

Duke Of Cumberlands Head  
Main Street  
Clifton  
Banbury  
OX15 0PE

16/02442/LB

**Case Officer:** Matthew Coyne    **Ward(s):** Deddington

**Applicant:** Mr Tim Catling

**Ward Member(s):** Cllr Bryn Williams, Cllr Hugo Brown, Cllr Mike Kerford-Byrnes

**Proposal:** Opening the rear wall of the fireplace to link two rooms

**Committee Date:** 16<sup>th</sup> February 2017    **Recommendation:** Refuse

**Reason for Referral:** Ward Member call-in by Cllr Bryn Williams

## 1. Application Site and Locality

- 1.1. The application site relates to a Grade II Listed building located within the predominantly residential village of Clifton. There are a number of buildings in the vicinity of varying ages, styles and sizes. The site is located adjacent to the main road and has a car park and outdoor space to the rear - which is accessed via a coach-house style part of the building. To the north of the site, there are open fields.
- 1.2. The building itself has two storeys and is constructed of stone with a thatch roof. In addition, there is a single storey wing, extending to the west side, which has a slate roof. The building has been altered and extended previously, including replacement windows, alterations to the roof at the rear, and the addition of a porch at the front.

## 2. Description of Proposed Development

- 2.1 The application seeks permission for the opening of the rear wall of the fireplace to link through to both rooms. This was originally submitted as part of a previous application (but was subsequently removed from the proposal following Officer concerns).
- 2.2 The application is before Members due to the level of public support for the proposal, contrary to the recommendation.

## 3. Relevant Planning History

- 3.1. 16/01475/LB: Alterations and single storey rear extension APPROVED 07 November 2016.
- 3.2. 16/01474/F: Alterations and single storey rear extension APPROVED 07 November 2016.

The above applications originally included the proposal to knock through the fireplace. This element was removed following consultation with the Conservation

Officer and concerns raised by the Case Officer. Following the removal of this part of the scheme, it was considered that the proposal would, on balance, be acceptable (despite there still being some harm caused to the character and historic significance of the listed building, it was considered this was outweighed by the public benefit).

#### **4. Response to Publicity**

- 4.1. This application has been publicised by way of a site notice displayed near the site and by advertisement in the local newspaper.
- 4.2. 12 letters of support were received as part of the consultation process (it was also noted that a number of other letters were received regarding the previous scheme but were not directly provided as part of this application). The letters of support are summarised by the following:
  - The proposal is required to secure the viability of the pub
  - The proposal would improve the ambiance and would integrate the room with the main part of the building.
  - By not allowing this change it drastically reduces the earning capacity in terms of the number of covers that could be offered.
  - The business needs to survive in order to protect the building. Without the business, the building will at worst be lost completely.
- 4.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

#### **5. Response to Consultation**

- 5.1 Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

##### DEDDINGTON PARISH COUNCIL:

- 5.2 Deddington Parish Council raised no objections to the proposal and stated that they support this planning application '*as it will help to keep a business in the parish*'.

##### CHERWELL DISTRICT COUNCIL:

- 5.3 The Conservation Officer objects to the application and makes the following comments:

The proposed development was removed from a previous listed building consent application.

The proposal is to remove part of the historic fireplace dividing the lounge area from the bar area of the building and replace with a through fireplace which is accessible on both sides of the building. The fireplace is specifically mentioned in the list description '*Large inglenook fireplace with chamfered bressumer*'.

The building is grade II listed and is of 17<sup>th</sup> century construction.

A Heritage Statement was produced as part of the application and this states that it is reputed to have been a public house since 1774. The Heritage Statement has been produced by an individual with an MSc in Historic Conservation, but no further information is available about her background. The Heritage Statement gives a brief overview of the history of the building and describes the structure in detail, but the assessment of significance is inadequate – it focuses on the use of the building as a public house and does not consider the significance of the chimney / fireplace which forms the basis of the application.

- In relation to the building as a whole it states *'It appears likely that the primary building was 2 bays with a possibly agricultural building added to the east in the early 18<sup>th</sup> century, later extended west and north with the addition of an outshut'* and identifies the significance of the building as a whole *'Much of the historic fabric has disappeared from this site over the years, although most of the floor plan and some of the roof timbers survive. Clearly, the building has been extended during the 18<sup>th</sup> century, and this may have happened quite early on. However, the primary significance is that this building has remained a public house for almost 250 years'*
- The fabric of the chimney is considered *'The narrow coursed stonework of the east chimney continues from ground floor to attic, including the gable wall, with the exception of the part in room F2, which appears to have been rebuilt. It appears the spine beam in this room has been reset due to the brick and cement construction around the eastern end. It is a possibility that the wall and chimney were an addition, although an early addition. However, consideration has been given as to whether this was an external wall, but on reflection, due to the nature of the easternmost roof the former is more likely. The straight joint on the ground floor would also concur with this theory.'* The only reference to the significance of the chimney states *'Considering how this business has failed over previous years, every effort should be made to ensure this becomes viable for the long-term once more, and if this takes just a small alteration to heat a room therefore encompassing this within the pub then this intervention has my approval'*

The Heritage Statement should have considered significance in relation to

- The original use (vernacular cottage / barn?) and its current and historic use as a public house.
- The plan form and layout of the building in relation to its use as a public house.
- The historic fabric of the existing fireplace.

The Heritage Statement could potentially have used the Conservation Principles for assessing significance of historic fabric and considered evidential, historic, aesthetic and communal values. If this approach had been taken it would have been possible to fully address the issue raised by one of the respondents relating to the rebuilding of the fireplace in the 1960s and the significance of this.

The National Planning Policy Framework provides guidance in paragraphs 133 and 134 relating to how harm (whether substantial or less than substantial) is to be weighed against the public benefits of the proposal.

It is my view that **the harm is significant, but less than substantial** on the basis that

- The chimney and fireplace form part of the original historic fabric of the original building
- The inglenook fireplace is specifically mentioned in the listed building description
- The chimney and fireplace may form a fundamental structural element of the building
- The existing configuration of the building with separate rooms reflects that of historic pub buildings in general ‘..... *legislation and licensing controls encouraged the plan form that became prevalent, with multiple entrances and numerous rooms for different styles of drinking, often divided by low partitions rather than solid walls, served increasingly from a single bar*’. (Historic England ‘Designation Listing Selection Guide: Commerce and Exchange Buildings’)

As the harm is less than substantial (substantial harm has a very high test) paragraph 134 is relevant ‘*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 to the proposal, including securing its optimum viable use*’

There is clearly strong public feeling about the continued use of the building as a public house. A substantial number of letters have been received in support of the proposed development from the local community citing its importance to the community and claiming that the pub will be unviable as a business without the proposed alterations.

I fully concur with this and there is a clear public benefit to retaining it in use as a pub which is considered to be its optimum viable use.

The case has not, however, been made that the public house would not be able to function as a business without the proposed alteration. There are a number of suggestions from the local population that the proposed works will expand the volume / capacity of the pub and allow extra ‘covers’ – it is unclear what is meant by this as the proposal will not allow for any additional floor space. There are also concerns expressed that the business will fold and the building be demolished if these works do not take place. It is understood that these concerns relate to incidents in the recent history of the pub and therefore the issues are very emotive, but there is no basis for these concerns.

It is my view that the proposed works are considered to be a ‘want’ rather than a ‘need’ in relation to the operation of the building as a public house and that the public house will be viable without this alteration, particularly in light of the alterations already consented as part of recent application 16/01474/F and 16/01475/LB.

There is therefore an **objection** to the proposals.

## 6. Relevant National and Local Planning Policy and Guidance

### 6.1 Development Plan Policies:

The Cherwell Local Plan 2011-2031 Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies

are retained and remain part of the Development Plan. Planning legislation requires planning decisions to be made in accordance with the Development Plan unless material planning considerations indicate otherwise. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

Cherwell Local Plan 2011 - 2031 Part 1

ESD15 - The Character of the Built and Historic Environment

Cherwell Local Plan 1996 (Saved Policies)

C18: Development proposals affecting a listed building

## **6.2 Other Material Planning Considerations:**

National Planning Policy Framework (The Framework) - National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied.

Planning Practice Guidance (NPPG) – This sets out regularly updated guidance from central Government to provide assistance in interpreting national planning policy and relevant legislation.

## **7. Appraisal**

7.1 Officers' consider the following matters to be relevant to the determination of this application:

- Impact on Heritage Assets

7.2 The proposal would involve the partial demolition of the rear wall of the fireplace to open it out to both rooms. This was originally submitted as part of a previous application (but was subsequently removed from the proposal following Officer concerns). Despite the removal of this element from the proposal, it was still considered that there would be some harm caused to the listed building by those proposals. However, given that one of the most harmful elements had been removed from the proposal, it was considered to be, on balance, acceptable (and that the public benefit would outweigh the remaining harm).

7.3 Saved Policy C18 of the CLP 1996 states that in determining an application for Listed Building Consent, the Council will have special regard to the desirability of preserving the building or its setting or any features of special architectural or historical interest. The Council will normally only approve internal and external alterations or extensions to a Listed Building which are minor and sympathetic to the architectural and historic character of the building.

7.4 Paragraph 134 of The Framework 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 for the proposal, including securing its optimum viable use'.

- 7.5 It is considered that the information provided within the Heritage Statement fails to address the harm caused by the proposed works. The Conservation Officer also considers this to be the case and states that *the assessment of significance is inadequate – it focuses on the use of the building as a public house and does not consider the significance of the chimney / fireplace which forms the basis of the application*. Having regard to this, the Conservation Officer has found that there would be significant harm caused to the historic fabric of the building, but would be classed as 'less than substantial' (with substantial harm having a very high test) as per Paragraph 134 of The Framework.
- 7.6 The inglenook fireplace is specifically mentioned in the listed building description which demonstrates that it is a noteworthy feature within the building. Having regard to saved Policy C18 of the CLP 1996 (which states that in determining an application for Listed Building Consent, the council will have special regard to the desirability of preserving the building or its setting or any features of special architectural or historical interest) it is considered that the chimney and fireplace form part of the original historic fabric of the original building and this proposal is unsympathetic to its significance. It is, therefore, considered that the proposal would be contrary to Saved Policy C18 of the CLP 1996.
- 7.7 The Conservation Officer advises that the existing configuration of the building with separate rooms reflects that of historic pub buildings in general '*..... legislation and licensing controls encouraged the plan form that became prevalent, with multiple entrances and numerous rooms for different styles of drinking, often divided by low partitions rather than solid walls, served increasingly from a single bar*'. (Historic England 'Designation Listing Selection Guide: Commerce and Exchange Buildings'). Having regard to this, the proposed alteration is considered to have a detrimental impact on the significance of the building by unsympathetically altering the configuration of the existing building.
- 7.8 Further to the above, the Conservation Officer also considers that the inglenook fireplace may be a fundamental structural element of the building and, whilst there may be engineering solutions to overcome this, it has not been demonstrated that there would be no further harm caused to the historic fabric of the listed building by carrying out these works.
- 7.9 Whilst it is noted that there is considerable public support for the proposal, it has not been demonstrated that the public house would not be able to function as a business without the proposed alteration. The Conservation Officer states that a number of public representations made reference to the proposal's ability to expand the volume / capacity of the pub and allow extra 'covers' – However, the proposal will not allow for any additional floor space. Whilst it is appreciated that the representations may actually be referring to the room being used more than before, no justification has been provided which demonstrates that the business would be unviable without the proposed works or that the room would not be used once the previous permissions/listed building consent have been implemented.
- 7.10 Whilst there have also been a number of representations raising concerns that the business will fold and the building be demolished if these works do not take place. It is considered that there is no basis for these concerns. The applicants have recently received planning permission and listed building consent for internal alterations and a single storey rear extension for its continued use as a pub.

7.11 Whilst Officers are sympathetic to the concerns raised by local residents, no justification has been provided which demonstrates why the public house would not be able to function as a business without the proposed alteration or how these works would make the business viable. In addition to the above, the Heritage Statement submitted with the application fails to address the harm caused by the proposed works and the assessment of its significance is 'inadequate'. Having regard to the above, the proposal is considered to be detrimental to the listed building and the significance of a feature of special architectural or historical interest. The proposal is thus considered to be contrary to Saved Policy C18 of the CLP 1996 and Paragraph 134 of The Framework.

## **8. Conclusion**

- 8.1 Overall, the works that are the subject of this application are considered to have a detrimental impact on the fabric of the Listed Building. Whilst Officers are sympathetic to the concerns raised by local residents, no justification has been provided which demonstrates why the public house would not be able to function satisfactorily as a business without the proposed alteration or how these works would make the business viable. In addition to the above, the Heritage Statement submitted with the application fails to address the harm caused by the proposed works and the assessment of significance is 'inadequate'.
- 8.2 Having regard to the above, the proposal is considered to be detrimental to the Listed Building and the significance of a feature of special architectural or historical interest. The proposal is thus considered to be contrary to Saved Policy C18 of the CLP 1996, Policy ESD15 of the CLP 2031 (Part 1) and Government guidance contained within The Framework (specifically Paragraph 134).

## **9. Recommendation**

- 9.1. That Listed Building Consent be refused, for the following reason:

The proposed alteration to the inglenook fireplace is considered to be detrimental to the Grade II Listed Building and the to the significance of a feature which has a special architectural or historical interest. It has not been demonstrated that the public benefits of the proposal would outweigh the demonstrable harm caused to the historic significance of the Grade II Listed Building. The application therefore fails to accord with saved Policy C18 of the Cherwell Local Plan 1996; Policy ESD15 of the Cherwell Local Plan 2031 (Part 1); and Government guidance contained within the National Planning Policy Framework (specifically paragraph 134).

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