

SCHEDULE A: Applications with Recommendation

19/0243

Item No: 02

Date of Committee: 14/02/2020

Appn Ref No:
19/0243

Applicant:
Mr Mayer

Parish:
Dalston

Agent:
Sam Greig Planning

Ward:
Dalston & Burgh

Location: Dalston Hall Hotel, Dalston, Carlisle, CA5 7JX

Proposal: Erection Of A Marquee Without Compliance With Condition 2 Imposed By Planning Permission 14/0680 To Grant Permission For A Further 5 Years

Date of Receipt:
22/03/2019

Statutory Expiry Date
17/05/2019

26 Week Determination

REPORT

Case Officer: Suzanne Osborne

1. Recommendation

1.1 It is recommended that this application is approved with conditions.

2. Main Issues

2.1 The principle of development;

2.2 Whether the retention of the marquee for a further 5 year period would impact upon the setting of the adjacent Grade II* listed building;

2.3 Whether the retention of the marquee for a further 5 year period would have an adverse impact upon the living conditions of neighbouring residents;

2.4 Whether the retention of the marquee for a further 5 year period would have an adverse impact upon archaeology, trees, drainage, contamination and highway safety; and,

2.5 Other matters.

3. Application Details

The Site

3.1 Dalston Hall Hotel is a visually impressive Grade II* Listed Building with its

medieval Tower House creating a dominant element, together with its 18th and 19th century additions. The property is located on the eastern side of the B5299 Carlisle to Dalston Road, approximately 193 metres from the unadopted access which leads from the B5299. The unadopted access road also serves Dalston Hall Golf Club/Caravan Park together with Holly Lodge, a residential dwelling located towards the entrance off the B5299. The north, east and southern peripheries of the hotel are surrounded by Dalston Hall Golf Club/Caravan Park. The hotel is however situated at a lower level to Dalston Hall Caravan Park due to the typography of the land. Dalston Hall Hotel principally has a woodland setting which overlooks part of the Golf Course and Caravan site.

Background

- 3.2 On the 11th April 2014 planning permission was granted for a part retrospective application for the erection of a marquee in the grounds of Dalston Hall (planning reference 14/0101). The application was approved subject to a number of planning conditions including condition 1 which granted temporary permission for a period of 5 years.
- 3.3 The marquee approved under application 14/0101 was to be positioned towards the eastern boundary of the hall out with its formal gardens. The marquee was to have a footprint of 450 square metres with an eaves height of 3 metres and a ridge height of 5.4 metres. An entrance area (totalling 25 square metres) was to be located on the western side of the marquee and the marquee was proposed to have insulated side panels with no visibility through the panels to the north, south and east elevations. The roof was to be constructed from translucent white PVC material. The marquee was to be fixed to the ground by concrete pads and the floor covering of the marquee was to consist of timber boards. A hard standing outside of the marquee (to the west) was also proposed the materials of which were subject to a planning condition.
- 3.4 Following approval of application 14/0101 it transpired that the marquee had not been constructed in accordance with the approved plans namely the entrance porch on the west elevation had been omitted, the roof had a slight overhang with a fully glazed wall on the west elevation, positioned at an angle, and the walls on the south elevation were fully glazed. Additional hard standings has been constructed to the west and south of the marquee with an ancillary store constructed to the rear. A variation of condition application (reference 14/0680) was submitted to rectify this situation.
- 3.5 Application 14/0680 sought approval to vary condition 2 (the approved documents) of planning approval 14/0101 to include:
- the omission of the entrance porch on the west elevation;
 - the redesign of the marquee to include the slight overhang to the roof along the west elevation with the glazed wall positioned off vertical, the omission of the panelling on the south elevation of the marquee and the installation of a fully glazed wall on this elevation including additional sets of doors on the north and south elevations;

- the inclusion of a white metal toilet block to the south east elevation (to address neighbours concerns which were raised for the previous application regarding noise from patrons passing from the marquee to the hall to use the toilet facilities);
- alterations to the position and extent of the paved terrace which wraps around the west and south elevations of the marquee;
- inclusion of a white metal ancillary store to the south east elevation of the marquee to house an internal heating and cooling system to blow hot and cold air into the marquee to regulate the temperature during periods of warmer/colder weather. The store was to have an external 300mm flue and two fans;
- Additional fencing to screen the proposed patio areas.
- Alterations to existing banking to the rear of the marquee including new retaining wall to accommodate a toilet block and storage area

3.6 Application 14/0680 was approved by Members of the Development Control Committee on the 12th December 2014 subject to a number of conditions including condition 2 which stated:

*"The development shall be carried out in accordance with conditions attached to the "Full" application 14/0101 with the exception of conditions 3, 4 and 5.
Reason: For the avoidance of doubt."*

The Proposal

3.7 The current application which is before Members is a variation of condition application which seeks approval to vary condition 2 of planning approval 14/0680 to grant permission for the marquee for a further 5 year period.

3.8 The application is accompanied by an explanatory statement the contents of which is discussed later within this report.

4. Summary of Representations

4.1 This application has been advertised by the display of a site notice, press notice and by means of notifications letters sent to 12 neighbouring properties/interested parties. During the consultation period 14 letters of objection have been received.

4.2 The letters of objection are summarised as follows:

1. patrons and owners of Dalston Hall Caravan Park are subject to loud noise coming from the marquee from early afternoon until early hours of the morning which includes noise from live groups, recorded music and djs as well as noise from patrons congregating at circulation points outside the marquee;
2. noise impacts resulting from marquee doors being left open, movement of patrons from the marquee to the hall as the approved toilets to the rear of the hall have not been constructed and movement of patrons to and from the site;

3. noise impacts from external speaker system on hotel;
4. noise impacts within and outside the site from patrons laughing, talking screaming and shouting, opening/shutting of car doors, horns beeping, engines revving and beeping of buses reversing;
5. patrons and owners of Dalston Hall Caravan Park, including their pets, are subject to disturbance from fireworks of an industrial scale being set off late at night;
6. noise and anti-social problems has resulted in an incident involving the police and owner of Dalston Hall Caravan Park employing their own security staff;
7. numerous complaints have been made to the Council's Environmental Services Department and Licensing regarding noise;
8. a writ was ordered against Dalston Hall Hotel but was withdrawn due to technical reasons;
9. queries regarding the Noise Management Plan for Dalston Hall which was released April 2018;
10. the nearest residence is higher than the marquee and the noise measuring point in the Noise Management Plan;
11. noise readings taken after 11pm in the nearest residential property have been higher than WHO recommendations of 24-29db as stated in the Noise Management Plan;
12. levels in excess of 40dB and 48dB have been recorded in neighbouring property after 11pm at night;
13. no noise improvement has been made since the introduction of the Noise Management Plan;
14. residents of neighbouring property are experiencing disturbed sleep which is below the WHO guidelines of 7-9 hours a night;
15. patrons of Dalston Hall Caravan park have complained to the owner of the caravan park numerous times about excessive noise;
16. a patron of Dalston Hall Caravan Park has relocated their holiday home across the park but this has not fully solved the issue;
17. structure of marquee provides no soundproofing;
18. owner of Dalston Hall Caravan Park has requested noise reduction but to no avail;
19. a permanent structure would not cure all noise problems but would reduce loud music;
20. loud music should be curtailed at 11pm which may reduce late night noise of people leaving in the early hours;
21. concerts at Carlisle Racecourse finish at 10:30pm in comparison to events at the Hall which continue well into the early hours of the morning
22. firework displays do not conform to HSE standards;
23. anti-social behaviour from patrons entering and leaving the premises as well as from drunk patrons of the marquee shouting, singing, screaming and urinating in hedges of a neighbouring property;
24. conflict between patrons trying to access Dalston Hall Caravan Park and traffic from car/buses entering, existing and disembarking from Dalston Hall Hotel;
25. coach drivers do not utilise the coach park and park on the access road and the driveway outside of the neighbouring property;
26. parking problems from coaches parking on over spill car park/cars parking on coach park;

27. historically buses used to stop on Dalston Road for guests to disembark;
28. highway safety from speed of cars arriving at the hall;
29. extra new parking had to be sought despite assurances there was adequate parking facilities;
30. main access is in ownership of Dalston Hall Caravan Park and Dalston Hall Hotel only have a right of access;
31. patrons of Dalston Hall Caravan Park are reducing number of visits due to excessive noise levels experienced;
32. when marquee is in use sanitary system/sewage treatment plant cannot cope;
33. discoloured water discharged from the treatment plant;
34. water sampling should take place on a weekend;
35. query if there is enough toilet facilities on site for number of patrons;
36. surface and rainwater does not run into a soakaway but onto neighbouring land;
37. external condition of marquee;
38. marquee not in keeping with the surrounding area;
39. health and well being impacts;
40. the two adjacent businesses appeal to different clientele, the hall aims at music, song and dance where as the caravan park aims at peace and tranquility.
41. impact upon the adjacent business
42. noise from functions taking place at the hall/marquee disturbs tranquility of Dalston Hall Caravan Park;
43. do not want marquee to be granted for a further 5 years;
44. concern that a further temporary consent will result in the marquee becoming a permanent structure; and
45. events that have taken place since current application was submitted are still causing noise nuisance and sewage problems.

5. Summary of Consultation Responses

Dalston Parish Council: - no observations however the parish council would like clarification of conditions listed.

Clarification has been provided and no further response has been received.

Cumbria County Council - (Highways & Lead Local Flood Authority): - no objection, standing advice received regarding sustainable drainage systems;

Cumbria County Council - (Archaeological Services): - no objection;

Historic England - North West Office: - do not wish to offer any comments;

Local Environment - Environmental Protection (former Comm Env Services- Env Quality): - object to the application.

In summary, none of the proposed actions from previous planning applications to limit noise from the use of the land as a marquee have been implemented by Hotel Management (double door system which was

approved as part of 14/0101 but omitted as part of 14/0680, the connected toilet block to the rear of the marquee and the reinstatement of the original entrance into the Hall as part of application 16/0190). A walkway from the overspill car park to the marquee from the hotel gardens would also reduce the disturbance of guests leaving the venue in the early hours of the morning.

Following the 2014 approval for the temporary permission of the Marquee the department has received a significant number of complaints of noise nuisance from the owners of the Dalston Hall Caravan Park, as well complaints from residents and unit owners staying in the caravans (40 separate complaints).

The complaints received have mainly been concerning loud music, from both live bands and recorded music, but have also included complaints of noise due to traffic movements, people making noise whilst arriving and leaving the venue, loud firework displays and general anti-social behaviour. As part of investigations, the department has witnessed unacceptable levels of noise disturbance from patrons leaving the premises in the early hours of the morning, to board buses parked in close proximity to the neighbouring property.

Before the introduction of the marquee, when events were only held within the main Hotel building, no complaints were received.

In August 2015, the department were satisfied from the evidence obtained during the investigations into the noise complaints, a statutory nuisance had occurred. This opinion was supported by the frequency and nature of the complaints received and the observations of officers when visiting the site and audio recordings taken during investigations. An abatement was duly served on Dalston Hall Limited prohibiting the likely recurrence of nuisance from the emission of amplified music from the marquee. An appeal was brought against the Council by Dalston Hall Ltd on several grounds including grounds that the notice was served on the wrong company. It was later established that the tenant and occupier of the premises was a separate company, 'Hot Chefs Limited', trading as 'Dalston Hall Hotel'. As a result, the authority withdrew the abatement notice. Following the withdrawal of Abatement Notice, dialogue with Hot Chefs Ltd ensued and agreement was made for the company to develop and implement a Noise Management Plan (NMP). As part of the NMP, maximum noise levels were agreed which ES believe would not cause nuisance to the permanent residence of the Caravan Park owner. This was submitted as a minor variation to the Dalston Hall Hotel Premises Licence operating schedule to promote the licensing objectives of preventing public nuisance.

Since the introduction of the NMP, the department has continued to receive complaints of noise nuisance associated with loud music from the marquee. Officers have attended the complainant's property on 4 occasions to witness events. Audio recordings of events made by the complainant using the departments calibrated equipment have shown that levels are have been kept within general compliance with the NMP. On one occasion some minor

exceedance of agreed noise levels was noted, but poor weather conditions may have influenced the recorded levels. The department has, however, made recordings of guests leaving the venue late at night, making considerable noise, shouting etc. The department also has evidence to indicate that doors to the marquee are being left open when amplified music is being played.

Further monitoring has not been able to be undertaken due to not suitable weather conditions for accurate assessment. ES is unaware of any evidence from the applicant which demonstrates compliance with the NMP.

Given the number and frequency of complaints over the years ES has serious concerns that the structure of the temporary marquee does not provide sufficient acoustic controls, or design features to enable the applicant to sufficiently manage the breakout of noise during functions.

Due to the variable nature of the events, with different numbers of guests, different live bands etc, the potential for noise nuisance does exist. Whilst the department has not been able to witness statutory nuisance, the noise levels at the functions clearly cause disturbance to residents in the caravans and the neighbouring property.

Holding functions within the marquee will continue to result in complaints being received by this department. A permanent extension to the hall would allow for better controls of noise disturbance from the use of the land.

Based on observations made by officers, noise recordings in the complainant's property and significant number of complaints over the last 5 years it is considered that events involving amplified music in the marquee will continue to cause likelihood of noise nuisance complaints. Application should be refused as design and management of the marquee do not prevent properties being put at unacceptable risk and being adversely affected by unacceptable levels of noise pollution.

Environment Agency (N Area (+ Waste Disp & Planning Liaison Team): - no response received.

6. Officer's Report

Assessment

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 6.2 The relevant planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG) together with Policies SP1, SP2, SP6, EC8, EC11, IP2, IP3, IP6, CC5, CM5, HE2, HE3, GI3 and GI6 of the Carlisle District Local Plan 2015-2030 (CDLP), and, the Dalston Parish Neighbourhood Plan

(DPNP) 2015-2030.

6.3 Other material considerations are Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 together with the Council's Supplementary Planning Document (SPD) adopted by the City Council 'Trees and Development'.

6.4 The proposal raises the following planning issues:

1. The Principle Of Development

6.5 The principle of the erection of a temporary marquee in the grounds of Dalston Hall was assessed and established as acceptable under applications 14/0101 and 14/0680 where the impact of the development upon the setting of the Grade II* Listed Building, the living conditions of neighbouring properties, archaeology, trees, parking/highway safety, drainage and contamination were considered. The current application seeks to vary condition 2 attached to application 14/0680 to enable the marquee that was granted temporary planning permission to be retained for a further five year period.

6.6 In the intervening period since the granting of planning applications 14/0101 and 14/0680 the revised National Planning Policy Framework (NPPF) has been published. The Carlisle District Local Plan 2015-2030 (CDLP) together with the Dalston Parish Neighbourhood Plan 2015-2030 (DPNP) have also been adopted. The revised NPPF still seeks to support a prosperous rural economy with paragraph 83 of the NPPF stating that planning decisions should enable a) the sustainable growth and expansion of all types of business in rural areas both through the conversion of existing buildings and well-designed new buildings; b) the development and diversification of agricultural and other land-based businesses; c) sustainable rural tourism and leisure developments which respect the character of the countryside; and d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

6.7 Policy EC11 of the Carlisle District Local Plan 2015-2030 which relates to rural diversification confirms that development proposals to diversify and expand upon the range of sustainable economic activities undertaken in rural areas will be supported and encouraged both through the conversion of existing buildings and well designed new buildings. Any new building must be well related to an existing group of buildings to minimise its impact and blend satisfactorily into the landscape through the use of suitable materials, design and siting. Policy EC11 goes onto state that proposals must: 1) be compatible with their rural setting; 2) be in keeping, in terms of scale and character, with the surrounding landscape and buildings, 3) include adequate access and car parking arrangements; and, 4) not lead to an increase in traffic levels beyond the capacity of the surrounding local highway network.

6.8 Policy EC9 of the CDLP 2015-2030 also indicates the support for proposals where they contribute towards the development and/or protection of the arts,

cultural, tourism and leisure offer of the District and support the economy of the area subject to compliance with the 3 criteria identified and other relevant planning policies.

- 6.9 Policy DNP-JE1 of the DPNP (Employment Development) states that proposals for the conversion of existing buildings or well designed new buildings for the sustainable growth and expansion of all types of business and enterprise (including land based rural businesses, sustainable rural tourism and leisure development) which respect the character of the countryside and local community facilities will be supported within existing settlements or adjacent to a group of buildings where there would be no significant adverse impact on the rural landscape, and, where they are compatible with surrounding uses and where there are no significant adverse residential or visual amenity impacts.
- 6.10 The retention of a marquee, used for functions, in the grounds of Dalston Hall Hotel, for a further 5 years would continue to support an existing established rural business and the wider rural economy. The application therefore raises no issues with regard to the principle of development.

2. Whether The Retention Of The Marquee For A Further 5 Year Period Would Impact Upon The Setting of the adjacent Grade II* Listed Building

- 6.11 Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 highlights the statutory duties of Local Planning Authorities whilst exercising of their powers in respect of listed buildings. The aforementioned section states that *"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State 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"*.
- 6.12 Accordingly, considerable importance and weight should be given to the desirability of preserving listed buildings and their settings when assessing this application. If the harm is found to be less than substantial, then any assessment should not ignore the overarching statutory duty imposed by section 66(1).
- 6.13 Paragraph 193 of the revised NPPF states that 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.
- 6.14 Paragraph 194 goes onto state that 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 assets of highest significance, such as Grade II* Listed Buildings, should be wholly exceptional.

- 6.15 Paragraph 195 of the NPPF outlines that where a development will lead to substantial harm (or total loss of significance of) a designated heritage asset local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve public benefits that outweigh that harm or loss, or all of the following apply:
- a) the nature of the heritage asset prevents all reasonable uses of the site; and
 - b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
 - c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
 - d) the harm or loss is outweighed by the benefit of bringing the site back into use
- 6.16 Paragraph 196 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.
- 6.17 Policy HE3 (Listed Buildings) of the Local Plan also indicates that listed buildings and their settings will be preserved and enhanced. Any harm to the significance of a listed building will only be justified where the public benefits of the proposal clearly outweighs the significance. The policy states that any new development within the curtilage or the setting of a Listed Building must have regard to: 1) the significance of the heritage asset, including its intrinsic architectural and historic interest and its contribution to the local distinctiveness and character of the District, 2) the setting of the asset and its contribution to the local scene; 3) the extent to which the proposed works would result in public benefits; 4) the present or future economic viability or function of the heritage asset; and 5) the preservation of the physical features of the building in particular scale, proportions, character and detailing (both internally and externally) and of any windows and doorways.
- a) the significance of the heritage asset and the contribution made by its setting
- 6.18 Dalston Hall is a medieval fortified House, now a hotel and was Listed at Grade II* in 1984. The listing details are as follows:

"Fortified house now hotel. Mid or late C15, dated by inscription below parapet: JOHN DALLSTON ELSABET MI WYF MAD YS BYLDYNG. West wing c1556 for Sir John Dalston, with central block of c1620; late C17 alterations and further extensions, dated 1899 on lead rainwater heads, by C.J Ferguson for E.W Stead. Large blocks of red and calciferous sandstone. Flat lead roofs on towers; graduated greenslate roofs on wings, ashlar chimney stacks. 3-storey C15 tower to right; 4-storey C16 tower to left, linked together by C16 wings and C19 extension to rear. Early tower has extremely thick walls on chamfered plinth with string courses and battlemented parapet. Angel stair turret projecting above parapet has 4 C15 carved shields of arms

of the Kirkbride and Dalston families. 2-light stone mullioned windows with rounded headed in round arch. Interior: stone vaulted basement, now library. Newel Staircase for full 3 storeys to roof. Ground floor inner yett of iron is C15. Bedroom above has mural recess: former fireplace cut through to form bathroom. Wing to left has plank door in roll-moulded architrave. 2- and 3-light stone mullioned windows in roll-moulded architraves. Roll-moulded cornice has cannon-like water spouts. Battlemented tower to left with similar 2- and 3-light windows. Side wall to right has corbelled-out semicircular stair turret from first floor to roof. C19 extensions have stone muillioned windows imitating the earlier work. C20 extension to extreme right is not of interest. Interior of C16 wing was extensively altered by C J Ferguson in Arts and Crafts style; banqueting hall inglenook with firehood of pewter dated 1900 with initials E.W.S. Ground floor room on extreme left has fireplace with William de Morgan tiles. "

6.19 Dalston Hall is a visually impressive and historic Grade II* Listed Building with its medieval Tower House creating a dominant element, together with its 18th and 19th century additions. It has part of its landscaped garden surviving but the re-alignment of the road altered much of this. The Hall has a woodland setting and walled gardens. The topography of the surrounding land is undulating resulting in the Hall and associated gardens situated on a lower level from the adjacent land which consists of part of a Golf Course and a Caravan Park.

6.20 By way of background there are over 374,000 listed buildings within England which are categorised as Grade I, Grade II* and Grade II. Grade I are of exceptional interest, sometimes considered to be internationally important, only 2.5% of Listed Buildings are Grade I. Grade II* Buildings are particularly important buildings of more than special interest, 5.5% of listed buildings are Grade II*. The final tier of Listed Buildings are Grade II buildings which are nationally important and of special interest.

b) the effect of the proposed development on the setting of the Grade II* Listed Building

6.21 The marquee has a footprint of 450 square metres with an eaves height of 3 metres and a ridge height of 5.4 metres. The marquee has insulated side PVC panels with no visibility through the panels to the north and east elevations. The walls on the west and south elevations are fully glazed with the walls on the west elevation positioned at an angle. The roof is constructed from translucent white PVC material and has a slight overhang on the west elevation. The building is fixed to the ground by concrete pads and the floor covering of the marquee consists of timber boards. Paved hard standings wrap around the west and south elevations of the marquee and a white metal ancillary store is constructed to the rear (east elevation) to house an internal heating and cooling system.

6.22 The marquee is situated in a relatively discrete location to the south-west of the hall away from its principle elevations and outside of its formal gardens. The marquee is viewed from the hall and associated gardens against the backdrop of existing mature trees. Views of the marquee from outside of the

site are limited due to the boundary treatment and typography of the land. Where views are afforded the marquee is seen through and along the backdrop of mature trees.

- 6.23 When assessing the impact of the marquee (proposed under applications 14/0101 and 14/0680) on the setting of the Grade II* Listed building the Council recognised that the PVCu materials for the marquee were alien to the historic fabric of the Grade II* Listed Building. The applicant however indicated that the marquee was a temporary facility to enable a permanent extension to the hall. In such circumstances and given the location of the marquee away from the principle elevations of the Grade II* Listed Building and outside its formal gardens together with the fact that the marquee would be viewed against the backdrop of mature trees with the land reinstated to its former use at the end of the temporary period the City Council considered that a temporary marquee within the grounds would not have a significant detrimental impact upon the setting of the hall to warrant refusal of the application. The City Council therefore imposed a 5 year temporary consent on applications 14/0101 and 14/0680 so that the Local Planning Authority could review the matter at the end of the limited period specified as the applicant indicated that the marquee was a temporary facility.
- 6.24 The current application is accompanied by an explanatory statement which confirms that the application does not propose any physical changes to the previously consented scheme (reference 14/0680) or any of the other planning conditions that were imposed by the Council. The statement states that the marquee was originally applied for as Dalston Hall Hotel had insufficient seating capacity within the "Great Hall" to cater for larger functions (the seating capacity was then limited to 150 persons). The limited seating capacity was resulting in an increased loss of business to those venues that have a greater seating capacity. The rationale for applying for the marquee was to reverse that trend and for income generated to contribute towards the cost of maintaining the built fabric of Dalston Hall, which is a Grade II* Listed Building.
- 6.25 The statement goes on to confirm that the applicant still has aspirations to provide a permanent function room however the applicant is not in a financial position to do so. The statement suggests that if a further temporary consent is not granted the Council has to weigh up the impact this could have upon the commercial success of Dalston Hall which in turn could impact upon its long term future and upkeep.
- 6.26 As confirmed in paragraph 6.23 the Council considered under applications 14/0101 and 14/0680 that the PVC materials for the marquee were alien to the Grade II* Listed Building however as the applicant indicated that the marquee was a temporary facility to generate sufficient funds to enable a permanent extension to the Hall with the land reinstated to how it was before the marquee was erected, the Council considered that the development would not have a significant detrimental impact upon the setting of the Grade II* Listed Building. Relevant conditions were imposed under applications 14/0101 and 14/0680 ensuring that the marquee is maintained in accordance with a maintenance schedule received 1st April 2014 to ensure that the

marquee was kept in a clean and tidy condition.

- 6.27 The explanatory statement provided by the applicant for the current application confirms that any consent granted for the marquee would only be of a temporary nature and the fact that a planning condition exists that requires the land to be reinstated to its former state following the removal of the marquee, it is clear that there would be no irreparable harm to the Grade II* Listed Building. The impact on the setting of the listed building continues to be limited and the benefits of the proposal continue to outweigh the harm.
- 6.28 In the intervening period since the explanatory statement has been submitted the applicant has furnished the Council with confidential financial information which clearly illustrates that the retention of the marquee is necessary to support the existing business and without the income from the marquee the business would not be in a financial position to support the general maintenance and upkeep of the Grade II* Listed Building. The upkeep of a Grade II* Listed Building is within the public interest therefore the current financial position of the business and the resulting impacts on the upkeep of the Grade II* Listed Building is a material planning consideration in the determination of the variation of condition application.
- 6.29 The Planning Practice Guidance (PPG) provides advice on the use of planning conditions. In terms of granting planning permission for a use for a temporary period only the PPG clarifies circumstances where a temporary permission may be appropriate including where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period. A temporary planning permission may also be appropriate to enable the temporary use of vacant land or buildings prior to any longer-term proposals coming forward (a 'meanwhile use'). The PPG goes on to confirm that it will be rarely justifiable to grant a second temporary permission (except in changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities). Further permissions can normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning permission will then be granted permanently.
- 6.30 The applicant has applied for a further temporary consent for the marquee for a period of 5 years. It has been accepted through the granting of the first temporary consent for the marquee, design as proposed under application 14/0680, that a temporary marquee within the grounds of Dalston Hall Hotel would not have a significant impact upon the setting of the Grade II* Listed Building due to its positioning away from the principle elevation of the Hall and outside the Hall's former gardens together with the temporary nature of the marquee which will result in the land being reinstated following its removal. Given the materials of the marquee, PVCu which are alien to the historic fabric of the Grade II* Listed Building, the Council is unlikely to support a permanent planning application for the marquee as a permanent marquee is likely to have substantial harm to the setting of the listed building by virtue of the materials proposed.

- 6.31 When assessing the current application it is evident that the marquee has been built as per planning approval 14/0680 albeit the proposed toilets to the rear of the marquee have never been erected. The financial position of the business was not disclosed to the Council at the time of the granting the original temporary consent however it is now clear from the figures provided that the business is not in a position at the moment to fund a permanent extension to the Hall. It is also evident that without the income from the marquee the business would not have the financial funds to enable the general upkeep and maintenance of the Hall. It has already been established, through the granting of the first temporary consent, that a temporary marquee would not have a permanent impact on the setting of the Hall however it is clear from Government advice in the PPG that it is rarely justifiable to grant a second temporary permission and further permissions should normally be granted permanently or refused. In this instance it is clear that there has been a change in circumstances since the Council first considered a temporary permission for a marquee within the grounds of Dalston Hall Hotel. The Council is now fully aware of the financial situation of the business and it is clear that the retention of the marquee would be intrinsic to the upkeep and maintenance of the Grade II* Listed Building as well as the long term future of the business. It therefore considered that in these particular circumstances a further temporary consent for the retention of the marquee could be granted as a Grade II* Listed Building is deemed to be an asset of highest significance and the limited harm that the marquee would have in the temporary period that the marquee would be erected would be outweighed by the public benefits that the proposal would create i.e. funds to ensure the general maintenance and upkeep of a Grade II* Listed Building which the business would currently not have if the marquee was not retained.
- 6.32 Legitimate concerns have been raised by objectors that if Members grant a further temporary consent for the marquee for a period of 5 years the applicant could then apply for a certificate of lawfulness as the marquee would of been in situ for 10 years. Legal advice has however been sought and this is not the case.
- 6.33 If Members are minded to grant the current application giving a further temporary consent for a period of 5 years and a subsequent application is submitted in the future for a further temporary consent the determination of this application would not create a precedent for approving further temporary consents as the Council would have to assess the particular circumstances at that time.
- 6.34 The applicant's agent in his explanatory statement has confirmed that the applicant shares the aspiration of the Council's long term preference for the marquee to be replaced with a permanent structure and that is on the basis on which an application for a further temporary consent is sought. The applicant's agent however suggests an alternative thought process which is to renew the temporary consent on a periodic basis. The benefit of which is that once the marquee is no longer required or the physical appearance of the marquee is such that it detracts from the setting of the Grade II* Listed Building the temporary consent will not be renewed and the grounds reinstated to how it was before the marquee was erected. In terms of

safeguarding the character and setting of the Listed Building in the long term there is a strong argument that this approach would provide the optimal solution as the character and setting of the building would be preserved as is without the need for a permanent extension. Whilst the design of any permanent extension will have to preserve and enhance the setting and character of the Listed Building the agent confirms that there are many examples across the country where Listed Buildings have been extended and those extensions have in retrospect not been regarded as a right solution. The agent believes that the existing flat roof dining room extension to Dalston Hall is such an example. Irrespective of which ever approach is deemed more favourable, the agent argues that there is a need for the retention of the marquee to support the on-going viability of Dalston Hall and to ensure that it remains commercially competitive with other venues.

- 6.35 With regard to the alternative thought process Members are reminded that commercial competition is not a material planning consideration. The Council's Heritage Officer has been consulted on the development and has confirmed that the impact of the marquee is not permanent, and should be viewed in light of the more permanent impacts of the approved, but lapsed extension application 05/0224 (LBC) and 05/0214 (full), abutting the east of the hotel. While the materials of the marquee - white PVCu in tent like design is not ideal, this is mitigated by the temporary nature of the installation and its lack of physical harm to the adjacent building or irreversible impacts. The structure does some less than substantial harm to the setting of the listed building, but this is balanced by the need for this large building to be in a sustainable use. While typically the renewal of a permission on multiple occasions would not be considered normal, and a permanent extension would be sought. It is suggested that in this instance, given the sensitivity of the Grade II* building, and the need for the hotel to maintain its commercial viability, the periodic renewal of the 5 year consent is entirely acceptable.
- 6.36 Historic England has also been consulted on the development and has confirmed that they do not wish to offer any comments.
- 6.37 Overall it is considered that a temporary marquee within the grounds of Dalston Hall Hotel would have less than substantial harm upon the setting of the Grade II* Listed Building due to its positioning away from the principle elevation of the Hall and outside the Hall's former gardens together with the temporary nature of the marquee which will result in the land being reinstated following its removal. In terms of weighing this harm against the public benefits of the proposal it is clear that the retention of the marquee would be intrinsic to the upkeep and maintenance of the Grade II* Listed Building, which is in the public interest as it is a historic asset of high significance. On balance it is considered that the limited harm that the marquee would have in the temporary period that the marquee would be retained (a further 5 year period) would be outweighed by the public benefits that the proposal would create i.e. funds to ensure the general maintenance and upkeep of a Grade II* Listed Building which the business would currently not have if the marquee was not retained.

3. Whether The Retention Of The Marquee For A Further 5 Year Period

Would Have An Adverse Impact Upon The Living Conditions Of Neighbouring Residents

- 6.38 Paragraph 180 of the NPPF states that planning decisions should ensure that new development is appropriate to its location taking into account the likely affect (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should 1) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development - and avoid noise giving rise to significant adverse impacts on health and the quality of life, 2) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 6.39 Paragraph 182 of the NPPF goes onto state that planning decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.
- 6.40 Policy EC8 (Food and Drink) of the CDLP also seeks to protect the amenity of adjacent users from food and drinking establishments. Furthermore Policy CM5 (Environmental and Amenity Protection) states that the Council will only support development which would not lead to an adverse impact on the environment or health or amenity of future or existing occupiers. Development will not be permitted where it would generate or result in exposure to, either during construction or completion, unacceptable levels of pollution (e.g. noise) which cannot be satisfactorily mitigated within the development proposal or by means of compliance with planning conditions.
- 6.41 Policy DNP-JE1 of the DPNP (Employment Development) also supports proposals for the conversion of existing buildings or well designed new buildings for the sustainable growth and expansion of all types of business and enterprise where they are compatible with surrounding uses and where there are no significant adverse residential or visual amenity impacts.
- 6.42 The north, east and southern peripheries of Dalston Hall Hotel are surrounded by Dalston Hall Golf Club/Caravan Park. The hotel is situated at a lower level to Dalston Hall Caravan Park due to the topography of the land and principally has a woodland setting which overlooks part of the Golf Course and Caravan site. The nearest residential properties to the hotel are "Lynwood Lodge" (where the owners of Dalston Hall Golf Club/Caravan Park reside) located approximately 119 metres to the north west of the marquee and "Holly Lodge" situated 220 metres to the west of the marquee.

- 6.43 As stated in paragraph 6.5 the impact of the marquee on the living conditions of the occupiers of neighbouring properties was assessed and established as acceptable under application 14/0680. To protect the living conditions of neighbouring properties relevant planning conditions were imposed on the consent ensuring that a sound monitor in the marquee is in situ at all times in direct sight of the music source and not obstructed by any solid objects/curtains, and, sound monitoring should take place at regular intervals during any event where amplified music is played within the marquee and such details shall be made available by the applicant to any Officers of the City Council on request, and, no external speakers should be attached to the marquee at any time.
- 6.44 Since the approval of application 14/0680 it is evident that the proposed connected toilet block to the back of the marquee has never been introduced and the Council's Environmental Services Department has received a significant number of complaints of noise nuisance from the owners of Dalston Hall Caravan Park as well as from unit holders staying in the caravans. To date 40 separate complaints have been received with the most recent being 10th September 2019. Environmental Services have confirmed that complaints have mainly been concerning loud music, from both live bands and recorded music, but have also included complaints of noise due to traffic movements, people making noise when arriving and leaving the venue, loud firework displays and general anti-social behaviour. As part of Environmental Services investigations the department witnessed unacceptable noise disturbance from patrons leaving the premises in the early hours of the morning to buses parked in close proximity to the neighbouring property. Evidence included audio recording through calibrated equipment installed at the neighbouring property and photographs and CCTV stills provided by the complainant.
- 6.45 Environmental Services have confirmed that prior to the introduction of the marquee, when events were held in the main hotel building, no complaints were received by the department. In August 2015 Environmental Services department were satisfied from evidence obtained during investigations into noise complaints that a statutory nuisance had occurred. This opinion was supported by the frequency and nature of the complaints received and observations by officers when visiting the site and audio recordings during investigations. For example during a monitoring visit by EHO on the 4th July 2015 music from the marquee was clearly audible within the grounds of the neighbouring property with individual songs and instruments being clearly distinguishable. An abatement was duly served on Dalston Hall Ltd prohibiting the likely recurrence of nuisance from the emission of amplified music from the marquee. An appeal was subsequently brought against the Council on several grounds including that the notice was served on the wrong company as it was later established that the tenant and occupier of the premise was "Hot Chefs Ltd" trading as "Dalston Hall Hotel". As a result Environmental Services withdrew the abatement notice.
- 6.46 Following the withdrawal of the abatement notice, dialogue with "Hot Chefs Ltd" ensued and agreement was made for the company to develop and implement a Noise Management Plan (NMP). Events held in the marquee

over the 29th July-1st August 2016 were monitored by the applicant's noise consultant and it was acknowledged that these noise levels did not generate a complaint from the neighbouring property and caravan users. As a result the recorded noise levels taken were used to formulate agreed levels before and after 11pm which the applicant detailed in the NMP. Environmental Services were satisfied that the agreed levels in the NMP would not cause a nuisance to the permanent residence of the Caravan Park owner. The NMP was later submitted on the 9th April 2018 by Hot Chefs Ltd as a minor variation to the premises licence for Dalston Hall Hotel to promote the licensing objectives of preventing public nuisance.

- 6.47 Environmental Services has confirmed that several assumptions were made in the NMP, including levels of music within the marquee being at the maximum allowable level of 95dB(A) and normal operating practices were in place during the event i.e. keeping doors closed etc. These assumptions were accepted by all parties including the neighbouring resident who was generally happy with the levels over that weekend. Environmental Services have however confirmed that since the introduction of the NMP the department has continued to receive complaints of noise nuisance associated with loud music from the marquee. As a result Environmental Services have attended the complainant's property four times to witness events. Audio recordings of events made by the complainant using the departments calibrated equipment have shown that levels have been kept within general compliance of the NMP. On once occasion some minor exceedance of the agreed noise levels were noted, but poor weather conditions may have influenced the recorded levels. Environmental Services has however confirmed that they have made recordings of guests leaving the venue late at night making considerable noise, shouting etc.
- 6.48 Environmental Services believe that management issues are responsible for a failure to continued compliance with the external sound levels in the NMP. For example they have evidence to indicate that doors to the marquee are being left open when amplified music is being played suggesting that the measures detailed in the NMP are not being adhered to or the heating/cooling system is not adequate for the purpose intended. Environmental Services has confirmed that due to the variable nature of events, with different numbers of guests, live bands etc the potential for noise nuisance does exist and whilst they have not been able to witness statutory nuisance the noise levels at the functions clearly cause disturbance to residents in the caravans and the neighbouring property. A recent complaint from a resident of the caravan park who stays every weekend from March-November confirmed that when ever there is a function at the Hotel they are unable to sit outside due to the noise and their sleep is disturbed into the night. This complaint is still under investigation however evidence suggests that noise from events in the marquee are having a detrimental effect on the caravan business.
- 6.49 Environmental Services have been unable to monitor further events due to weather conditions and have confirmed that they are unable to monitor every event to establish whether the application is operating within the parameters set out in the NMP as such action would have a significant impact on

resource for the department. They are unaware of any evidence from the applicant which demonstrates compliance with the NMP.

- 6.50 Based on observations made by Officers, noise levels and audio recordings taken within the complainant's property and the significant number of complaints received by the Authority over the past 5 years Environmental Services have objected to the current application to allow the retention of the marquee for further 5 years as they believe that the events involving amplified music within the marquee will continue to cause likelihood of noise complaints from the neighbouring resident and users of the caravan park. Environmental Services are therefore of the opinion that the application should be refused as the design and management of the marquee do not prevent nearby properties being put at unacceptable risk, and being adversely affected, by unacceptable levels of noise pollution.
- 6.51 Objectors to the current application have also raised similar noise concerns such as music emanating from the marquee, noise from patrons entering/ leaving events at the hall/marquee including from cars, buses turning, fireworks and anti-social behaviour.
- 6.52 When assessing the impact of the proposed application for the retention of the marquee for a further 5 years it is important to look at the fall back position and distinguish what could take place from the Hall if the marquee was not in situ. Members should then look at what development has taken place in the surrounding area since approval of the marquee and what specific issues the marquee is currently causing or could cause from the retention of a further 5 year period and determine whether the resulting impacts of the development on neighbouring residents are acceptable or could be made acceptable via the imposition of relevant planning conditions.
- 6.53 In terms of the fall back position it is accepted that Dalston Hall Hotel has been operating as a hotel/venue for events and weddings for a significant number of years and has no restriction on operating hours on the Premises Licence. It was established during consideration of application 14/0101 that the hotel, although limited to 150 patrons for weddings due to the size of the great hall where wedding reception dinners are held, has the capacity to accommodate 300 patrons during evening receptions. This was evidenced at the time by a copy of a Fire Risk Assessment which confirmed the existing capacity at the hall. Thus prior to the marquee, and if the marquee was not in situ, there could be up to 300 guests entering and leaving Dalston Hall Hotel during an event if the Hall was operating to its full capacity.
- 6.54 During consideration of both applications 14/0101 and 14/0680 it was established that the purpose of the marquee was to increase the seating capacity of the hall to prevent the loss of business to other venues with greater seating capacity and there was no intention to increase the available capacity of the hall itself. Therefore a relevant planning condition was imposed on application 14/0680 ensuring that the approved marquee shall not be used when a separate unrelated function is being held within Dalston Hall Hotel. Thereby ensuring that there was no increase in capacity at events taking place at Dalston Hall over and above what could take place as

existing. In consideration of the current application the agent has furnished the Council with a copy of the most up to date Fire Regulations Review (20th May 2019) which confirms no change to the capacity numbers. Thus it is clear that the marquee does not generate an increase in the number of patrons over and above what could take place without the marquee. Issues therefore of noise from patrons entering/leaving the premises could take place from Dalston Hall Hotel itself, if operating at full capacity, even if the current application for the retention of the marquee was refused.

- 6.55 In terms of noise and disturbance from fireworks being set off from the premises during an event this could also take place if events were being held in the Hall itself opposed to the marquee. The control of fireworks is governed by separate legislation which does not allow anyone to set off fireworks between 11pm and 7am, except on certain occasions (i.e. New Years Eve and Bonfire Night). Firework safety is also governed by the Health and Safety Executive.
- 6.56 In terms of anti-social behaviour resulting from patrons entering/leaving the premises this could also take place if the marquee was not there as it has been established that the marquee does not generate any additional patrons over and above what could take place if the Hall was operating to full capacity. Any anti-social behaviour from patrons entering/leaving the premises is a matter for the police to deal with.
- 6.57 If all of the aforementioned issues are consistently occurring (noise from patrons entering and leaving the premises/anti-social behaviour etc) then a responsible authority or any other person (such as the objectors to the current application) could call for a review of the premises licence if they believe a premises is not operating in a way that promotes the four licensing objectives of 1) preventing crime and disorder, 2) public safety, 3) the prevention of public nuisance, and, 4) the protection of children from harm.
- 6.58 In terms of what development has taken place within the vicinity of Dalston Hall Hotel since the erection of the marquee approved under application 14/0680 it is acknowledged that Dalston Hall Golf Club/Caravan Park was granted planning permission on the 16th May 2014 (reference 14/0124) for the erection of 16 additional holiday lodges on land to the north-east of the marquee which was implemented on the 1st July 2016. On 12th August 2016 planning permission was approved at the Golf Club/Caravan Park to vary the occupancy of 9 pitches approved in 2011 on land to the north-east of the marquee from 1st March-31st January to all year round use (reference 16/0476). Furthermore on the 24th October 2016 planning permission was approved to vary the occupancy of the 16 holiday lodges approved under application 16/0789 to all year round use. Given that all three of these applications have been implemented after the approval of application 14/0680 it is considered unreasonable to place any restrictions on the marquee at Dalston Hall Hotel with regard to the impact upon the 16 holiday lodges on the land to the north-east of the site as these were erected after the granting of the marquee. As per paragraph 183 of the NPPF it is up to the 'agent of change' to provide suitable mitigation.

- 6.59 In terms of the current application and noise emanating from the marquee itself i.e. from amplified music, patrons entering and leaving the marquee during an event and general noise from patrons within the marquee (talking, singing, shouting etc) it is appreciated that application 14/0680 had planning conditions attached to the approval ensuring that a sound monitor in the marquee is in situ at all times in direct sight of the music source and not obstructed by any solid objects/curtains, and, sound monitoring should take place at regular intervals during any event where amplified music is played within the marquee and such details shall be made available by the applicant to any Officers of the City Council on request, and, no external speakers should be attached to the marquee at any time. Furthermore, since application 14/0680 was approved Dalston Hall Hotel now has a Noise Management Plan attached to its Premises License (April 2018) to address potential noise issues from amplified and live music from events held in the marquee.
- 6.60 As stated in paragraph 6.46 events held in the marquee over the 29th July-1st August 2016 were monitored by the applicant's noise consultant and it was acknowledged that these noise levels did not generate a complaint from the neighbouring property and caravan users. As a result the recorded noise levels taken have been used to formulate agreed levels before and after 11pm which are detailed in the NMP. For example noise levels at the agreed monitoring position is to be no higher than 50dBLAeq, 15 minutes before 11pm and no higher than 43dBLAeq, 15 minutes +2dB to allow for variance after 11pm. With the benefit of distance attenuation this equates to 39dBLAeq, 15mins at the residential property at Dalston Hall Holiday Park after 11pm. If windows were open in the property then attenuation of around 10-15dB(A) would be achieved, resulting in internal levels between 24-29dBLAeq which is within current guideline criteria in BS8233:2014 and the WHO Guidelines for Community Noise for night time noise (currently defined as between 11pm and 7am).
- 6.61 The NMP also confirms that all doors in the marquee are self closing and windows are not capable of being opened. On events when live/amplified music is played at high volumes all doors for access and egress will be opened only for these purposes, and, kept open no longer than necessary. The NMP details that the sound system will cut out if a db reading of 95 is exceeded. The NMP also confirms that licensed events held at the Hall typically end at 1am on Friday and Saturday nights. Live bands will finish by 11pm and performance DJs should be controlled after 11pm and if it is possible to distinguish what the DJ is saying at the agreed monitoring location then corrective action should be taken if the agreed maximum noise levels are being exceeded. In terms of customer awareness the NMP states that security/hotel staff will be present when required at appropriate external locations (e.g. road leading to the designated car park/coach parking) up to one hour after an event ends to ensure dispersal takes place in an orderly and proper manner. Notices will be displayed on external doors and on the entrance to the car park asking customers to leave the premises in a quiet and orderly fashion and to respect neighbours. Verbal announcements prior to dispersal will also be made at the end of each night.

- 6.62 The NMP confirms that noise monitoring will take prior to 23:00 during an event and between 23:00-01:00 hours at the agreed monitoring location with all readings documented. Any complaints will be fully investigated by the site manager and where necessary and practicable, measures will be put in place to address the issue.
- 6.63 Although Environmental Services and objectors have objected to the retention of the marquee for a further five years on noise nuisance grounds no substantial evidence has been forwarded to Planning Services to illustrate that the agreed noise levels from the marquee in the NMP have been exceeded. As it has been accepted that the agreed noise levels detailed in the NMP did not generate a complaint from the neighbouring property and caravan users during events held in the marquee on the weekend of the 29th July-1st August 2016 it is evidenced that the marquee can operate within noise parameters acceptable to all parties.
- 6.64 It is acknowledged that since the introduction of the NMP Officers of the Council have witnessed doors to the marquee left open during an event. This is clearly a breach of the NMP which has been dealt with under the licensing regime as the closing of the marquee doors when patrons are not accessing/egressing the marquee is a requirement of the Premises License. Members should however be aware that since this breach occurred the applicant has subsequently confirmed that all doors on the marquee have been made self closing to prevent this happening again.
- 6.65 It is also appreciated that application 14/0680 introduced a number of amendments to the original application for the marquee 14/0101 one of which was to include a connected toilet block to the back of the marquee to reduce the noise generated by patrons passing between the marquee and the main hall to access the toilets. Whilst this measure would reduce noise emanating from the marquee when the doors are opened and closed for access/egress to the Main Hall it is acknowledged that the agreed noise levels detailed in the NMP were undertaken during two events over the weekend of the 29th July-1st August 2016 where patrons would have opened and closed the doors of the marquee to access the toilets in the hotel. Whilst the installation of toilets to the rear of the marquee would be desirable it has been clearly demonstrated that the operation of the marquee can adhere to acceptable noise levels without the installation of the toilets.
- 6.66 In response to the objections made by Environmental Health the applicant has since furnished the Council with a noise diary for events which have taken place at the hall or in the marquee between 2015-2019. For Members benefit the events which have been logged since the introduction of the Noise Management Plan in April 2018 have been summarised in the following table:

Maximum Noise levels recorded for events after implementation of the noise Management Plan April 2018			
Date	Before 11pm (levels not to exceed 50dB LAeq)	11pm onwards (levels not to exceed 43dB LAeq + 2db to allow for variance)	Comments

12th May 2018	41.7	40.5	
19th May 2018	42.2	42.7	
8th June 2018	42.5	42.3	
9th June 2018	44.5	-	
16th June 2018	-	-	High winds precluded accurate recording.
23rd June 2018	42.7	42.5	
29th June 2018	42.8	-	
30th June 2018	40.1	39.2	
28th July 2018	42.8	-	
4th August 2018	40.7	42.7	
11th August 2018	41.7	-	
18th August 2018	42.7	41.4	
24th August 2018	41.9	40.7	
25th August 2018	42.1	-	
26th August 2018	41.7	40.4	
1st September 2018	41.7	-	
8th September 2018	38.4	-	
6th October 2018	41.4	40.7	
27th October 2018	40.4	-	
27th April 2019	43.6	42.4	
3rd May 2019	43.7	42.9	
25th May 2019	45.1	43.7	
1st June 2019	42.9	43.3	
15th June 2019	46.7	-	
29th June 2019	41.4	-	
20th July 2019	42.2	40.7	
10th August 2019	42.7	46.4	Event was in Hall
7th September 2019	43.1	-	

6.67 The agent has confirmed that in relation to those events where noise levels haven't been taken after 11pm this because the music has been provided by a DJ and music from the DJ is monitored and controlled at its source, i.e. from within the marquee itself, by a combination of staff/the DJ monitoring the sound monitor to ensure that noise levels do not exceed 95db on the dance floor and, as a failsafe, by the Sentry MK2 device that cuts the electricity supply that feeds the music systems if a db reading of 95 is exceeded. The applicants Noise Consultant and the EHO have previously agreed that a noise level not exceeding 95db on the dance floor within the marquee should not exceed the agreed levels at the noise monitoring point. The sound monitoring referred to also applies to live bands; however, bands are only permitted to play up to 11pm, hence reference to music played by the DJ post 11pm.

- 6.68 As demonstrated in the table above all the events that have taken place in the marquee since the introduction of the NMP are in compliance with the noise levels in the NMP (not more than 50dBLAeq, 15 mins before 11pm and not more than 43dBLAeq, 15 minutes +2dB(A) after 11pm). It is clear that one event on the 10th August 2019 exceeded the agreed noise levels after 11pm however this event was in the Hall itself which has no restriction on noise levels.
- 6.69 The applicants solicitor has also raised concerns regarding the accuracy of the response by Environmental Health. In summary the solicitor has confirmed that the Noise Abatement Notice served on Dalston Hall Hotel was only served with reference to recordings made on the 25-26th June 2016 and it was evident that the equipment had recorded offensive noise emanating from an entirely different wedding party held in Lingeyclose Road. The solicitor goes on to state that the applicant has monitored noise emanating from events in accordance with the Noise Management Plan and the applicant is not aware that there has been any material breach of the NMP. The belief put forward by the Environmental Health Officer that management issues are responsible for an unsubstantiated alleged failure to continue compliance with external sound levels is apparently based on a single monitoring event, made by the EHO own admission, unreliable as it was undertaken in high winds/adverse weather conditions. There is no evidence of any value to suggest that the sound levels have exceeded the acceptable noise levels agreed with the EHO and which are contained in the NMP.
- 6.70 In response to the evidence produced by the applicant Environmental Health have advised that audio recordings using calibrated noise equipment set up in the noise complainant's property on the weekend of 11-12th of August 2018 and 24-27 August 2018 recorded music up to 51dB before 11pm and up to 44db after 11pm. During these weekends the weather was not good and as a member of Environmental Health was not present and did not witness the noise breach an abatement notice was not served. There has been no further recordings made since this time.
- 6.71 In relation to the above the applicants noise consultant has subsequently confirmed, using a noise model, that if a noise recording of 51dB was made at the complainant's property then internal noise in the marquee would be approximately 115dB. This level of sound is nearing the threshold of pain and is considered highly unlikely to have occurred as it would of been very uncomfortable for anyone to be in close proximity to the noise source without wearing hearing protection.
- 6.72 Environmental Health stand by the agreed noise management plan and believe that this has the correct levels in it so when operating under the correct restrictions it should operate satisfactorily and there should be no grounds for noise complaints. They have concerns at present in how the marquee is operating hence their objections and dis-satisfaction with the current situation. They believe that the noise management plan was prepared on the basis that the original design with its all incumbent doors and separate toilet facilities would mean that when in use the temptation to open doors and leave them open is minimised. Any potential noise nuisance would then be

limited. Relocating the position of bands within the marquee to the north facing south would also help to minimise noise nuisance.

6.73 The applicants noise consultant has undertaken a further monitoring exercise in the marquee during the day with noise levels in the marquee being played up to the maximum level of 93dBLAeq 2minutes. Measurements were taken at the agreed noise monitoring location with the doors to the marquee opened and closed and there was no discernible difference in the audibility of noise. Therefore it is not considered that the installation of toilet facilities would have a discernible impact on noise levels. It was also pointed out that the agreed noise levels from the marquee are likely to be exceeded by conversation of guests and patrons in the car park whilst arriving/leaving the venue, cars entering and exiting the car park and the lawful use of the hotel as a multi-purpose event venue. It is also not considered that there is reasonable justification to relocate the dance floor as the noise source is currently in position where it is directed away from the nearest potentially noise sensitive receptor.

6.74 When assessing the current application against the relevant planning policies it is clear that there are two businesses (Dalston Hall Hotel and Dalston hall Golf Club/Caravan Park) located in close proximity to each other which are both tourist venues with different characteristics. Each business plays a key role in helping to support the existing rural economy and weight should be proportioned to each business equally when assessing the impacts of development. It is clear since application 14/0680 has been approved that there has been noise and disturbance issues caused to the adjacent property and business however Members have to distinguish what has been directly been caused as a result of the marquee and what could be caused from existing operations at Dalston Hall Hotel itself which has been in existence as a food/drink establishment for a significant number of years. As demonstrated in paragraphs 6.52 -6.57 a number of issues that have been occurring (noise/disturbance from anti-social behaviour, fireworks, patrons entering/leaving the premises) could take place from the Hall itself if operating to full capacity and are controlled by separate regulatory bodies. In such circumstances it would be unreasonable to refuse the current application on this basis. In terms from noise disturbance from the marquee itself it has been established through the NMP, which has agreed noise levels based on an event taking place over a weekend without the toilets installed, that the marquee can operate within tolerable levels in such circumstances it would also be unreasonable to refuse the application on noise disturbance grounds when there is sufficient evidence (as demonstrated in the NMP) to illustrate that the marquee can operate and not cause a disturbance. If Members are minded to approve the application it is suggested that the following relevant conditions are imposed in order to protect the living conditions of the occupiers of neighbouring properties from noise/disturbance:

- adherence to the sound levels as specified in the NMP;
- ensuring that a sound monitor in the marquee is in situ at all times in direct sight of the music source and not obstructed by any solid objects/curtains;
- sound monitoring should take place at regular intervals during any event

where amplified music is played within the marquee and such details shall be made available by the applicant to any Officers of the City Council on request;

- no external speakers should be attached to the marquee at any time; and
- ensuring that the marquee is not used when there is a separate unrelated function being held in Dalston Hall Hotel
- ensuring that the doors in the marquee remain self closing except those for emergency access
- ensuring that all events in the marquee finish at 1am with all live bands finishing at 11pm

4. Whether The Retention Of The Marquee For A Further 5 Year Period Would Have An Adverse Impact Upon Archaeology, Trees, Drainage, Contamination And Highway Safety

6.75 As stated in paragraph 6.5 the impact of the erection of a temporary marquee in the grounds of Dalston Hall Hotel upon archaeology, trees, drainage, contamination and highway safety has already been assessed and considered acceptable under application 14/0680. The retention of the marquee for a further period of 5 years raises no further issues in this regard.

5. Other Matters

6.76 An objector has alleged that the development is causing environmental issues with coloured discharge water appearing from an outfall pipe on neighbouring land. The application site benefits from a discharge permit issued by the Environment Agency for treated sewage to discharge to an unnamed tributary. As part of the discharge permit annual sampling is required to ensure compliance with the permit limits and the applicant needs to ensure that the existing foul treatment system is in a good state of repair, continues to be regularly desludged and serviced and is of sufficient capacity to deal with changes in flow and loading through the year to remain within the permit limits to protect the River Caldw which is a designated SSSI/SAC. It was established through the previous application that the treatment plant of 5000 gallons is acceptable for the capacity of the Hall/marquee therefore any environmental issues relating to the outfall pipe should be directed to the Environment Agency as they are the appropriate regulatory body.

Conclusion

6.77 To conclude the principle of the erection of a temporary marquee in the grounds of Dalston Hall Hotel was assessed and established as acceptable under applications 14/0101 and 14/0680 where the impact of the development upon the setting of the Grade II* Listed Building, the living conditions of neighbouring properties, archaeology, trees, parking/highway safety, drainage and contamination were considered. The current application seeks to vary condition 2 attached to application 14/0680 to enable the marquee that was granted temporary planning permission to be retained for a further five year period.

- 6.78 The retention of a marquee, used for functions, in the grounds of Dalston Hall Hotel, for a further 5 years would continue to support an existing established rural business and the wider rural economy. The application therefore raises no issues with regard to the principle of development.
- 6.79 A temporary marquee within the grounds of Dalston Hall Hotel would have less than substantial harm upon the setting of the Grade II* Listed Building due to its positioning away from the principle elevation of the Hall and outside the Hall's former gardens together with the temporary nature of the marquee which will result in the land being reinstated following its removal. In terms of weighing this harm against the public benefits of the proposal it is clear from the confidential financial information provided that the retention of the marquee would be intrinsic to the upkeep and maintenance of the Grade II* Listed Building, which is in the public interest as it is a historic asset of high significance.
- 6.80 It is clear that since application 14/0680 has been approved that there has been alleged noise and disturbance issues caused to the adjacent property and business however Members have to distinguish what has been directly been caused as a result of the marquee and what could be caused from existing operations at Dalston Hall Hotel itself which has been in existence as a food/drink establishment for a significant number of years. As demonstrated in paragraphs 6.52 -6.57 a number of issues that have been occurring (noise/disturbance from anti-social behaviour, fireworks, patrons entering/leaving the premises) could take place from the Hall itself if operating to full capacity and are controlled by separate regulatory bodies. In such circumstances it would be unreasonable to refuse the current application on this basis. In terms from noise disturbance from the marquee itself it has been established through the NMP that the marquee can operate within tolerable levels in such circumstances it would also be unreasonable to refuse the application on noise disturbance grounds when there is sufficient evidence (as demonstrated in the NMP) to illustrate that the marquee can operate and not cause a disturbance. Subject to the conditions outlined in paragraph 6.74 of this report being imposed it is not considered that the retention of the marquee for a further 5 year period would have a sufficient adverse impact upon the living conditions of the occupiers of surrounding residential properties to warrant refusal of the application on this basis.
- 6.81 On balance it is considered that the benefits of the proposed retention of the marquee for a further temporary period (supporting an existing established rural business and the upkeep/maintenance of a Grade II* Listed Building which is within the public interest) would significantly outweigh the less than substantial harm caused to the setting of the Grade II* Listed Building and the limited impact to the living conditions of the occupiers of neighbouring properties which can be adequately controlled by the imposition of relevant planning conditions. The application was submitted in March 2019 and due to lengthy negotiations relating to the noise issues it would be apposite to give a 4 year permission in line with the intended length of time as originally submitted. Accordingly the application is considered to be compliant with the criteria of the relevant Development Plan Policies and is therefore recommended for approval subject to the imposition of relevant conditions.

7. Planning History

- 7.1 The relevant planning history is as follows:
- 7.2 In 2016 Full Planning Permission was granted for resubmission of previously approved permission 13/0401 for first floor extension and reconfiguration of ground floor of east wing to provide 8no.bedrooms, together with dining room extension to ground floor rear elevation (reference 16/0718). This application has never been implemented and has now expired;
- 7.3 In 2016 Listed Building Consent was granted for resubmission of previously approved permission 13/0400 for first floor extension and reconfiguration of ground floor of east wing to provide 8no.bedrooms, together with dining room extension to ground floor rear elevation (reference 16/0719). This application has never been implemented and has now expired;
- 7.4 In 2016 Full Planning Permission was granted for reinstatement of original entrance to Dalston Hall, including enhanced bus drop off area and over spill car parking (reference 16/0190, part retrospective);
- 7.5 In 2016 works related to a Tree Preservation Order were granted (reference 16/0001/TPO);
- 7.6 In 2014 a discharge of condition application was granted for discharge of condition 6 (parking/turning of vehicles) of previously approved application 14/0101 (reference 14/0790);
- 7.7 In 2014 a variation of condition application was granted for variation of condition 2 (approved documents) of previously approved application 14/0101 (reference 14/0680, part retrospective);
- 7.8 In 2014 permission was granted for a marquee (reference 14/0101, part retrospective);
- 7.9 In 2013 permission was granted for the renewal of unexpired permission of application reference 10/0574 for first floor extension and ground floor conversion to form 8no.rooms in east wing and erection of two storey lodge comprising 12no.rooms (LBC, reference 13/0400). This application has never been implemented and has now expired;
- 7.10 In 2013 permission was granted for the renewal of unexpired permission of application reference 10/0567 for first floor extension and ground floor conversion to form 8no.rooms in east wing and erection of two storey lodge comprising 12no.rooms (reference 13/0401). This application has never been implemented and has now expired;
- 7.11 In 2010 Full Planning Permission and Listed Building Consent were renewed for first floor extension and ground floor conversion to form 8no.rooms in east wing and erection of two storey lodge comprising 12no.rooms (references

10/0574 and 10/0567). This application has never been implemented and has now expired;

- 7.12 In 2005 Full Planning Permission and Listed Building Consent was granted for a first floor extension and ground floor conversion to form 8no.rooms in east wing and erection of two storey lodge comprising 12no. rooms (references 05/0214 and 05/0224). This application has never been implemented and has now expired;
- 7.13 In 1999 Full Planning Permission was granted for extension to dining room (reference 99/0403);
- 7.14 In 1999 Full Planning Permission was granted for erection of 8no.self catering holiday lodges (reference 99/0419). This application has never been implemented and has now expired;
- 7.15 In 1999 Listed Building Consent was granted for extension to dining room (reference 99/0420). This application has never been implemented and has now expired;
- 7.16 In 1993 Full Planning Permission was granted for installation of replacement sewage treatment plant (reference 93/0722).

8. Recommendation: Grant Permission

- 1. The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
 - 1. the submitted planning application form received 22nd March 2019;
 - 2. the explanatory statement received 22nd March 2019 (Ref: 18/041);
 - 3. the noise management plan received 28th October 2019 (Dated April 2018);
 - 4. the site location plan received 6th August 2014 in respect of application 14/0680 (Drawing No. 14/017/2A);
 - 5. the plan showing the proposed marquee in setting received 14th November 2014 in respect of application 14/0680 (Drawing No.18.04);
 - 6. the elevations showing proposed marquee in setting received 14th November 2014 in respect of application 14/0680 (Drawing No.18.05);
 - 7. the proposed east and north elevations received 14th November 2014 in respect of application 14/0680 (Drawing No.18.02);
 - 8. the proposed west and south elevations received 14th November 2014 in respect of application 14/0680 (Drawing No.18.03);
 - 9. the confirmation of the proposed type of sound monitor received 21st October 2014 in respect of application 14/0680;
 - 10. the details of the proposed heating/cooling system received 14th November 2014 in respect of application 14/0680;
 - 11. the noise details of the proposed heating/cooling system received 14th November 2014 in respect of application 14/0680;
 - 12. the confirmation of the type of heating/cooling system (Jumbo 150) received in an email from the agent dated 27th November 2014 in

- respect of application 14/0680;
13. the email from the agent received 14th August 2014 confirming the materials for the furniture store and toilet in respect of application 14/0680;
 14. the maintenance schedule received 1st April 2014 in respect of application 14/0101;
 15. the Notice of Decision; and
 16. any such variation as may subsequently be approved in writing by the Local Planning Authority.

Reason: To define the permission.

2. The marquee hereby permitted shall be removed by 11th April 2024 and the land reinstated to its former condition in accordance with a scheme to be approved beforehand by the local planning authority.

Reason: The Local Planning Authority wish to review the matter at the end of the limited period specified as the applicant has indicated that this is a temporary facility.

3. The marquee hereby approved shall be maintained in accordance with the maintenance schedule received by Planning Services on the 1st April 2014 in relation to application 14/0101.

Reason: To ensure that the proposed development is undertaken in a manner which safeguards the visual amenities of the area. In accordance with Policies SP6 and HE3 of the Carlisle District Local Plan 2015-2030.

4. The sound monitor hereby approved shall be in situ at all times in direct sight of the music source in a location agreed with Environmental Health and shall at no time be obstructed by any solid objects or curtains. Noise monitoring inside and outside of the marquee shall take place (including at the edge of the curtilage at Dalston Hall) at regular intervals during any event where amplified music is played within the marquee and such details shall be made available by the applicant to any Officers of the City Council on request

Reason: To safeguard the living conditions of the occupiers of neighbouring properties in accordance with Policies SP6, EC8 and CM5 of the Carlisle District Local Plan 2015-2030.

5. No external speakers should be attached to the marquee at any time

Reason: To safeguard the living conditions of the occupiers of neighbouring properties in accordance with Policies SP6, EC8 and CM5 of the Carlisle District Local Plan 2015-2030.

6. The marquee hereby approved shall not be used when a separate unrelated function is being held within Dalston Hall Hotel.

Reason: To ensure adequate parking provision is available in

accordance with Policies IP2 and IP3 of the Carlisle District Local Plan 2015-2030.

7. The ancillary buildings to the rear of the marquee shall be painted white in perpetuity.

Reason: To ensure that the development is carried out in a manner that respects the architectural integrity of the Listed Building in accordance with Policies SP6 and HE3 of the Carlisle District Local Plan 2015-2030.

8. The parking, loading, unloading and manoeuvring areas approved under discharge of condition application 14/0790 shall be kept available for those purposes at all times and shall not be used for any other purpose.

Reason: In ensure a minimum standard of parking provision is made within the site for vehicles visiting the site. To support Local Transport Plan Policies: LD7 and LD8.

9. The noise emitted from the marquee shall not result in noise levels greater than 50dBLAeq, 15 minutes (free field) prior to 23:00 hours and 43dBLAeq, 15 minutes (free field) + 2dB(A) after 23:00 at the noise monitoring location specified on page 5 of the Noise Management Plan received 28th October 2019 (dated April 2018).

Reason: To protect the living conditions of the occupiers of the neighbouring property. In accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

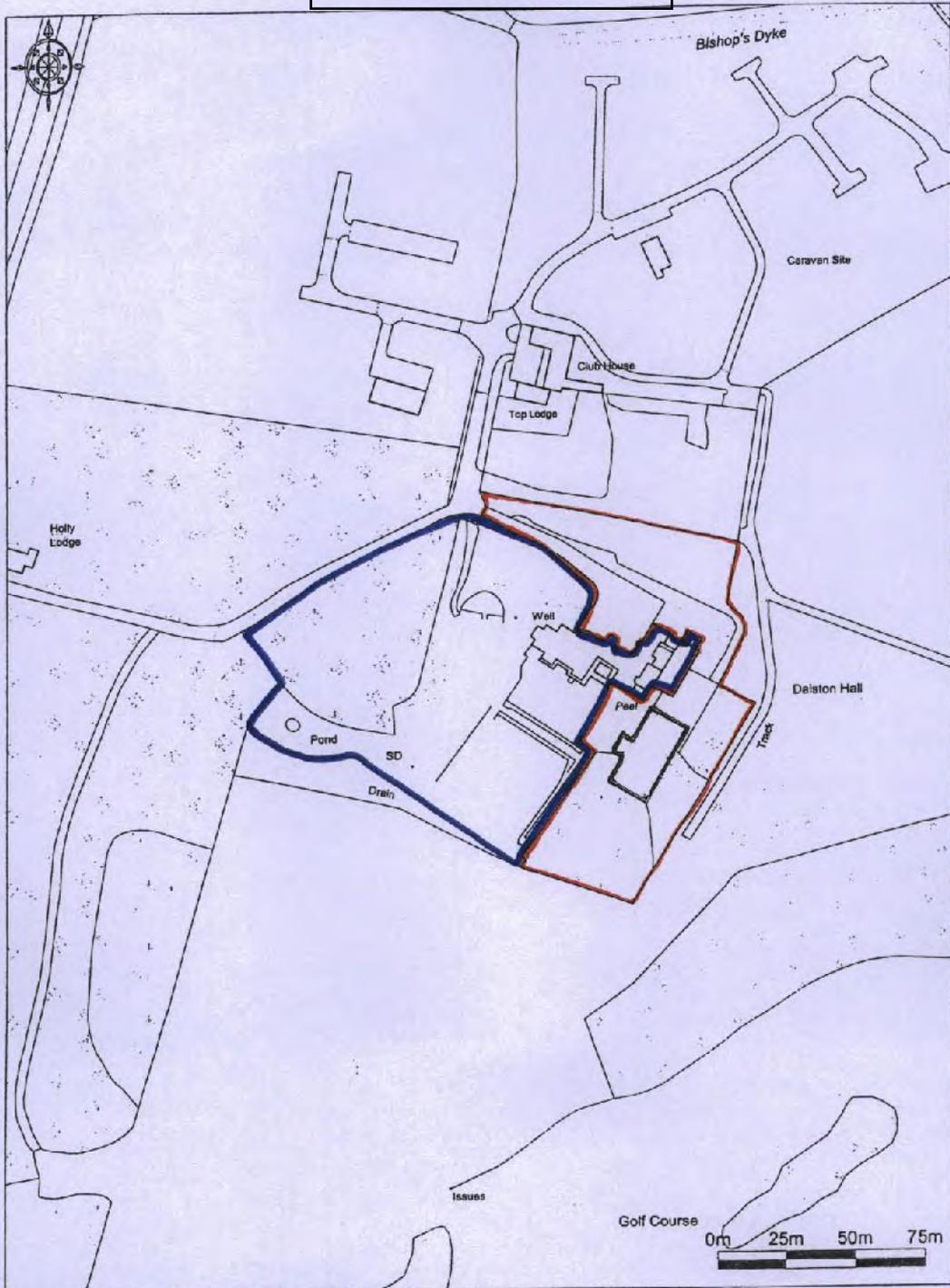
10. All doors in the marquee (except those used for emergency access) shall be self closing.

Reason: To assist with the control of the breakout of noise and to prevent disturbance to nearby occupants in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

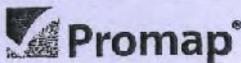
11. The use of the marquee hereby permitted shall not remain in operation after 01:00am. All live bands playing in the marquee shall finish no later than 23:00 hours.

Reason: To prevent disturbance to nearby occupants in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

For Information Purposes
Approved Site Plan For
14/0680



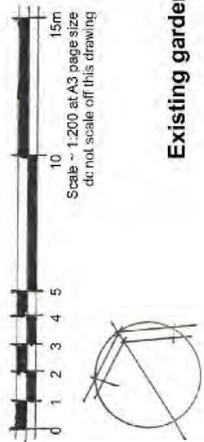
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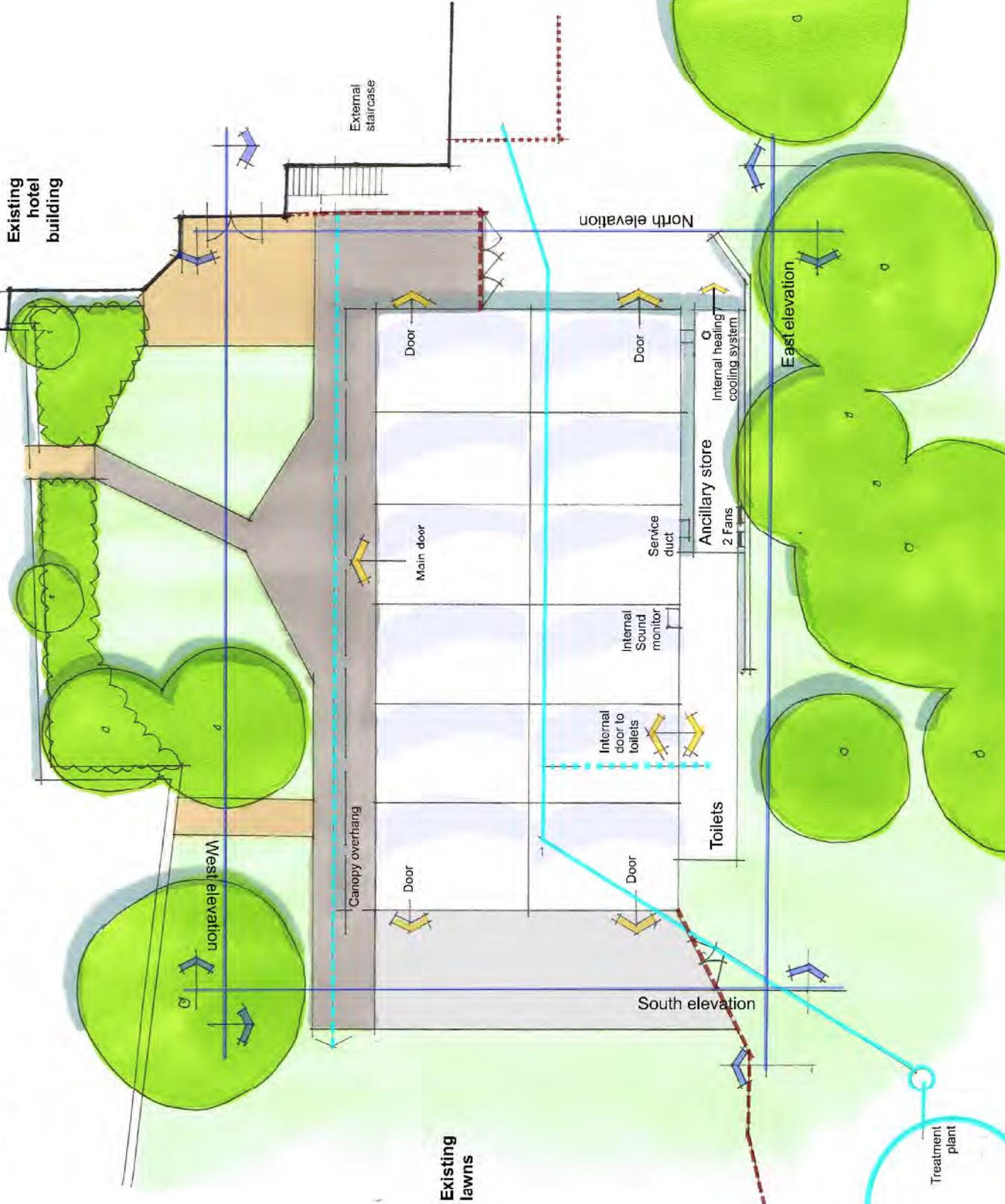
SITE PLAN

PLAN NO. 14/017/02

RECEIVED
06 AUG 2014
14/0680



Existing gardens



Notes:
 Ordnance Survey Crown Copyright
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 Marquee information taken from RODER HTS HOCKER
 technical drawings and specification
 Tree locations based on triangulation survey and tree survey

Key

- Existing buildings
- Existing walls
- Existing fence
- Trees and shrubs
- Proposed fence 1.8m high
- Marquee
- Sandstone paving
- Black limestone paving
- Block paving
- New surface water drain
- Existing foul water drain
- Proposed connection to existing foul water drain
- Entry and exit points in marquee

For Information Purposes
 Approved Layout Plan For
 14/0680

revision	date	description
r 07	13.11.2014	bars, services etc amended, key updated
r 06	12.11.2014	fences amended, services added
r 05	22.10.2014	lay anc. like block entrance
r 04	03.10.2014	store, fence + toilet added, drain added
r 03	30.07.2014	block paving amended, store door added
r 02	28.07.2014	door to furniture store added
R 00	27.01.2014	Marquee amended
R 00	1 Feb 2011	original drawing

drawing number 18.04

drawing name Plan showing proposed marquee in setting

project

Dalston Hall Hotel Proposed Marquee

client

Mr J Meyer

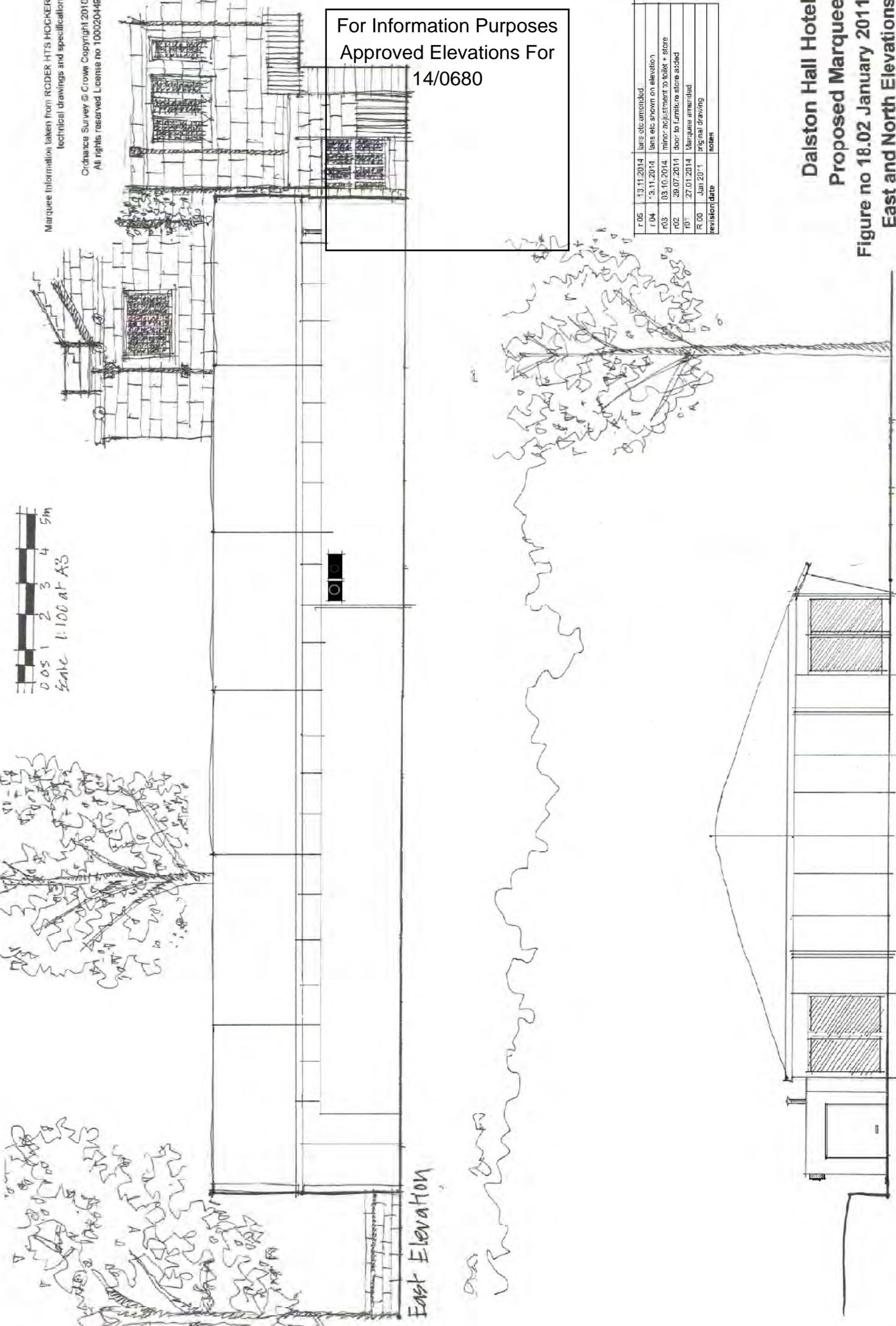
Eden Environment Ltd
 www.edenenvironment.com

Marquee information taken from RCIDER HTS HOCKER
 technical drawings and specification.
 Ordianca Survey © Crown Copyright 2010
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For Information Purposes
 Approved Elevations For
 14/0680

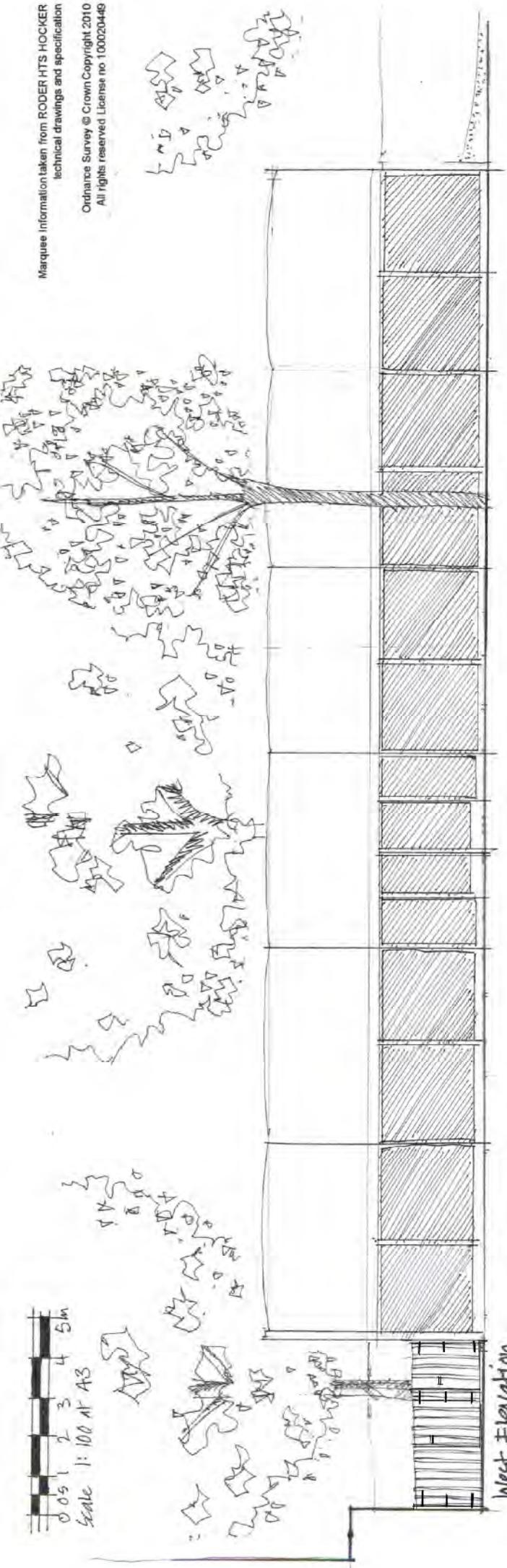
revision	date	notes
r 00	Jan 2011	original drawing
r 01	27.01.2014	Marquee amended
r 02	29.07.2011	door to Lumiere store added
r 03	03.10.2014	minor adjustment to toilet + store
r 04	3.11.2014	lans etc shown on elevation
r 05	13.11.2014	lans etc amended



East Elevation

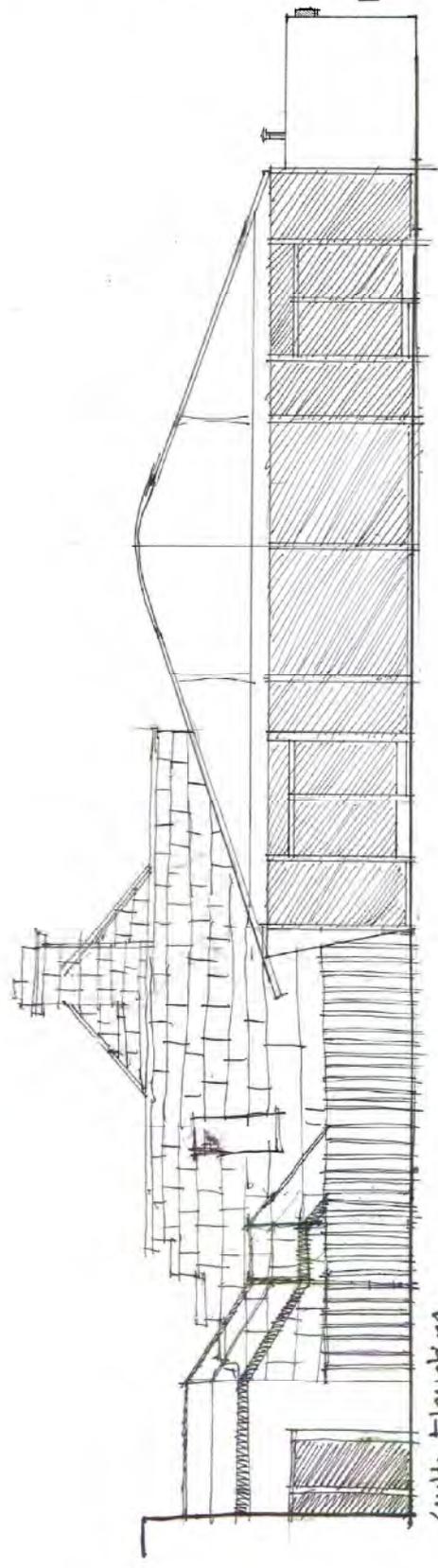
North Elevation

Dalston Hall Hotel
 Proposed Marquee
 Figure no 18.02 January 2011
 East and North Elevations
 Alison Moffatt CMLI



West Elevation

revision	date	notes
R 05	13.11.2014	Jans etc amended.
I 04	3.11.2014	line of heating / cooling equipment shown
I 03	03.10.2014	superfluous line removed from top of block
R 02	30.07.2014	panels added to west elevation
R 01	27.01.2014	Marquee amendment
R 00	Jan 2011	original drawing



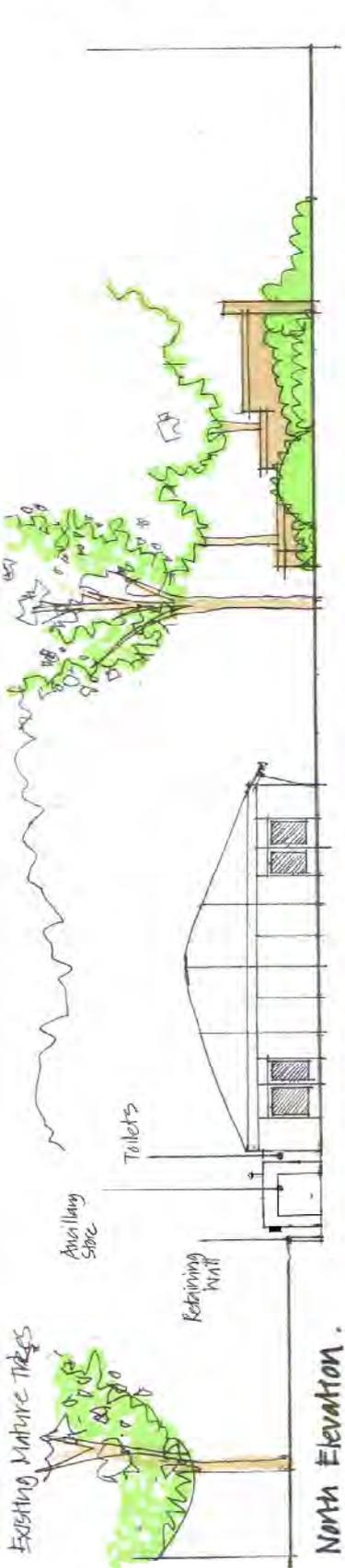
South Elevation

Dalston Hall Hotel
 Proposed Marquee
 Figure no 18.03 January 2011
 West and South Elevations
 Alison Moffatt CML



For Information Purposes
Approved Drawing For
14/0680

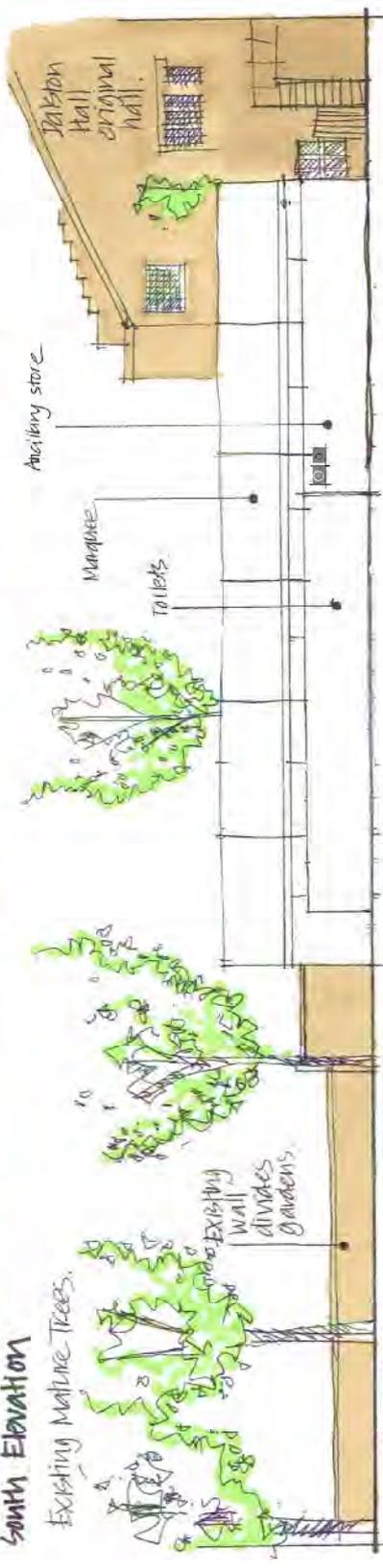
revision	date	notes
R 05	31.11.2014	panels shown on elevations
R 04	03.10.2014	minor alterations to stone, toilet for 10
R 03	30.07.2014	fence and stone door added
R 02	29.07.2014	door to furniture store added
R 01	27.03.2014	Marquee approved
R 00	Feb 2013	original drawing



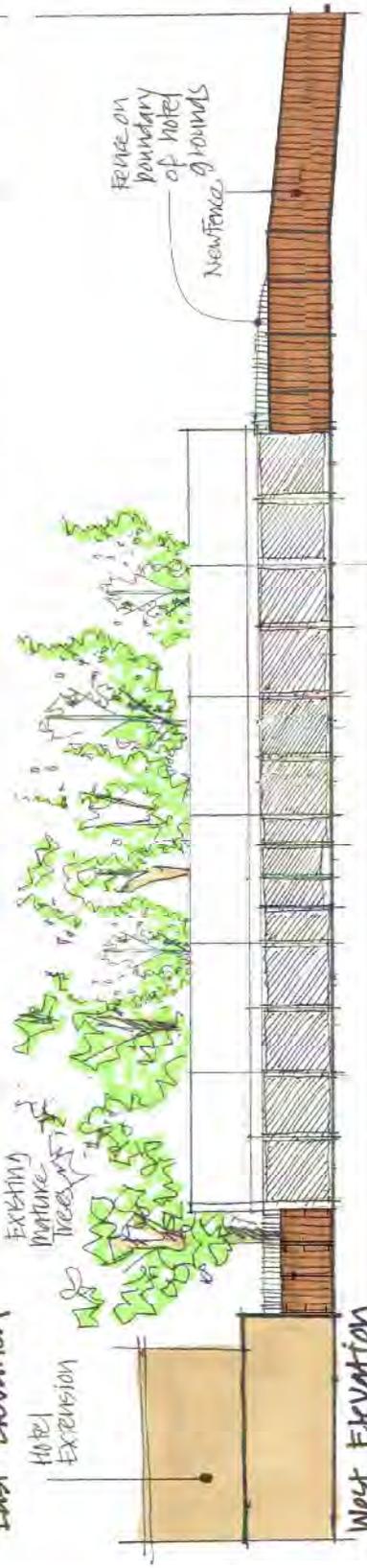
North Elevation.



South Elevation



East Elevation



West Elevation

**Dalston Hall Hotel
Proposed Marquee**

Figure no 18.05
February 2011

**Elevations showing proposed
marquee in setting**

Eden Environment Ltd.
design and assessment
www.edenenvironment.com

for Mr J Mayer