CASE OFFICER'S REPORT

Application Reference:	PL/2023/07837
Application Type:	Full planning permission
Site Inspection:	13 October 2023
Consultation ends:	10 November 2023
Case officer:	Helena Carney

Site Address:	The Parade Cinema, The Parade, Marlborough, SN8 1NE
Proposal:	Erection of canopy for events and protection from weather for customers to be removed for 2 months per annum.
Recommendation:	Approve with Conditions

POLICIES

Wiltshire Core Strategy (adopted January 2015):
Core Policy 51: Landscaping
Core Policy 57: Ensuring High Quality Design & Place Shaping
Core Policy 58: Ensuring the Conservation of the Historic Environment

Marlborough Conservation Area Statement, June 2003

Marlborough Area Neighbourhood Plan 2021 - 2036, made March 2023

The National Planning Policy Framework (NPPF) 2023

Planning Practice Guidance (PPG)

Sections 66 & 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

ISSUES

• Impact upon the amenity of occupiers of neighbouring properties
• Visual amenity and impact upon the significance of the listed building and its setting and upon the character and appearance of the conservation area
• Impact upon the North Wessex Downs Area of Outstanding Natural Beauty (AONB)

REPRESENTATIONS

Marlborough Town Council: supports this application and welcomes this addition to a valuable amenity for Marlborough

Wiltshire Council Conservation Officer: no objection subject to condition

Wiltshire Council Environmental Health Officer: no objection subject to informative

Assistant County Archaeologist: no objection

Wiltshire Councillor: support, commenting “As Wiltshire Councillor for Marlborough West I have received numerous contacts supporting the awning at the Parade as it provides an accessible pleasant sheltered outdoor area for people of all ages to enjoy. It is also an important space to support the financial viability of the cinema in the future”

The application was advertised by way of a site notice, neighbour notification letters and an advert in the press. As a result of this, the Council has received around 271 letters of representation. A summary of comments received is as follows (full comments are available on the council’s website):

Support / no objection / comment:
• Silly it was asked to remove the canopy. Fully supported;
• Accessible location for families and the elderly;
• Attractive, welcome enhancement to the popular marlborough cinema;
• Canopy enables people to sit outside in most weathers and brings a little buzz to the area;
• A welcome facility;
• Valuable addition for the community and allows increased customer support for the parade cinema and cafe in all weather conditions;
• Well maintained and enhances the courtyard and general parade area;
• The many benefits must surely outweigh any negatives;
• Frequent user of the previously canopied area - a wide range of ages using it;
• Enables sitting away from the passing traffic (and fumes) of the high street;
• The chapel would likely have become derelict but for it’s conversion to a cinema but the refreshments income is crucial to it’s finances;
• Disabled access here with the canopy;
• Canopy and outside furniture used is of high quality and is aesthetically pleasing;
• Brilliant addition to the cinema; invaluable asset to Marlborough’
• Cinema is a great community asset and needs to be fully supported;
• Awning is not offensive to look at and the benefits of it far outweigh any drawbacks;
• Planning system needs to have some flexibility in it or investing in the area will be deterred;
• When the transparent 'marquee' was erected the footfall of casual visitors increased and this amenity proved a popular meeting place both to locals and visitors;
• The 'marquee' adds to the convenience of visitors by providing shelter in inclement weather- to take the 'marquee' away would mean that the forecourt would be virtually unusable in poor weather conditions and this cinema/cafe project would be depreived of a potential income;
• It would not be outlandish to suggest that a 'refusal' decision would put the 'parade cinema and cafe project' in peril for its future;
• In essence, any decision made will be a balance between an open view of a a restored nineteenth century of no great distinction and the continuance of a public amenity which has grown in popularity in the short time that this project has been serving the public;
• The cinema management have consistently delivered a high quality and valuable service to the residents of marlborough and additional seating facilities would add to the quality of their service to the community;
• The cover is stylish and very functional and very practical;

• Keep the cover up for the convenience of the marlborough ageing community;
• A huge asset to marlborough, great place to meet friends and for people of all ages to meet under cover;
• Fantastic canopy, so practical and aesthetic. Huge bonus for my older relatives as well. Love it;
• A valued and long awaited asset in marlborough;
• Awning is integral for both its financial sustainability and the valued provision to the local community; businesses like this need support commercially;
• The cinema is a brilliant addition to the town, and by extension as is the marquee;
• Canopy is relatively discreet and of high quality and does not diminish the building's appeal;
• Lovely venue, a real asset to the town and if this enables it to be used for a longer period of the year then that's only a good thing;
• The parade and this tasteful canopy infact invites people to visit the historic building and sit under its façade;
• Cinema needs to thrive, will make it viable;
• If the application is not approved this would signal that those rejecting the application are happy to discriminate against those marlborough residents and visitors with limited mobility. Supporting businesses to be sustainable should be a high priority for every one in government;
• You can still see the beautiful building even with the awning in place;
• Welcome shelter to all that attend;
• Difficult to believe that a single complainant caused its removal when it exists in almost a completely commercial area of the town and does not cause light deprivation for any third party.
• In its standard form neither does it cause any noise problems for the very limited number of residents who can see it from where they live;
• No compromise to the building structure there's no reason to oppose the application - and why it has to be granted for only 10 months if the year is another puzzling aspect of all this;
• Let's get Marlborough sorted with decent amenities, not blighted by over-zealous planning decisions;
• Minor works will only enhance the facilities without blighting the surrounding area;
• Will encourage visitors to the area;
• Clear awning does nothing to detract from the architecture and feel of the area, in fact it positively enhances it;
• It provides safety for people sitting at the tables as the fresh air circulates freely;
• Support the return of this awning which has given the elderly, the disabled along with the able bodied of this town unfettered use of the cinema and the outdoor cafe in comfort and safety;
• Perfectly attractive temporary awning which does not detract from the building or surrounding area and is a highly sensible solution to keeping customers dry in inclement weather;
• It emphasises the cinema and does not effect the area; visually appealing;
• Be a shame to lose it;
• This canopy will ensure continued high attendance at this local marvel;
• It was disappointing it had to be taken down, but hopefully common sense will prevail and this application will be accepted;
• The canopy is not ugly or intrusive;
• It's unobtrusive and makes the space useable longer;
• It is in keeping with the area;
• Its presence was one of the reasons I decided to move here and it is clearly valued;
• The canopy is attractive, practical and enhances the building demonstrating how old and new can sit alongside each other;
• It by no means reduces the heritage value of the building;

• It is transparent and therefore hardly affects the building;
• Fully support and cannot see why it should be removed for 2 months. This seems to be s further waste of resources for no particular reason;
• The cinema has transformed this neighbourhood;
• The awning fits well into the surroundings and there has been no damaged at all caused to the fabric of the Grade II building;
• It looks smart and is in no way an eye sore;
• Great addition to the venue;
• Excellent way of extending this amenity and in no way diminished the building's aspect or adversely affected nearby properties;
• It's a valued local amenity;
• The cinema should be allowed to erect the canopy/tent as it sees fit to ensure the ongoing commercial viability of the business;
• As a supporter of conservation I am mystified as to why Wiltshire County Council Conservation Team have objected to the canopy at The Parade Cinema as it does not even make contact with the original building which has been rescued from being dilapidated. I am disappointed in the Team wasting time and energy in causing this problem when they have more serious cases to deal with;
• The canopy is unobtrusive, allows the facade of the building to be seen and significantly extends the amount of easily accessible space for customers;
• My house must be the very nearest to the cinema: but I have not the slightest hesitation in supporting the proposed tent over the entrance area. It is elegant, yet unobtrusive and fits in perfectly with the setting and situation of the cinema itself;
• It makes no sense to be forced to take it down for 2 months per year;
• Welcoming accessible space for all;
• Support the Parade Cinema keeping its tent up all year;
• #savethemarquee for our immobile civilians;
• It is near the fire station so it really cannot be argued that this is a row of historic buildings;
• The marquee is an asset in visual terms, creating a large, symmetic space in front of the previously neglected, refurbished building;
• This is a wonderful outdoor community space;
• The canopy is a a great addition to the cinema and should be permanent;
• The notion that it is not in keeping with the surrounding area, is ridiculous! Not least of all when you look across the parade not 20 feet away there is a neon sign in the window of a Chinese takeaway! How is that allowed? Yet a well built clear canopy is not;
• The presence of the canopy must improve the viability of this business;
• Planning policy needs to support local economies, whilst ensuring our heritage assets are protected. I believe that this proposal absolutely does this;
• The canopy is an essential part of keeping this business afloat in what are very challenging times for hospitality;
• Bureaucracy gone mad. Why would anyone in their right mind not see the benefits of this?!
• This is a superb all-weather outdoor space;

Object:
• Looks unappealing to the eye and is preventing nature from the area; and
• This will yet again be an absolute nuisance and an eyesore

RELEVANT PLANNING HISTORY

• 18/00672/LBC - Provision of a two storey extension; repairs to the fabric of the building; the provision of a new external door; internal alterations and acoustic mitigation to allow for the buildings conversion to a cinema, approved 20/04/2018
• 18/00398/FUL - Change of use of former Chapel from class A1 (retail) to class D2 (cinema and arts centre) incorporating an ancillary cafe/bar area; the provision of a two storey extension; repairs to the fabric of the building; the provision of a new external door; internal alterations and acoustic mitigation to allow for the buildings conversion to a cinema, approved 20/04/2018
• 19/04651/LBC - Change of use of former Chapel and 2 the Manse from class A1 (retail) and class C3 (residential) to class D2 (cinema and arts centre) incorporating an ancillary cafe/bar area plus office; the provision of a single storey extension; repairs to the fabric of the building; the provision of a new external door; internal alterations and acoustic mitigation to allow for the buildings conversion to a cinema (amended design following approval 18/00672/LBC), approved 19/06/2019
• 19/04068/FUL - Change of use of former Chapel and 2 the Manse from class A1 (retail) and class C3 (residential) to class D2 (cinema and arts centre) incorporating an ancillary cafe/bar area plus office; the provision of a single storey extension; repairs to the fabric of the building; the provision of a new external door; internal alterations and acoustic mitigation to allow for the buildings conversion to a cinema (amended design following approval 18/0398/FUL), approved 19/06/2019
• 19/07328/LBC - Alterations to facilitate change of use of former chapel to cinema and arts centre to include works approved under listed building consent 19/04651/LBC (the provision of a single storey extension, repairs to the fabric of the building, the provision of a new external door, internal alterations and acoustic mitigation to allow for the buildings conversion to a cinema) plus the replacement of the existing unstable timber floor with a solid limecrete floor, approved 14/10/2019
• 20/03730/LBC - The provision of a two storey extension and modifications to the rear of 2 the Manse; repairs to the fabric of the building; internal alterations and acoustic mitigation to allow for the buildings conversion to a cinema and cafe /bar; the provision of air conditioning, kitchen extraction ventilation and signage to the building, approved 24/07/2020
• 20/03251/FUL - Change of use of former Chapel and 2 the Manse from class A1 (retail) and class C3 (residential) to class D2 (cinema and arts centre) incorporating an ancillary cafe/bar area plus office; the provision of a two storey extension and modifications to the rear of 2 the Manse; repairs to the fabric of the building; internal alterations and acoustic mitigation to allow for the buildings conversion to a cinema; the provision of air conditioning and kitchen extraction ventilation, approved 24/07/2020

ASSESSMENT

The application site relates to The Parade Cinema, a Grade II listed building, formerly a Congregational Chapel and recently converted into a cinema and café.

The list description for the building states the following (for means of identification purposes only):

> *THE PARADE 1. 5407 (West Side) Congregational Chapel SU 1869 1/123 II 2. Early C19. (Tablet with dates 1827 and 1873). 2 storey symmetrical brick front. Hipped tiled roof. Moulded cornice with toothed brick band. 3 windows 1st floor, 2 on ground floor, round*

headed recessed sasnes, glazing bars intact, gauged brick arches. Central stone Doric porch the entrance flanked by pilasters and columns, entablature with moulded cornice and blocking course.

Listing NGR: SU1895969113

The application site lies within the conservation area and is surrounded by a mixture of residential and commercial properties in the centre of the town. The settlement of Marlborough is washed over by the North Wessex Downs Area of Outstanding Natural Beauty (AONB).

Proposals:
This application is seeking planning permission to erect a clear canopy over the existing courtyard at the front of the building for 10 months of the year.

The canopy was previously erected without the benefit of securing planning permission.

Impact upon amenity of occupiers of neighbouring properties:
The proposal is for the erection of a canopy for events and protection from weather for customers to be removed for 2 months per annum.

The surrounding area is a mixture of commercial and residential properties.

The council's Environmental Health Officer (EHO) was consulted to consider the potential noise impact on amenity for nearby residential dwellings as a result of the proposed development, and provided the following comment:

"We note that there is no history of complaint and that the premises has had a licence and been operating for approximately 2 years to date.

The Opening Hours stated on the planning application are: 09:30 to 23:00hrs seven days a week.

Taking into account existing permissions (planning and licensing), I would recommend the following informative:

It is recommended that you produce a noise management plan to demonstrate all noise sources have been considered and controlled, as per the advice and guidance provided on the premises licence application. Should you wish the guidance to be resent, please contact our team".

Given the above, it is considered that the proposed development is unlikely to adversely impact upon residential amenity of neighbouring properties as a result of noise pollution. In any event, there is separate legislation covering noise pollution should this be an issue in the future.

It is considered reasonable given that the outdoor area has an active premises licence to hold events, and play live and recorded music, that the planning approval includes an informative recommending that the applicant produces a noise management plan as suggested by the EHO and as per the advice and guidance provided on the premises licence.

Given the clear design of the canopy and due to it being erected above an existing courtyard, it is considered not to adversely impact occupiers of neighbouring properties as a consequence of overbearing impact or overshadowing.

In conclusion, the proposed development is unlikely to give rise to any significant concerns regarding residential amenities and is therefore considered an acceptable addition. in this instance subject to a temporary time constraint condition.

Visual amenity and impact upon the significance of the listed building and its setting and upon the character and appearance of the conservation area:
Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires 'special regard' to be given to the desirability of preserving a listed building or its setting.

Section 72 of the Act further states that in the exercise of any functions, with respect to any buildings or other land in a conservation area, under or by virtue of any of the provisions mentioned in this Section, 'special attention' shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The Council's Core Strategy 'Core Policy 58: Ensuring the conservation of the historic environment' requires that designated heritage assets and their settings be conserved and where possible enhanced.

The council's Conservation Officer was consulted on the proposals to consider the impact upon the preservation of the listed building or its setting or any features of special architectural and/or historic interest and the impact upon the character and appearance of the Marlborough Conservation Area and she provided the following comments:

The application is for the temporary provision of a large canopy structure within the curtilage area to the front of the building. It is a transparent structure to provide shelter over outdoor seating for the café, which forms part of the cinema facilities.

The canopy, although detached from the main building, was erected without the benefit of planning permission.

The provision of such a structure is not ideal, particularly as it is sited at the front of a listed building, as it detracts from the formal appearance of the former chapel building and its setting: this results in a degree of visual harm caused by the intervisibility and relationship of the separate structures i.e. listed building and temporary 'canopy'. If there were alternative locations for such a structure then this could offset the visual discord, however, the limitations to be able to achieve this are appreciated.

However, the Council is required to take into account the public benefits of a proposal when assessing applications that are considered to cause less than substantial harm to the setting of a designated heritage asset (NPPF Section 16, point 202). The provision of such a structure allows the café element of the business to provide covered outdoor seating and an increase in its capacity to seat customers at various times of the year, whatever the weather. As a result, the temporary provision of such a structure and its contribution to a local business facility are considered to outweigh the visual harm caused in this instance. There are no objections to the

provision of such a structure to enable the full use of facilities to support this local facility, and the transparent material is a positive element of the structure, as something opaque would be more visually intrusive within the building's sensitive setting. The fact that a temporary erection of the canopy is proposed (for 10 months out of 12) also means that this will not become a permanent fixture within the building's curtilage.

My only comment is that the application states for a preference for the canopy to be erected for 10 months of the year, without specifying the actual time period it is required. It is presumed that this means a continuous period of 10 months, rather than a total of 10 months (with it being put up and down to suit). Obviously, the winter season is suggested, but confirmation of the 10 months should be agreed so that this can be conditioned, setting out clear parameters to be adhered to. I would also suggest that any permission is granted as a temporary permission for 5 years so that its use, function and appropriateness can be reassessed and fully appraised at the end of the period"

It is acknowledged that there is support from members of the public for the canopy to be erected all year round. However, this application is seeking planning permission for the canopy to be erected for 10 months of the year only and this application has been assessed on this basis. It is also noted that the Conservation Officer has no objection to the proposal on heritage grounds due to it being a temporary structure. It is also considered reasonable given that the canopy is a clear plastic structure that the planning approval is granted as a temporary permission for 5 years, to ensure that its function and appropriateness can be reassessed on heritage grounds.

As requested by the Conservation Officer, the applicant was asked to confirm which 2 consecutive months of the year the canopy would be removed for, so that the planning approval can be conditioned as such. It is acknowledged that the intention was to remove the canopy on an ad-hoc basis. However, conditions imposed on a planning approval must satisfy the six tests detailed below:

- **Necessity** – the condition should address a planning objection which would otherwise have resulted in refusal. Otherwise, it will require particular justification;
- **Relevance to planning** - the condition should not duplicate controls available under other legislation., even if the agency responsible for that legislation cannot or will not enforce it;
- **Relevance to the development to be permitted** - the condition should fairly and reasonably relate to the development and not meet an existing need or satisfy an existing problem;
- **Enforceability** - a condition should not be imposed if it cannot be enforced because, for example, a breach could not be detected. The most common problem is the lack of a 'trigger' i.e. a time before which the requirements of the condition must be met;
- **Precision** - the condition should not be vague, or allow discretion/interpretation by the reader;
- **Reasonableness in all other respects** - the effect of the condition should not be such that it nullifies the benefit of the permission.

The applicant was advised that removing the canopy on an ad-hoc basis was not considered acceptable in planning terms as this would not be precise enough to condition and would likely be impossible for the LPA to monitor and enforce (failing the precision and enforceability tests detailed above).

However, the applicant has requested that the canopy be removed from the second week in January until the second week in March of each year. This is considered to not be sufficiently precise and it is considered more appropriate to condition from the 8th January to the 8th March, then it is taking it from the start of the 2nd week, this would appear to meet the tests above.

Given the above, it is considered that the granting of temporary planning permission will not cause harm to the significance of the listed building or its setting or cause harm to the character and appearance of this part of the conservation area.

Impact upon the North Wessex Downs Area of Outstanding Natural Beauty (AONB):
As the proposals will be within the main built-up part of the settlement and there will be no encroachment into the open countryside, no harm will be caused to the special qualities of the AONB.

Conclusion:
The proposed development, on balance, is considered acceptable in this instance as the scheme is for a temporary consent with breaks during the year that allow for the listed structure to be viewed without obstruction. The public benefits associated with the scheme allow for the commercial side to be more viable and thereby ensure the longevity of the historic structure within this location. Any recognised harm is considered to be to the lower end of less than substantial and the benefits are considered to outweigh what is currently recognised as limited harm.

The scheme is otherwise considered acceptable in the context of its surroundings and in accordance with the general criteria as set out in the aforementioned policies of the local development plan and a positive recommendation is hereby made.

Conditions: (3)

1 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Application Form
Design & Access Statement September 2023

Plans:
Parade Canopy Elevations
Parade Canopy Plan Rev A
Drawing No. 9m-3m E 001, Gable End
Drawing No. PARADE_OS_01

REASON: For the avoidance of doubt and in the interests of proper planning.

2 Permission is granted for the canopy for a temporary period of 5 years from the date of this decision. The canopy and associated structure shall thereafter be removed.

REASON: In order that its use, function and appropriateness can be reassessed and fully appraised prior to the grant of any further consents in the interests of preserving the listed building and its setting and in the interests of preserving the character and appearance of the Marlborough Conservation Area and in order to protect the amenity of the adjoining residents and that of the area.

3 The canopy hereby permitted shall be removed for a continuous period from the 8th January to the 8th March of each year.

REASON: The structure is required to be removed for a continuous period each year in the interests of preserving the listed building and its setting and that of the character and appearance of the Marlborough Conservation Area.

Informatives: (1)

4 It is recommended that you produce a noise management plan to demonstrate all noise sources have been considered and controlled, as per the advice and guidance provided on the premises licence application. Should you wish the guidance to be resent, please contact the council's Environmental Control and Protection Team.