

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

Applicant: WH Brakspear and Sons Ltd

Proposal: Variation of Condition 4 (removal of existing kitchen extract unit within 6 months) of 20/02816/LB – To extend the time limit for completion to mid-November 2021

Expiry Date: 10 September 2021

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. Planning permission and listed building consent were granted on 25 February 2021 for the replacement of an existing kitchen extract system, including a new intake grille (see planning history). The permission was subject to conditions requiring the new kitchen extract and intake grille to be installed and operational within 6 months, and for the existing kitchen extract to be removed within 6 months. The 6 month deadline would have been 25 August 2021, although the work has not been undertaken.

2.2. The current application seeks to vary the relevant conditions to allow additional time in which to remove the existing system and replace it with the new system. The 15 November 2021 has been put forward as a revised date for completion.

2.3. The justification for the extension of time is due to the impact from the COVID-19 pandemic and severely reduced cashflow. The applicant has 150 properties and spending has had to be prioritised.

3. RELEVANT PLANNING HISTORY

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

Application: 20/02815/F Permitted 25 February 2021

Replacement kitchen extraction system including new intake grille

Application: 20/02816/LB Permitted 25 February 2021

Replacement kitchen extraction system including new intake grille

Application: 21/01307/DISC Permitted 8 June 2021

Discharge of condition 3 (colour & finish of intake grille & extract flue) of 20/02815/F

Application: 21/01308/DISC Permitted 8 June 2021

Discharge of condition 3 (colour & finish of intake grille & extract flue) of 20/02816/LB

Application: 21/02482/F Undetermined at time of writing

Variation of Condition 1 (fully installed and operational kitchen extract system and intake grille within 6 months) and Condition 4 (removal of existing kitchen extract unit within 6 months) of 20/02815/F – To extend time limit for completion to mid-November 2021

4. PRE-APPLICATION DISCUSSIONS

4.1. No pre-application discussions have taken place with regard to this proposal.

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 **7 September 2021**, although comments received after this date and before finalising this report have also been taken into account. Two responses were received, one objecting to the application and one making comment.

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

- Whilst sympathy with COVID impact, the negative impact on our quality of life is very impactful – continuous smell and smoke invasive both inside and outside in garden, requiring windows to be shut and washing re-laundered, as well as our own wellbeing
- Missed off neighbour consultation – some of neighbours who got a letter are not fully exposed
- Feel let down as matter drags on for far too many years, it should have been addressed long before COVID
- Noise and smell causes great distress and affects daily life, unable to make full use of our property for far too long, garden is unusable, even noise and smell impact with windows and doors closed
- Concern extension will lead to another, with best time of year to complete the works ending
- Request Planning Officer ensures matter is addressed and delivered upon by mid-November 2021
- Still concerned works will not fully resolve the matter, option clearly most cost effective and less impactful for discharge and ventilation.

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 comments received, although commented as follows on the accompanying application for planning permission:

Wendlebury Parish Council has no objection to this application but would comment that the application requires timescale of maximum of 3 months to be completed from the date the application has been permitted.

OTHER CONSULTEES

- 6.3. CDC Conservation – comment as follows:

There is an extensive planning history on the site extending back to the previous ownership. The current owners have fully engaged in trying to address the situation including pre-application submissions in 2019 and 2020, a full application in 2021 and a discharge of condition in 2021.

It is disappointing that the work to replace the inappropriate extract vent has not yet been carried out, but the following explanation has been given 'Due to the Covid pandemic cashflow in the business has been severely reduced and the applicants have had to prioritise spending between over 150 properties. The works have been scheduled to be completed by mid November 2021'.

A very specific date of 15th November has been given and this seems reasonable under the circumstances. There are no objections in this instance, but there would be very significant concerns (which may warrant further Enforcement action) if this date is not met.

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. It is disappointing that the works have not been completed within the required timescale and that the existing insufficient and unsympathetic extract system remains in place. However, this application is being assessed in the context of the COVID-19 global pandemic where public houses have been forced to cease trading for considerable periods of time over the last 18 months. I therefore accept the justification put forward by the applicant with regard to reduced cashflow. Bearing in mind the requirement of Policy BSC 12 of the Cherwell Local Plan 2011-2031 Part 1 to protect and enhance community facilities such as public houses, and given that the applicant has given a set date for the work to be completed at just over two months from the date of writing this report, I consider that I can support the proposed extension of time.
- 8.6. I have also borne in mind that taking enforcement action against the applicant could lead to longer delays for the completion of work than that now proposed.
- 8.7. The proposed extension of time for the completion of works would support this community facility, whilst securing the prompt replacement of the existing insufficient and unsympathetic kitchen extract facility. Whilst it is acknowledged that a further two months of harm to neighbouring properties in terms of environmental pollution and impact upon this designated heritage asset and its setting would continue to be

experienced, the long-term public benefits of the approval of the extension of time are considered to outweigh these. The application is therefore recommended for approval.

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 from 25 February 2021.

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 the external elements of the intake grille shall be of colour 65YY 79/118 and the extract flue shall be of matt black colour and finish, in accordance with application form, Dulux colour chart and Agent email dated 02 June 2021 approved as part of 21/01308/DISC, and maintained as such thereafter.

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 ESD15 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 by 15 November 2021.

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: 10 September 2021

Checked By: Paul Ihringer

DATE: 10/9/21