

Case Officer: Gemma Magnuson **Recommendation:** Approve

Applicant: WH Brakspear and Sons Ltd

Proposal: Replacement kitchen extraction system including new intake grille

Expiry Date: 25 February 2021 **Extension of Time:** Yes

1. APPLICATION SITE AND SUMMARY OF SIGNIFICANCE

1.1. The Lion is a Grade II listed Public House situated central to the village of Wendlebury. Other Grade II listed buildings are in close proximity to the site to the south-west and north-west. The building was designated as a listed building on 10 April 1987 and is thought to date from the early to mid-18th century.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

2.1. This application seeks listed building consent for the involve the replacement of an existing kitchen extraction system serving the public house. The existing system consists of an exhaust and intake upon the slate roof of a single storey projection to the rear of the public house. The proposed development would involve the replacement of these with an exhaust at a lower level, and a louvred vent intake within the gable end.

3. RELEVANT PLANNING HISTORY

3.1. The following planning history is considered relevant to the current proposal:

Application: 14/01026/F Permitted 3 November 2014

Single storey rear extensions, internal alterations and extension to parking area

Application: 14/01027/LB Permitted 3 November 2014

Single storey rear extensions, internal alterations and extension to parking area

Application: 15/00172/F Permitted 16 April 2015

Amendments to application 14/01026/F

Application: 15/00072/LB Permitted 16 April 2015

Amendments to application 14/01027/LB

Application: 16/01876/F Permitted 27 January 2017

Retrospective - various amendments to planning permission 15/00172/F including alterations to extended barn, alterations to kitchen extension, repositioning of external flues, changes to signage, reinstatement of southern boundary wall and external lighting

Application: 16/01877/LB Permitted 27 January 2017

Retrospective - various amendments to listed building consent 15/00072/LB including alterations to extended barn, alterations to kitchen extension, repositioning of external flues, changes to signage, reinstatement of southern boundary wall and external lighting

Application: 16/02579/F Refused 12 April 2017

Installation of 2no. extractor units on the roof of the kitchen extension (retrospective)

Application: 16/02580/LB Refused 12 April 2017

Installation of 2no. extractor units on the roof of the kitchen extension (retrospective)

Application: 20/02815/F

Replacement kitchen extraction system including new intake grille

3.2. The existing extraction system is understood to be unauthorised.

4. PRE-APPLICATION DISCUSSIONS

4.1. The following pre-application discussions have taken place with regard to this proposal:

Application: 19/02303/PREAPP	Detailed Pre-App response sent	20 Dec 2019
Visual improvements to currently installed catering kitchen ventilation system		

Application: 20/00060/PREAPP	Detailed Pre-App response sent	28 Feb 2020
Follow-up to 19/02303/PREAPP - Visual improvements to currently installed catering kitchen ventilation system		

4.2. The latest pre-application advice concluded as follows:

Overall, the proposed amendments are considered an improvement on the existing situation but still cause harm to the listed building, whilst other less intrusive options should be considered if an application were to be submitted based on the current proposal a compelling justification would be required.

5. RESPONSE TO PUBLICITY

5.1. This application has been publicised by way of a site notice displayed near the site and by advertisement in the local newspaper. The final date for comments was **30 December 2020**, although comments received after this date and before finalising this report have also been taken into account. One response was received commenting on the application.

5.2. The comments raised by third parties are summarised as follows:

- Would like reassurance that noise and odour problems would be solved

- Current system has detrimental impact on amenity

5.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

6. RESPONSE TO CONSULTATION

6.1. 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.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

6.2. Wendlebury Parish Council – no objection.

OTHER CONSULTEES

6.3. CDC Building Control – no comments.

6.4. CDC Conservation – *The kitchen extraction system at The Lion has been an ongoing issue for a number of years since planning and listed building consent was granted for the conversion of the rear wing of the pub into a kitchen (14/01026/F and 14/01027/LB).*

6.5. *The existing extractor system was the subject of Enforcement action and the refusal of retrospective consent. The building is now in new ownership and the owners have engaged with the council to try to find a more appropriate form of extraction.*

6.6. *A recent pre-app on the issue concluded:*

6.7. *'The proposed development has not overcome the reasons for refusal as the extraction units are still prominently sited and of industrial design which is at odds with the traditional character and simple detailing of the building. The proposed design, is however, an improvement on the existing extraction units with only one large extraction unit on the roof and the intake unit replaced by a louvred intake on the gable end. The design is as a result of a detailed site meeting at which all options were considered with an extraction engineer.*

6.8. *A full detailed explanation / justification has not been provided as part of the pre-application, but would need to be in any forthcoming application. Unfortunately the system used on another building elsewhere will not be possible in this instance due to the pitch of the roof. Consideration was given to moving the extraction system to the other roof slope, which would be further away from neighbouring properties and would have less impact on the streetscene, but this would have a greater detrimental impact on the setting of the listed building as it would be close to and more visible from the principal building itself'*

6.9. *Since that pre-app an alternative scheme has been worked up which involves an intake extract as a grill on the gable end of the building and a separate extraction unit adjacent to the building. This is considered to be a suitable compromise and although still visible reduces the impact on the listed building considerably.*

6.10. *As the kitchen has been given consent in this location (a number of years ago) there are no objections to the extraction system as proposed, which will significantly reduce the impact on the setting of the listed building.*

6.11. CDC Environmental Health – comments as follows:

Noise: Having studied the noise report presented I am satisfied that the proposed extraction system will not cause a nuisance to the nearest residential property as long as it is built to the specification proposed. This will be an improvement to those residents living in the locality who have previously complained about the noise from the existing system.

Contaminated Land: No comments

Air Quality: No comments

Odour: There have been complaints made to this department regarding odour from the current system, not helped by the positioning of the extract fan pointing down the roof towards the nearby residential properties.

Notwithstanding these complaints, odour is an area that we need to comment on and as the extraction system proposed is extracting at a lower level due to the listed building status and to help improve the visual impact of the scheme, the level of odour control for this scheme should be "Very High" based on the guidance provided in the EMAQ Control of Odour and Noise from Commercial Kitchen Exhaust Systems (5/9/2018).

Unfortunately, I have been unable to find any information on the odour control. Ideally this would be easy to assess and hopefully approve prior to determination, however if this is not possible then I would recommend that the following condition be placed and, on any permission, granted:

Details of the odour control for the extraction system shall be submitted to and approved by the LPA prior to the installation of the system. The system shall then be installed as per agreed scheme and maintained and cleaned as per the manufacturer's instructions with a log kept of such cleaning and maintenance available for inspection by request of council officers.

Light: No comments

- 6.12. Given the previous history at the site I wanted to ensure that the odour control details were going to be acceptable prior to determination of the application. I therefore sought these details from the Agent and they were received on 16 December 2020.
- 6.13. The Environmental Health Officer considered that the details assuaged his concerns and made no further comment.

7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2. 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. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

[CHERWELL LOCAL PLAN 2011 - 2031 PART 1 \(CLP 2031 Part 1\)](#)

- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C18 – Development proposals affecting a listed building

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Managing Significance in Decision-Taking in the Historic Environment: Historic England Good Practice (2015)
- The Setting of Heritage Assets: Historic England Good Practice (2015)

8. APPRAISAL

8.1. The key issue for consideration in this case is the impact on the historic significance and setting of the listed building(s).

8.2. Section 16(2) of The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that: *In considering whether to grant listed building consent for any works the local planning authority or 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.* Further, under Section 72(1) of the same Act the Local Planning Authority has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

8.3. Listed Buildings and Conservation Areas are designated heritage assets, and Paragraph 190 of the NPPF states that: *Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise.*

8.4. Paragraph 193 of the NPPF directs 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.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance. Saved Policy C18 of the Cherwell Local Plan 1996 seeks minor and sympathetic alterations to listed buildings.

8.5. The current application follows two requests for pre-application advice, the final one of which included a similar proposal to that currently being considered, and the conclusion was that harm would be caused to the listed building.

8.6. It is regrettable that an extract system has been installed here without the required consents. The original application proposed a commercial kitchen within the single storey projection and again, it is regrettable that the requirement for an extract system to serve that kitchen was not agreed at the time of the application. I consider that it is now reasonable to seek to find a solution to the situation that the applicant finds themselves in, given that the principle of a kitchen in this location has already been accepted. I have also borne in mind the requirement to protect and enhance community facilities, such as Public Houses throughout the District, as detailed in Policy BSC 12 of the Cherwell Local Plan 2011-2031 Part 1.

- 8.7. Justification for the proposed extract has been supplied as part of the current application, explaining that alternatives have been considered, and that the scheme has been further amended to result in a more sympathetic appearance. An acoustic report and details regarding odour control have also been received for assessment. The Conservation Officer has advised that the proposal is an improvement on that existing, and I am in agreement with this assessment.
- 8.8. The proposed extract system would be discreet when viewing from the public domain, being mostly hidden behind an existing stone wall.
- 8.9. I am of the opinion that the less than substantial harm that would be caused to the setting of the listed building is outweighed by the public benefits that would arise from the scheme. These public benefits being the support and protection of this community facility in order to enable hot food to continue to be cooked on the premises without the requirement for further extension/alteration, to safeguard the long-term occupation and maintenance of this Grade II listed building as a Public House, and to improve the living amenities for nearby residents (see 20/02815/F). I therefore consider the proposal to accord with the above Policies and recommend that the application is approved.

9. RECOMMENDATION

That consent is granted, subject to the following conditions:

1. The works to which this consent relates shall be begun not later than the expiration of three years beginning with the date of this consent.

Reason - To comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application forms and the following plans and documents: Site location plan, Block plan, Drg. No. AAN:19.706. 3 Rev. D, AAN.19.706. 5, LIONW-OOC, RT External Noise Assessment ref: MDR/J4417a, 5 Stage Carbon Filtration details received 16 December 2020, LONGAR pleated panel filter details, JANSUN ENVIROCARE LTD Discarb Unit details and Caterquip email dated 17 December 2020

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

3. That prior to the installation of the external elements of the extract flue and intake grille hereby approved, details of the colour/finish shall be submitted to and approved in writing by the Local Planning Authority. The external extract flue and intake grille shall be installed and maintained in accordance with the approved details.

Reason - To ensure that the completed development is in keeping with and conserves the special character of the existing historic building and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. The existing kitchen extraction units shall be removed from the roofslope, and the roofslope made good with materials to match those existing, within six

months of the date of this decision.

Reason - To conserve the special character of the existing historic building and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Case Officer: Gemma Magnuson

DATE: 25 February 2021

Checked By: Paul Ihringer

DATE: 25/2/21