

Application Number	21/01127/REM
Site Address	55 Sidbury, Worcester WR1 2HU
Description of Development	Amend condition 2 of permission P14D0330 for the erection of a side extension to the restaurant
Expiry Date	4 March 2022
Applicant	Burgoyne Property Investments Ltd
Agent	Mr Philip Rawle
Case Officer	Tom Gabriel
	thomas.gabriel@worcester.gov.uk
Ward Member(s)	Cathedral Ward
Reason for Referral to Committee	Called in by Cllr Denham
Key Issues	The principle of development, whether the proposal would be sustainable form of development having regard to the 3 dimensions of sustainable development in terms of its economic role, social role and environmental role and whether the reason for refusal of the previous application on the site has been addressed.
Web link to application	https://plan.worcester.gov.uk/Planning/Display/21/01127/REM
Recommendation	The Corporate Director - Planning and Governance recommends that the Planning Committee grants planning permission subject to the conditions set out in section 9 of this report

1. Background

- 1.1 The application was registered on 13 December 2021 and is due for a decision on 7 February 2022.
- 1.2 The application has been referred to the Planning Committee at the request of Councillor Denham.

2. The site and surrounding area

- 2.1 The application site is located within the development boundary of Worcester.



Figure 1 – Site Location Plan

The application site

- 2.2 The application relates to a vacant restaurant/bar in an end of terrace location at the junction of Sidbury and City Walls Road. The area is mostly commercial in nature with the first floors of some properties being used for residential accommodation (eg the first floor of the neighbouring property at no. 57). There are also four flats in a converted building to rear at nos. 1-4 Amber Wharf. The application premises are within the Historic City Conservation Area. The property is not listed but adjoins a Grade II Listed Building (no. 57 Sidbury). Within the application site is a grassed landscaped area.
- 2.3 In 2014 planning permission was granted for a side extension to the restaurant on the landscaped area (application P14K0330). After reviewing evidence supplied by the applicants, it has been agreed that a legal commencement has been made on application P14D0330 which gave permission for a side/ rear extension to the restaurant.
- 2.4 The site is within the Worcester Air Quality Management Consultation Area and an Archaeological Sensitive Area and is in Flood Zone 1.

3. The proposal

- 3.1 The application is for an amendment to condition 2 of P14K0330 (the approved plans) to allow for revised proposals showing an extended roof terrace with a glazed balustrade, a small extension and relocated toilets. The amendments would involve the following;

- the extension of the roof terrace from 12 sqm immediately to the rear of the existing mezzanine dining area to approximately 110 sqm over the single storey side extension;
- the extension of the glazed balustrading at first floor level around the first floor seating/ dining area;
- the relocation of the toilets from within the building to adjacent to the northern boundary of the site, towards the rear of the property;
- amendments to the fenestration on the side and rear elevations of the building.
- the demolition of a section of wall to the rear of the site parallel with the southern boundary of the site; and
- the relocation of the entrance door

3.2 The proposals would allow for a much-extended roof terrace for diners/ drinkers over the single storey roof of the proposed extension/rear wing, on an area previously defined in the original application, P14D0330, as a single ply membrane roof flat roof. In addition, the rear yard area that was originally intended for vehicle parking would be given over to diners/ drinkers.

3.3 The applicants argue that, in effect, they are only changing the approved plans to provide for the balustrading around the roof as there was no restriction placed on the original permission to prevent the roof being used as a terrace for customers; they also conclude that the toilet relocation is minor; and that a S73 application is the most appropriate submission. In the course of the application, they have supported this view with a legal opinion.

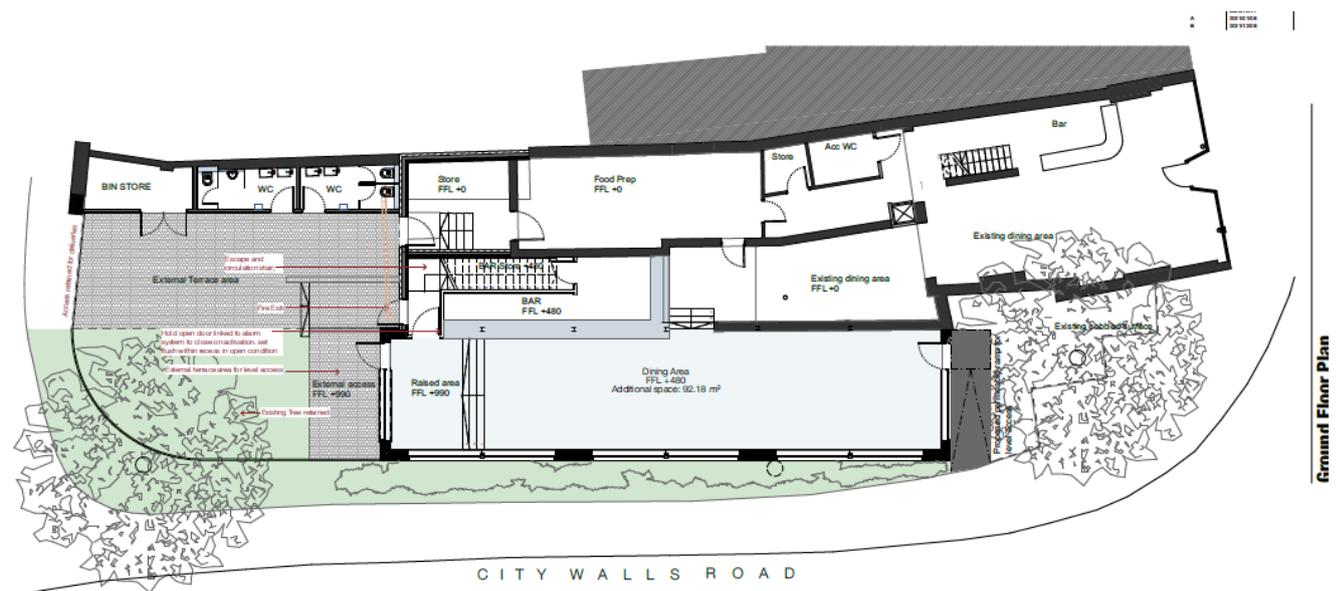


Figure 2 – Site Plan/Ground Floor Layout

The proposed layout

3.4 The application is accompanied by a full set of plans together with an extensive suite of supporting documents as follows:

- Planning Statement
- Noise Statement
- Plan 2090 Location Plan
- 1624 3100b Proposed Floor Plans and Elevations
- 2090 300b Proposed Ground Floor Plan
- 2090 3001b Proposed First and Second Floor Plans
- 2090 3002a Proposed Elevations

3.5 In accordance with Article 15 (7) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), full details of the application have been published on the Council's website. As such, Members will have had the opportunity to review the submitted plans and documents in order to familiarise themselves with the proposals prior to consideration and determination of the application accordingly.

4. Planning Policy

4.1 The Town and Country Planning Act 1990 ('the Act') establishes the legislative framework for consideration of this application. Section 70(2) of the Act requires the decision-maker in determining planning applications/ appeals to have regard to the Development Plan, insofar as it is material to the application/ appeal, and to any other material considerations. Where the Development Plan is material to the development proposal it must therefore be taken into account. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the application/ appeal to be determined in accordance with the Plan unless material considerations indicate otherwise.

4.2 The Development Plan for Worcester now comprises:

- The South Worcestershire Development Plan (SWDP) which was adopted February 2016, and;
- The Worcestershire Waste Core Strategy which was adopted December 2012.

South Worcestershire Development Plan

4.3 The following policies of the SWDP are considered to be relevant to the proposal:

SWDP 1	Overarching Sustainable Development Principles
SWDP 2	Development Strategy & Settlement Hierarchy
SWDP 4	Moving Around South Worcestershire
SWDP 6	Historic Environment
SWDP 21	Design
SWDP 24	Management of the Historic Environment

The Waste Core Strategy for Worcestershire - Adopted Waste Local Plan 2012-2027

4.4 The Waste Local Plan was adopted by Worcestershire County Council on 15 November 2012 and is a plan outlining how to manage all the waste produced in Worcestershire up to 2027. The following policies are relevant to this application:

WCS1	Presumption in Favour of Sustainable Development
WCS3	Re-use and Recycle
WCS17	Making Provision for Waste in New Development

Material Considerations

1. National Planning Policy Framework

2. National Planning Practice Guidance

3. Supplementary Planning Documents

4.5 The following Supplementary Planning Documents (SPD) are relevant to the application proposals:-

- South Worcestershire Design SPD
- Planning for Health in South Worcestershire SPD
- Renewable and Low Carbon Energy SPD

4. Worcestershire's Local Transport Plan (LTP4) 2018 – 2030

5. Worcestershire County Council Streetscape Design Guide

6. Relevant Legislation

4.6 The following legislation is also relevant and has been taken into account when considering this application:-

Town and Country Planning Act 1990 (as amended)

Planning Act 2008

Planning and Compulsory Purchase Act 2004

The Town and Country Planning (Development Management Procedure) (England) Order 2015

Localism Act 2011 - Section 143 (amending S70 of the Town and Country Planning Act 1990) regarding local finance considerations.

Growth and Infrastructure Act 2013

Human Rights Act 1998

Accessibility and Equalities Act 2010

Natural Environment and Rural Communities Act 2006

Wildlife and Countryside Act 1981 (as amended)

Conservation of Habitats and Species Regulations 2010

Flood and Water Management Act 2010

Water Frameworks Regulations 2011

Air Quality (England) 2000 Regulations

5. Planning History

5.1 P14D0330: Proposed side extension to restaurant. Approved 13 November 2014

20/00724/REM Amend condition 2 of permission P14D0330 for erection of side extension to restaurant. Refused 16 November 2021 on the grounds that the increased levels of noise, disturbance and overlooking and the resultant loss of privacy would have an adverse impact upon the occupiers of the neighbouring and nearby properties.

Other related applications:

L06D0006 - Demolition of rear ground and first floor extension buildings due to poor state of repair and to improve floor levels to first floor areas. Approved 6 April 2006

P06D0032 - Proposed refurbishment (involving part demolition) and extension works involving change of use from retail to restaurant. Approved 6 April 2006

P09D0250 - Retention of unauthorised fire escape stair and walkway, cold store, two sheds to rear of property. Retention of three lights on front elevation. Approved 9 September 2009

P09D0415 - Variation of condition 10 of planning approval P06D0032, to allow the opening of the premises between 09:00 to 01:00 Monday to Thursday, 09:00 to 02:00 Friday to Saturday, and 09:00 to 00:30 on Sundays. Refused 7 January 2010

P11D0218 - Proposed removal of condition 11 (Personal Permission) on planning approval P06D0032. Approved 22 June 2011

P12D0221 - Metal frame pergola and hedge planting to side elevation to form outdoor seating area. Creation of new window and door openings to side elevation. Approved 20 June 2012

6. Consultations

6.1 Formal consultation, including the display of site notices, has been undertaken in respect of the application. The following comments from statutory and non-statutory consultees have been received in relation to the proposal and are summarised as follows:

Neighbours and other third party comments: Four letters of comment and objection have been received from residents of some of the surrounding properties that are summarised as follows:

- The Planning Policy Framework has three key objectives, two of which are social and environmental. Neither of these are considered in the plan or amended plan at 55 Sidbury;
- The planning office has failed in its duty of care to residents and the area's environment;
- The application would fail in the conservation and enhancement of the natural, built, and historic environment, including landscapes and green infrastructure;
- The existing neighbourhood has not been taken into consideration. This is a residential area. There should be an independent examination of basic conditions for residents and not done by the property owner's architects;
- Any planning application should not undermine the safety and well-being of the residents;
- The new toilet block would block the fire escape;
- The drinking area in the premises has previously been extended: how would staff control such a large drinking area?;
- Adverse neighbour impact;
- The premises are often overcrowded and have received complaints of noise, and
- The boundary wall between 55 and 57 Sidbury is old and fragile. Given its condition, it may need investigating.

Cllr Denham: This is another site with a long and fairly tortuous history, involving planning officers and Worcestershire Regulatory Services, as well as local Councillors. I am unable to judge the technical arguments within the planning statement for this latest application.

I think I expressed my concern about the previous application in October 2020 to change Condition 2 of the 2014 approval. This looks like another attempt to get a considerable change to the original permission and undermine the carefully negotiations and mitigations of the past.

If you are minded to approve the substance of this application - changing the location of toilets, increasing the use of the roof garden and any new permission for outdoor activities - I would like to call this in to the Planning Committee.

Worcester Regulatory Services (Air Quality): No adverse comments.

Worcester Regulatory Services (Noise): Patron Noise: The submitted noise statement suggests that noise from patrons on the proposed first floor terrace should not adversely impact sensitive receptors at 1-4 Amber Wharf and 57 Sidbury due to the screening effect of the proposed 2.4m high wall adjacent to 57 Sidbury and the general level of road traffic noise masking noise impacting the façade of 1-4 Amber Wharf. This does not appear an unreasonable suggestion, although the noise statement does not consider specifically how average nor maximum noise levels, from raised voices, may impact these identified sensitive receptors especially towards the end of the daytime period (before 23:00 hours) when noise from road traffic would offer less of a masking effect. However, as patron noise is not a predictable noise source it will be the responsibility of the site management to ensure that noise from the first floor terrace is monitored and appropriate measures taken if patrons are considered to be acting unreasonably such that their behaviour is likely to give rise to complaints of noise nuisance.

External Plant / Equipment Noise: The applicant should state where the chilling system(s), associated with the relocated cold store, is proposed to be located and predicted noise level(s) for further comment.

Therefore WRS has no objection to the application in terms of noise.

Landscape Officer: No objection.

Conservation Officer: The starting point for commenting upon the latest proposals has to be the original consent from 2014, upon which, reputedly, a sufficient start has been made for it to be built as approved.

It is therefore somewhat perplexing, and a missed opportunity, that the submitted proposed plans do not have the outlines of the consented scheme upon them. This would have made comparison of the differences between the two schemes much easier to appreciate. Simply stating – as here – that there would be such-and-such an increase in area is not the same.

Overall, it is difficult to comment upon the current proposals as had I been in a position to comment upon the 2014 scheme I would have objected to it.

However, the above could be built and the question becomes one of the additional impact of the revised scheme over and above this.

Therefore, on this basis, I find it hard to sustain an objection to the revised scheme. I recommend an appropriate materials condition.

7. Planning Assessment

- 7.1 The issue for consideration in this application are whether the reasons for refusal for the previous application on the site have been addressed in the re-submission. These issues are:
- Whether permission is specifically required for the use of the roof of the extension for using as a terrace
 - The impact to neighbours in terms of noise and disturbance
 - The impact to neighbours in terms of the potential for overlooking and loss of privacy
 - The acceptability of the relocated toilet block

- The acceptability of the amendments to the fenestration in the side and rear elevations and the introduction of the glazed balustrading around the roof terrace
- The acceptability of the loss of the rear parking area to a customer drinking area

Minor Amendment (S73) considerations

- 7.2 This application seeks to amend the plans approved under P14D0330 and the application has therefore been submitted under Section 73 of the Town and Country Planning Act 1990 that allows an application to be made to vary conditions associated with a planning permission. Section 73 of the Town and Country Planning Act confirms that on such applications the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted, and:
- (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and;
- (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.
- 7.3 Thus, it is possible to apply for conditions to be struck out, or for their modification or relaxation.
- 7.4 However, to ensure decision making is robust, Local Planning Authorities should focus their attention on national and development plan policies, conditions attached to the existing permission and other material considerations which may have changed significantly since the original grant of permission. A successful application to amend conditions results in the issue of what is in effect a new planning permission but does not cancel the old permission.
- 7.5 It should be noted that the original planning permission will continue to exist whatever the outcome of the application under section 73. To assist with clarity, decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. In granting permission under section 73 the Local Planning Authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission. (Any pre-commencement conditions may not be imposed without the written agreement of the applicant to the terms of the condition (except in the circumstances set out in the Town and Country Planning (Pre-commencement Conditions) Regulations 2018)).
- 7.6 With regard to Section 73 applications, pertinent advice is given at paragraphs 13 – 18 of NPPG: Flexible Options for Planning Permissions under the heading: 'Amending the conditions attached to a permission including seeking minor material amendments'.

- 7.7 Further guidance is contained in NPPG: Use of Planning Conditions. Paragraph 31 advises that in deciding an application under section 73 of the Town and Country Planning Act 1990, the local planning authority must only consider the conditions that are the subject of the application – it is not a complete re-consideration of the application. A local planning authority's decision to refuse an application under section 73 can be appealed to the Secretary of State, who will also only consider the condition/s in question.

Whether permission is specifically required for the use of the roof of the extension for using as a terrace

- 7.8 The approved plans of the original permission on the site (ref. P14D0330) identified a roof terrace of 12 sqm. While there was no condition imposed upon that permission which specifically restricted the use of the remainder of the roof of the extension (an additional 111 sqm) from being used as a terrace, the plans clearly did not show that this was intended to be the case. The agent for the application consider that permission is not required for the use of the terrace as a seating area for patrons as there was no restriction placed on the original permission to prevent the roof being used in such a manner.
- 7.9 However, the Council's opinion is that the area of the terrace for sitting out on is clearly marked out on the plans and therefore the use of the remainder of the roof of the extension for sitting out on is not permitted by the extant permission. This was identified in an e mail from the Council to the agent for the application, dated 30 September 2021 (extract included as Appendix 1 to this report).

Impact on neighbours – Noise and Disturbance:

- 7.10 The potential impacts arising from the proposed development are capable of being a material planning consideration, in so far as they arise or may arise from or may affect any land use by the introduction of noise generating activities in proximity to noise sensitive land uses.
- 7.11 There are a number of matters to be considered with regard to the impact of the proposal upon the amenity of adjoining land users. The first is that there is long-established residential use of the upper floor of the adjoining building at 57 Sidbury and there are also self-contained flats on the upper floors of nearby properties at 59, 61 and 63a Sidbury to the east of the application site, together with residential properties nearby at Amber Wharf (to the east of the site). As such, it is therefore imperative that these residents do not suffer loss of accustomed amenity. Of direct relevance here is noise from patrons using the extended roof terrace, as well as the courtyard, and/ or from any music played which also must be balanced with regard to noise and disturbance from road traffic and the existing approved arrangements.
- 7.12 At the time of the previous application on the site for the variation of condition 2 of planning permission P14D0330, it was considered that the nature and scale of the proposed changes were unacceptable. By increasing the roof terrace by such a significant extent over a flat roof that was clearly not originally intended for such use, the proposals would, it was considered, have significant potential to cause noise and disturbance to adjacent residential occupiers.
- 7.13 Following the previous refusal, the new application, in addition to the amended design, has been supported by a Noise Assessment. The Assessment has been reviewed by Worcester Regulatory Services and it is considered that the nearest noise sensitive receptors at 57 Sidbury and 1- 4 Amber Wharf would not be adversely impacted upon by the proposal due to the noise mitigating effect of the proposed 2.4m high wall which is to be provided within the development, immediately adjacent to the roof terrace.

It is felt that this is a reasonable consideration given the noise backdrop of the adjacent City Walls Road which is a heavily used traffic route within the city (though the masking effect of this noise would be less later in the evening as the amount of traffic travelling along the road reduces). While it is noted that the noise arising from the use of the terrace by patrons of the premises would not be uniform and at times may be rather louder than at other times, it is not possible to control this by condition. However, as patron noise is not a predictable noise source, it will be the responsibility of the site management to ensure that noise from the roof terrace is monitored and appropriate measures taken if patrons are considered to be acting unreasonably such that their behaviour is likely to give rise to complaints of noise nuisance. Should the application be granted and implemented and the Council subsequently receives complaints of noise nuisance in conjunction with the use of the roof terrace of the premises, these would be investigated under the nuisance provisions of the Environmental Protection Act 1990.

- 7.14 With regard to the proposed cold room, while no details of the chilling systems associated with it have been provided with the application, it would be possible to condition that these details be submitted to the Local Planning Authority, along with any details of noise mitigation, in order that this element of the proposal does not harm the amenities of the occupiers of the neighbouring and nearby residential properties.

Impact on Neighbours – Privacy and Overlooking

- 7.15 At the time of the previous application on the site, concern was raised that the proposals would result in an unacceptable loss of privacy to the adjacent residential occupiers from actual and the perception of overlooking by patrons using the enlarged roof terrace. In particular, those patrons of 55 Sidbury who would choose to sit out at the end of the roof terrace, looking back (in a south- westerly direction) towards the main element of the building would have the opportunity of looking into the rear garden of 57 Sidbury and that part of the garden immediately to the rear of the building. This is an area where residents may wish to sit outside: the impact upon them would be exacerbated by late night opening hours of the premises at 55, well into the evenings, and particularly during the summer months when the potential for harmful overlooking would be greater.
- 7.16 Moreover, in the original proposals there would be the potential for looking into the first floor windows of the building at 57, with the resultant greater loss of privacy and amenity. Accordingly, the development would have had an adverse impact upon the amenities of the occupiers of the neighbouring property at 57 Sidbury. However, this has been addressed in the current application through the provision of a 2.4m high wall on the south eastern edge of the proposed terrace, parallel with the boundary of the site with 57 Sidbury. It is considered that this would prevent overlooking across the rear of 57 to sufficient a degree so as to not harm the amenities of the occupiers of that property. As well as a visual barrier, the proposed wall would act as an acoustic barrier as it would provide a degree of noise attenuation as well. Given that the proposed 2.4m high wall would be sited around 3.3m from the boundary with 57 Sidbury, it is not considered that it would have an adverse impact upon the outlook or the amenities of the occupiers of that property.
- 7.17 The proposed development would also have an acceptable impact upon the dwellings at 1- 4 Amber Wharf (the terrace of properties to the east of the site) and the other properties along Sidbury due to the distances involved, in terms of both overlooking and loss of privacy and noise. The properties on the opposite side of City Walls Road would not be adversely affected by the proposal either for the same reasons.



Figure 3 – Proposed Elevations

The acceptability of the loss of the rear parking area to a customer drinking area

7.21 The approved plans in the 2014 scheme on the site show two parking spaces in the rearmost part of the courtyard of the property. These were not conditioned to be retained as parking in that planning permission. The spaces accordingly need not be used as such and they therefore may be used as a customer standing and drinking area in the implementation of that permission. It is therefore considered that the use of the area for a standing and drinking areas as proposed in the current application raises no adverse issues as this would in effect replicate the existing permission on the site. Given that there is no condition requiring the parking spaces to be used as such, it is not considered reasonable to refuse the current application on the loss of them.

8. Conclusion and the Planning Balance

- 8.1 The proposed development would permit this currently vacant restaurant/bar to be used in a fuller and more efficient manner than permitted at the time of the previous permission on the site, through the use of the roof of the extension as a terrace for sitting out on by the patrons of the premises. The provision of the proposed 2.4m high wall of the south eastern edge of the terrace would prevent the overlooking of and the loss of privacy for the occupiers of the adjoining property at 57 Sidbury. It is not considered that the extra noise that would arise from the greater use of the site would result in materially greater harm to the amenities of the occupiers of 57, those of the other properties along Sidbury or those at 1- 4 Amber Wharf, given the background traffic noise in the vicinity of the site, as supported by Worcester Regulatory Services in their assessment of the Noise Assessment submitted with the application.
- 8.2 The amended location of the toilets in the proposed scheme, the amendments to the fenestration in the side and rear elevations of the building and the loss of the two car parking spaces in the rear courtyard of the building are considered to be limited and acceptable elements of the proposed scheme that would not have any harmful impacts upon the amenity of the occupiers of the neighbouring and surrounding properties or the character and appearance of the property, the street scene or the Historic City Conservation Area.
- 8.3 The loss of the parking spaces from the approved scheme on the site is not considered to be an issue as they did not need to be provided or retained in accordance with that permission.

- 8.4 The development is in accordance with the aims of the National Planning Policy Framework which promotes the maximisation of the use of land.
- 8.5 The application is therefore considered to be in compliance with Policies SWDP 1, SWDP 2 and SWDP 21 of the South Worcestershire Development Plan 2016, the South Worcestershire Design Guide 2018 and the National Planning Policy Framework 2021.

9. Recommended Conditions

9.1 In the event that members resolve to grant planning permission the following conditions are recommended:

1. The development hereby permitted shall be carried out and completed in accordance with the following approved plans and associated documents and the specifications and recommendations contained therein, except where otherwise stipulated by conditions attached to this permission

2090 1000 Site Location Plan
1624 3100b Proposed Floor Plans and Elevations
2090 300b Existing Ground Floor Plan
2090 3001b First and Second Floor Plans
2090 3002a Elevations
Design and Access Statement
Danesbury House, Sidbury Noise Statement

Reason: To ensure compliance with the approved scheme

2. No building operations hereby permitted shall commence until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority.

The development shall be carried out using the materials as approved.

Reason - To ensure that the new materials are in keeping with the surroundings and/or represent quality design in accordance with policy SWDP21 of the South Worcestershire Development Plan.

3. The external terrace shall only be used in conjunction with the restaurant use hereby approved and shall not be used at any other times.

Reason: In the interests of the amenities of the neighbouring properties.

4. a) Prior to the installation of the chiller unit, details of the location, size and specification and associated acoustic enclosure shall be submitted to and agreed in writing by the Local Planning Authority.
b) Within one month of the date that all plant and equipment hereby approved has been installed and is operationally functioning, a post completion noise assessment shall be conducted in accordance with the provisions of BS 4142 :2014 'Methods for rating and assessing industrial and commercial sound' (or any succeeding best practice or guidance) to ensure that the noise level being generated does not exceed recommended rating levels stipulated in section 5.7 of WRS Technical Planning Guidance Document. Details of the testing methodology shall be submitted to and approved by the Local Planning Authority before any testing is conducted on the site.
c) The testing results and details of any additional and/or amended noise mitigation measures to be employed, including the timescale for implementation, shall be submitted to and approved by the Local Planning Authority

d) The approved mitigation shall be implemented, maintained and retained in accordance with the agreed details.

Reason: To safeguard the amenities of neighbouring residents in accordance with policy SWDP 21 of the South Worcestershire Development Plan 2016 and the aims and interests that the National Planning Policy seeks to protect and promote with regard to amenity.

APPENDIX 1

Extract of the e mail dated 30 September 2021 from the Council's Legal Department to the agent for the application.

"I have now had an opportunity to review your correspondence together with the documents submitted with the original application P14D0330 and the reports to planning committee.

It is clear from the original submission that the original proposal did not include a roof terrace on the whole of the flat roof of the proposed extension. The original plans clearly identified a roof terrace of 50 sqm. During the consideration of the matter at the Planning Committee on 23rd October 2014, Members raised concerns regarding the size, scale and design of the proposed development and the impact of the proposed roof terrace on neighbouring residents' amenities, particularly the adjoining property at 57 Sidbury. As a result, the application was deferred to allow the applicant to submit amended proposals. The proposals were revised and new plans were submitted. The revised proposals in addition to a reduction in the size of the extension from 130 sq.m to 123 sq.m clearly identified a significant reduction in the roof terrace from 50 sq.m to 12 sq.m. As the revised roof terrace only projected up to the rear two-storey element of the existing building, the proposed new wall to prevent any overlooking towards the neighbouring property of 'Charlies' Café bar was also significantly reduced. The revised proposals were approved by Planning Committee on 13th November 2014 and were conditioned by Condition 2 of that permission. I do not concur with your Counsel's opinion that the permission granted permits a roof terrace over the whole of the flat roof extension.

I note that the plans submitted with the current S73 application show a revised roof terrace of 123 sqm (effectively over the whole of the extension) being an additional 111 sqm, which is introducing a roof terrace in an area outside that permitted by the extant planning permission."