

DELEGATED DECISION REPORT

SMD/2021/0572
Valid 14/09/2021

FROGHALL WHARF
WHISTON BANK
FROGHALL

CHANGE OF USE FROM
HOLIDAY FLAT TO TEA ROOM
AND EXTERNAL FENCE WITH
GATE TO ROADSIDE EDGE

(FULL - MINOR)

MAIN ISSUES

- Housing
- Economy
- Heritage
- Highway Safety
- Design

DESCRIPTION OF SITE

This is the first floor area over Hetty's tea shop. The building as a whole is of two storeys from the late 18thC / early 19thC in brick with blue slate and Grade II Listed, named as Froghall Wharf warehouse in the listing description. The building backs on to the Caudon Canal on its northerly elevation with just a narrow wharf path to the canal edge. At first floor level over the canal the building has a projecting loading hopper. It is understood that historically the building was a corn store and that it provided stabling for horses working the canal and the Froghall basin. Froghall is an exceptional historical site of early industry linked with the North Staffordshire Potteries. Limestone quarried from the hills to the east was brought by plateways which converged in the Froghall basin and after being worked at Froghall was transferred by canal barge to the Potteries.

The first floor cannot be accessed internally as there is no staircase. Instead the accommodation (currently a flat) is entered via a doorway in the westerly elevation from Foxt Road (C089).

There is a narrow curtilage along the width of the westerly elevation between the doorway and the road edge. There is no pavement and the road is single track. The curtilage butts up to the stone walled parapet of an adjacent bridge which carries the road over the canal. The bridge is separately Listed grade II.

A three-bar timber post and rail fence with gate has recently (since 2019) been erected along the curtilage / roadside boundary edge.

The site is within the Caldon Canal Conservation Area which extends to encompass much of the Froghall Wharf basin.

PROPOSAL

As in the application description. As a result of discussions with the LPA the description has been amended with the applicant's agreement to include reference to the inclusion of a proposed roadside boundary fence and gate. In support of this a further illustrative drawing has been submitted prepared by the applicant's agent. An extract of the drawing is reproduced at fig.1 below.



Fig.1

The internal works do not require planning permission. The change of use does require planning permission. The external fence also requires planning permission as there is no Part 2 (Minor Operations) PD in the curtilage of a Listed Building.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Local Plan (adopted 9th September 2020)

- SS1 Development Principles
- SS2 Settlement Hierarchy
- SS10 Other Rural Areas Area Strategy
- SS11 Churnet Valley
- DC1 Design Considerations
- DC2 The Historic Environment
- DC3 Landscape and Settlement Setting
- E1 New Employment Development
- E4 Tourism and Cultural Development
- H1 New Housing Development
- NE1 Biodiversity and Geological Resources
- NE2 Trees, Woodland and Hedgerows
- T1 Development and Sustainable Transport

National Planning Policy Framework February 2019

Paragraph(s) 1 – 14;

Section(s) 4 – Decision making; 6 – Building a strong and competitive economy; 8 Promoting healthy and safe communities; 11 – Making effective use of land; 12 – Achieving well designed places; 15 – Conserving and enhancing the natural environment; 16 – Conserving and enhancing the historic environment.

Adopted Supplementary Planning Documents/Guidance (SPD/G):

- Space About Dwellings SPG
- Design Principles SPG
- Design Guide SPD adopted 21st February 2018

Local Plan Supporting Evidence Documents:

- Landscape and Settlement Character Assessment (2008)

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

78/05727/OLDDC – Restoration of warehouse, conversion to craft centre shop and living accommodation and septic tank - approved

81/09496/OLDDC – Change of use of part of shop to tea room – approved

SMD/2016/0579 – Listed Building Consent for proposed alterations and addition of covered seating area to existing ground floor Cafe (A3); together with the provision of a floating pontoon seating area in adjacent canal basin with connecting walkway. Conversion and change-of-use to first floor to create self-catering holiday accommodation – approved

SMD/2019/0146 – proposed landscaping adjacent to Hetty's tea shop including construction of raised planters, stone tables and stone bench seats – refused

SMD/2019/0446 /0447 – Proposed landscaping adjacent to Hetty's Tea Room including construction of tables and bench seats – approved

CONSULTATIONS**Publicity**

Site Notice expiry date: 11th Oct 2021

Neighbour consultation period ends: 6th Sept 2021

Press Advert: 19th Oct 2021

Public Comments

Objection – D Williams: my only concern is for what can only be described as the very dangerous access and egress point virtually on the canal bridge to the planned dining area. Suggests internal stair access instead and a lift for wheelchair users to be insisted upon.

Comments – P Cowie: The immediate access onto a public road needs specific provision to ensure safety. Also, reports parking on the roadside and this causes congestion of already constricted road.

Also queries absence of disabled toilet facilities but comments that it is good to note toilets (though not for disabled) being included on the first floor saying there are at present none at all at the café.

Town / Parish Comments

Ipstones Parish Council – opposed. The access to the flat/proposed tearoom is onto the road next to the bridge and members are concerned that this poses a safety issue. However, members think that the proposed change of use is a good idea and would agree to it in principle if the access situation can be addressed and suggest that the planning officer have a discussion with the applicant to find a solution to the safety issue of the access.

SMDC Waste Collection

No issues regarding waste collection.

Canal and River Trust

No objection.

SMDC Heritage Conservation Officer

There are no external changes proposed. Although they have provided no information about the first floor before it was converted into accommodation there are no significant changes to the existing layout so there will be no additional impact on the building's significance. No objections or additional conditions required. [NB this prior to knowledge of the proposed fence.]

Environmental Health

SMDC EH recommend five conditions:

- 1) Restrict hours of noisy development work
- 2) Suitable ventilation and filtration equipment shall be installed to suppress and disperse fumes and/or smell created from cooking activities on the premises – details of the equipment shall be submitted to and approved by the Local Planning Authority in writing prior to commencement of this development.
- 3) Control of noise from air ventilation systems.
- 4) Restriction on delivery times.
- 5) Restriction on opening hours to those set out in the application

Staffordshire County Council Highways

There are no objections on Highway grounds. Pedestrian access appears to be direct from Foxt Road. Door opens onto a surfaced refuge area a minimum of 1.6m deep. This refuge is fenced off from the carriageway. A sign on the gate warns of traffic. Although there is no footway, this refuge area allows pedestrians to stand clear of the carriageway and wait until it is safe to walk in the carriageway. Having entered the building from this access, customers will be aware of the arrangement. There are no footways on Foxt Road. Pedestrians in the carriageway will not be unusual around Froghall Wharf.

OFFICER COMMENTS**Principle of Development**

SS10 supports only development with essential need to be located in the rural area and this extends to support for limited business expansion where a rural location can

be justified. These requirements are met here as the Wharf is a significant visitor destination deriving from the intrinsic rural qualities of the location thereby generating the basis of the business. The proposal is also a tourism facility supported by SS10(5) subject to being in accordance with SS11 for the Churnet Valley and/or E4.

Under SS11 the proposal would need to be in accordance with the Master Plan and, if so, the expansion of existing tourist attractions and facilities and the provision of compatible new tourist attractions and facilities is supported. The application site is not within any of the zones identified in the Master Plan for Froghall and it may on that basis be concluded that SS11 is not definitively applicable although the scheme is well within what can be understood as the 'spirit' of the Master Plan in relation to Froghall.

Policy E4(2)(A) supports expansion of tourism facilities "where needs are not met by existing facilities". Given the expansive range of concept proposals put forward in the Master Plan for the nearby zones it can be assumed there are un-met needs and alternatively, or as well, as this is a business proposal this must indicate an expectation at least of un-met needs.

E4(2)(B) is that "all development shall be of an appropriate quality, scale and character compatible with the local area, protect the residential amenity of the area, enhance the heritage, landscape and biodiversity of the area and shall not harm interests of acknowledged importance".

Heritage

As regards the Listed Building (in this case two: the application building and the adjacent canal road bridge) there is a statutory duty placed on the LPA, under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to consider the impact of the proposal on the special architectural and historic interest of the Listed Building affected, and the setting and to "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".

As regards the Conservation Area (in this case the Caldon Canal CA), Section 72 of the Planning (Listed Buildings and Conservation Areas Act) 1990 places a statutory duty on the LPA in assessing planning applications in respect to any land or buildings in a Conservation Area to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. In reaching its decision the LPA has to demonstrate that the Section 72 Duty has been applied and discharged. Section 72 (and Footnote 6 of para.11 of the NPPF) creates a strong presumption in favour of the preservation of Conservation Areas and their setting.

An LPA can only discharge its duty if it has carried out a proper assessment of the impact on a Conservation Area and/or a Listed Building, is conscious of the duty and has demonstrably applied it in assessing the proposal. This assessment extends to setting, the surroundings in which a heritage asset is experienced.

Historic Environment Policy DC2 of the Local Plan is to give protection to designated heritage assets and their settings and non-designated heritage assets as set out in the NPPF.

NPPF paragraph 199 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”.

Paragraph 200 goes on to say that: “any harm or loss [to a heritage asset] should require clear and convincing justification.”

NPPF paragraph 202 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 securing its optimum viable use.”

The SMDC Conservation Officer having advised regarding internal work that there are no significant changes to the existing layout so there will be no additional impact on the building’s significance and raising no objections it can be concluded that there would be no adverse impact on the Listed Building internally.

Subsequently in assessing the roadside safety considerations the LPA became aware of the recent timber fence. As there is no Part 2 PD for a fence in the curtilage of a Listed Building this would require consent. Discussions with SCC Highways confirmed the importance of the fence and gate in making the scheme safe. The LPA could not find the existing fence suitable in this highly sensitive public-fronting position in relation to the two Listed Buildings. Out of discussions with LPA the applicant’s design agent has however come forward with a good quality proposal as illustrated in draft in Fig.1 to this report. Precise details to be required by condition. For the purposes of policy DC2 and NPPF assessment (paragraphs 199 to 202) there would be no harm to heritage and the proposed fence is a more acceptable solution in heritage terms for the roadside safety issue than the existing timber fence amounting to an improvement / public benefit off-setting any harm, which would be less than substantial.

Design

The issues that arise are covered in the last paragraph above.

Amenity/Living Conditions

The closest nearby residential neighbours are at Foxtwood Cottages some 60m to the west and therefore not in close proximity of the application premises. With this in mind, careful consideration of the SMDC EH recommended conditions leads to the following conclusions:

- 1) Restrict hours of noisy development work.
 - unnecessary in this case as the amount of work involved is very minimal
 - omit
- 2) Suitable ventilation and filtration equipment shall be installed to suppress and disperse fumes and/or smell created from cooking activities on the premises – details of the equipment shall be submitted to and approved by the Local Planning Authority in writing prior to commencement of this development.

- Ordinarily the LPA may want to attach a condition on these lines. It would not however be possible for this Listed Building as the equipment would inevitably require Listed Building consent and this may not be forthcoming
 - there is an extractor fitted to the kitchen window in the ground floor
 - the existing café appears to be managed successfully without complaint arising
 - it is noted that the proposed first floor kitchen is in the same position as the existing first floor kitchen
 - if ventilation / extraction equipment were to be needed at first floor this will need to be considered under an LBC application
 - for the scale of what is proposed it is judged acceptable to omit this condition
- 3) Control of noise from air ventilation systems
- not necessary at this location
 - omit
- 4) Restriction on delivery times
- include
- 5) Restriction of opening hours to those set out in the application – Mon to Fri 10.00 – 17.00; Sat Sun and BH 09.00 to 20.00
- include

Highway Safety

The close proximity of the sole first floor entrance to the road edge has been subject of careful consideration. The Highways Authority supports the scheme. A condition is needed to require the replacement fence in place prior to first use.

CONCLUSION / PLANNING BALANCE

In consideration of all of the above the application is recommended for approval subject to the conditions as discussed. The loss of the holiday let replaces one aspect of the existing business with another – an expansion of the café accommodation. The proposed solid metal rail fence is a significant design and heritage improvement on the timber post and rail.

OFFICER RECOMMENDATION : Approve subject to conditions

Case Officer: Arne Swithenbank

Recommendation Date: 28th Jan 2022

X *B.J. Haywood*

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council

