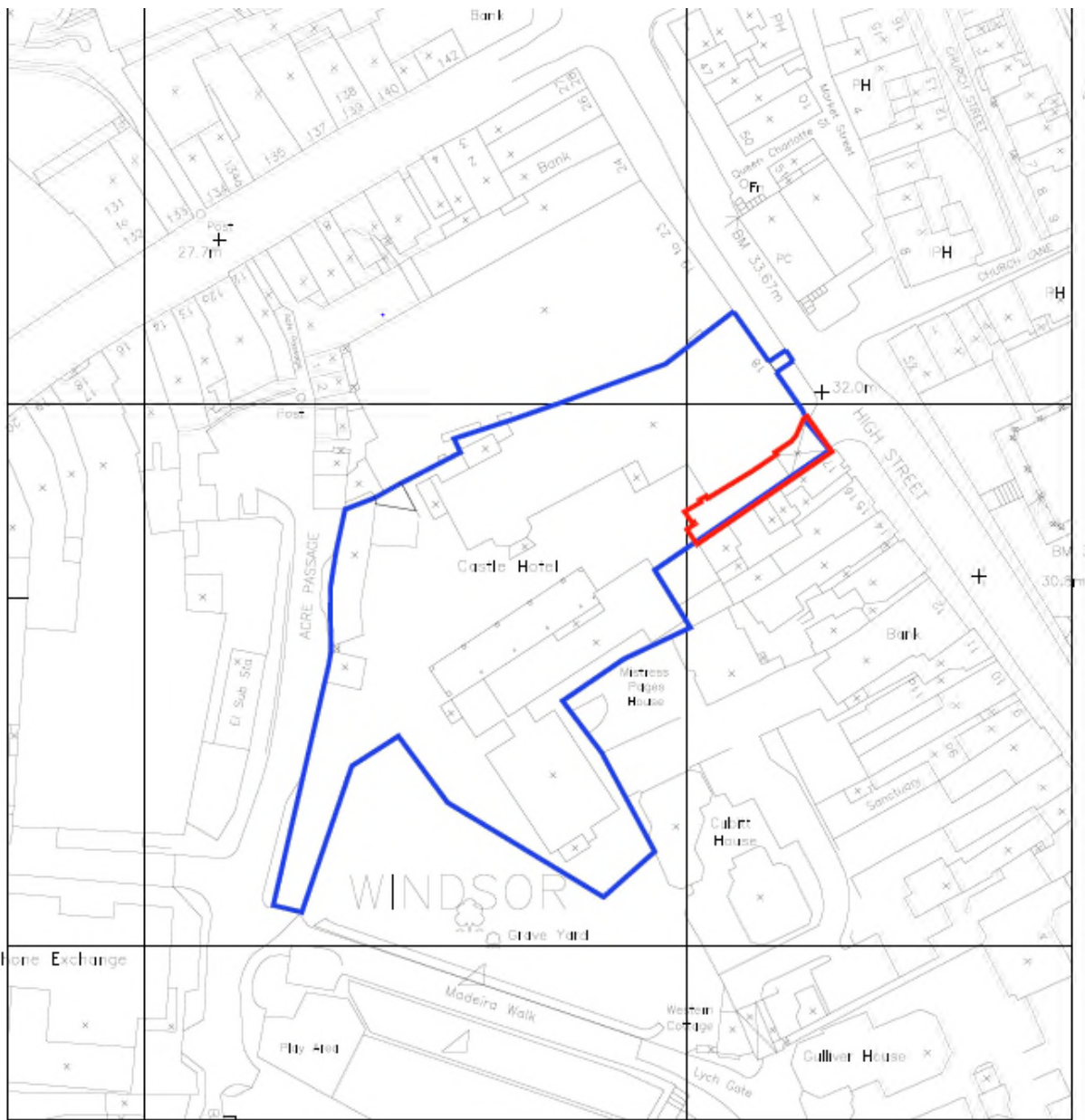
## **12. REASONS FOR REFUSAL:**

- 1 The pergola, arbour, planters and associated paraphernalia, by virtue their siting, height, design and materials result in a cluttered and incongruous appearance within the carriageway arch and would have a negative impact on the setting of the host listed building, adjacent listed buildings and on the character and appearance of the Conservation Area. The level of harm caused to the individual Heritage Assets would be less than substantial, but cumulatively the harm to heritage is significant and would not be outweighed by the public benefit. The development is contrary to Local Plan policies LB2 and CA2, emerging policy HE1 and guidance set out in section 16 of the NPPF.

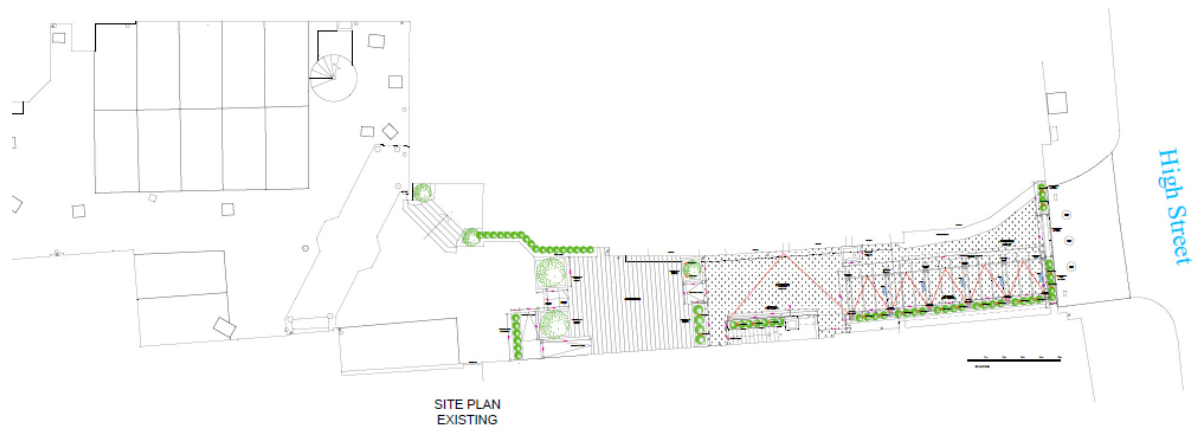
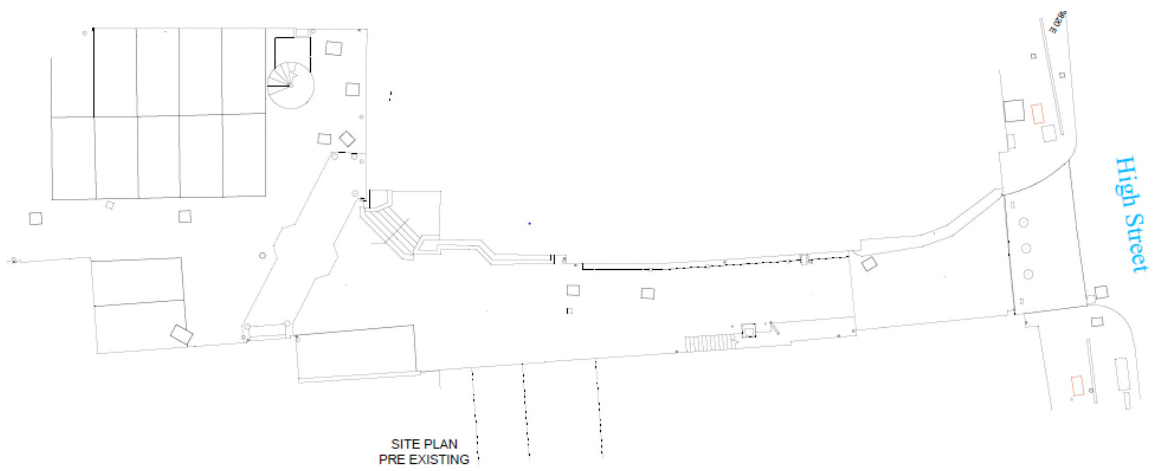


# 21/02063/FULL – Mercure Castle Hotel, 18 High Street, Windsor

## Appendix A – Site Location Plan



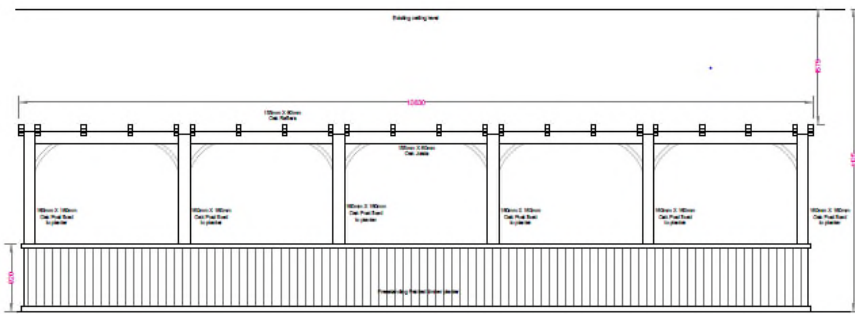
# Appendix B - Site Plan



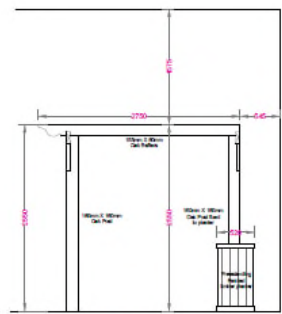
# Appendix C – elevation



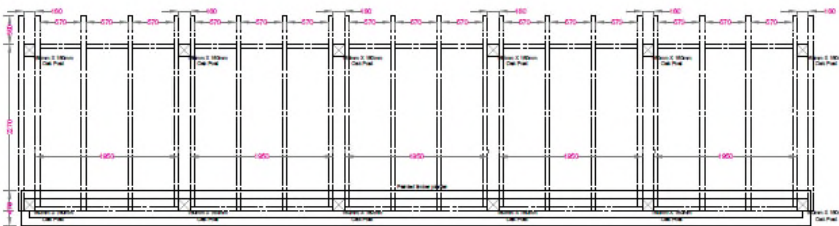
# Appendix D – Details



PERGOLA DETAILED FRONT ELEVATION - REF A

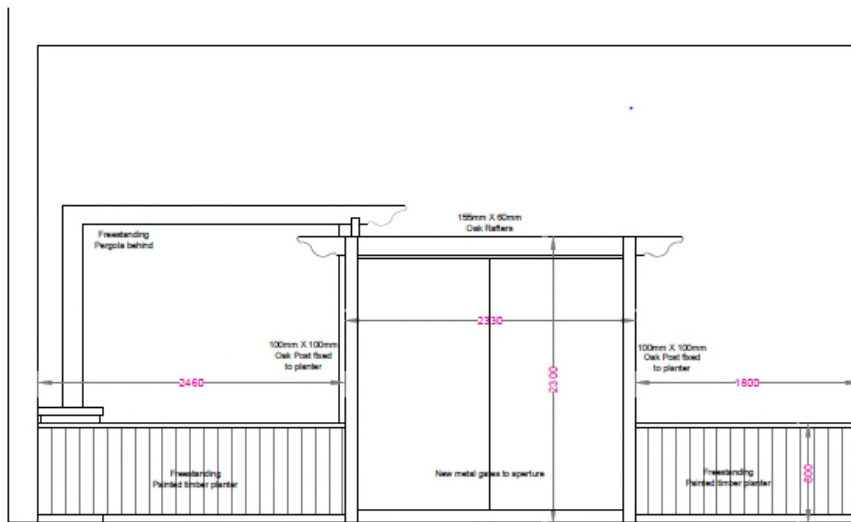


PERGOLA DETAILED SIDE SECTION - REF A

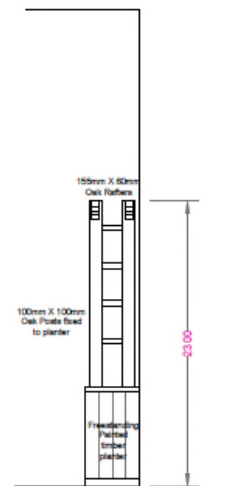


PERGOLA DETAILED PLAN - REF A

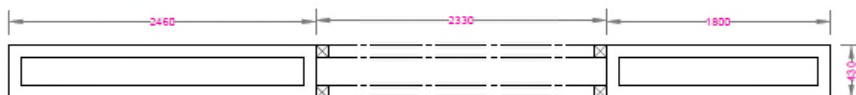
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Drawing Title	DETAILS SHEET 1	



ENTRANCE ARBOR  
FRONT ELEVATION - REF B

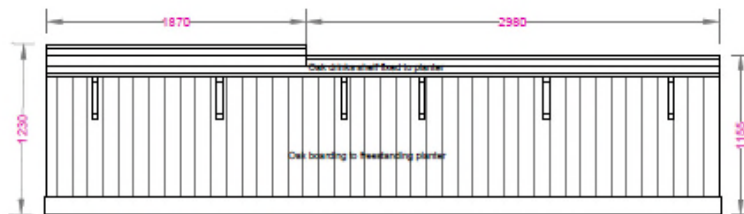
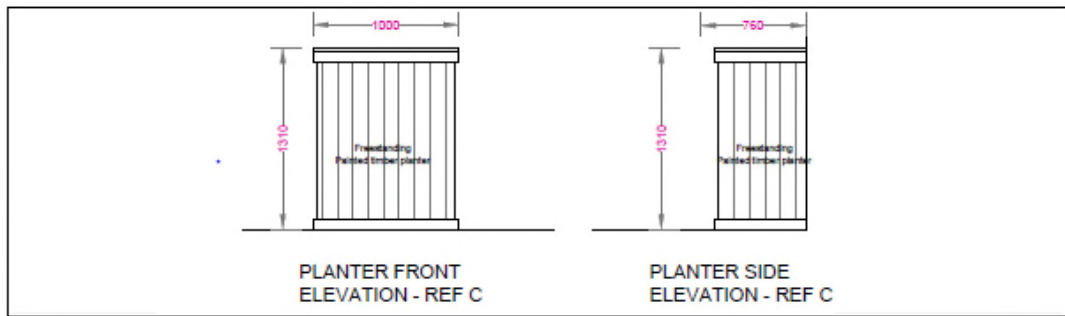


ENTRANCE ARBOR  
SIDE ELEVATION - REF B

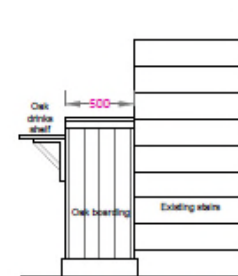


ENTRANCE ARBOR PLAN - REF B

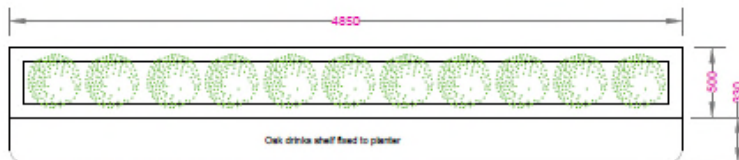
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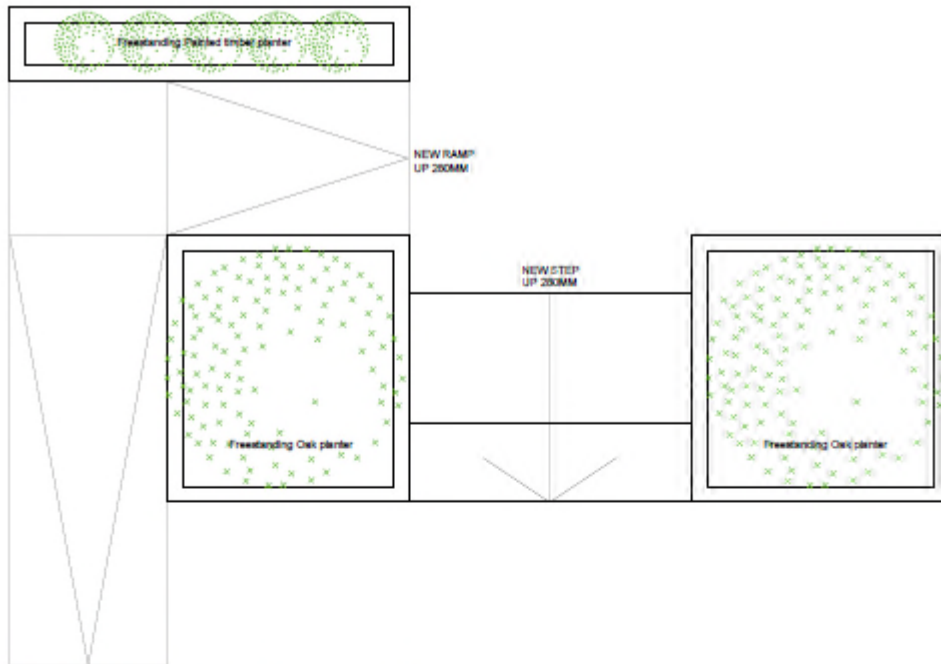
OAK PLANTER & SHELF  
DETAILED FRONT ELEVATION- REF D



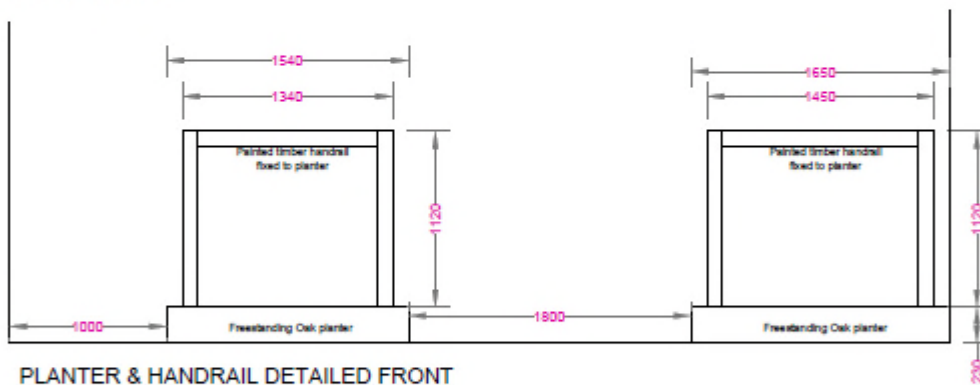
OAK PLANTER & SHELF  
DETAILED SIDE ELEVATION- REF D



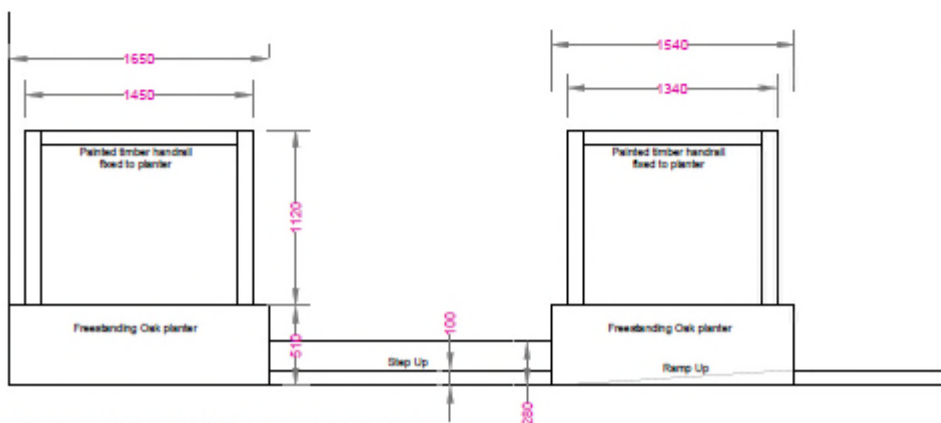
OAK PLANTER & SHELF  
DETAILED PLAN - REF D



OAK PLANTER & HANDRAIL DETAILED PLAN - REF E



PLANTER & HANDRAIL DETAILED FRONT ELEVATION- REF E



PLANTER & HANDRAIL DETAILED REAR ELEVATION- REF E