

Context/Background

1. This is a popular harbour side public house. The kitchen is small and the need for an efficient means of ventilation and fume extraction is understood for the safety of the catering staff and amenities of the immediate neighbours.
2. The original fume extraction duct was contained with limited visual impact. This was revised without planning permission or listed building consent in 2009. The revised extract duct had far greater impact visually and also resulted in complaints from neighbours and the involvement of Environmental Health.
3. The Council has been the driver in trying to find a resolution which is technically efficient, meets Environmental Health requirements (noise and smell) and visually acceptable. Enforcement action has been held in abeyance to allow time to develop an acceptable scheme. Through the various meetings that have taken place the applicant should be in no doubt as to what is required.
4. A proposal was developed (10/5122/019) which was not ideal but was moving towards a potential acceptable compromise. Prior to determination the plant and equipment was changed, which differed in design and form. It failed to address the noise and smell nuisance resulting in a continuing Environmental Health issue. And was visually more intrusive. The work is unauthorised.
5. Further discussions took place culminating in the letter to Mr Hollington dated 20 November 2013 (copy provided with the application). This reiterated the local planning authority's advice. In particular, despite the earlier input of a noise consultant into the design, there was a need to increase the size and orientation of the plant which required a rethink on how the greater visual impact was to be addressed. A positive solution for concealment within a false pitch roof was submitted for comment and received a favourable response.

Current Proposal

6. The current proposal is retrograde. It involves a larger, bulkier and more visually intrusive solution, without any measures to mitigate the visual intrusion. The applicant has declined to pursue the option which potentially solves "the problem" without explanation or justification.

Assessment

7. The proposal directly affects the listed building and is situated within Langstone Conservation Area both of which are Heritage Assets. The list description is primarily for identification purposes and in common with entries of this date is confined a brief architectural description of the primary (front) elevation amounting to three lines of text. The absence of reference to the interior or secondary elevations has no direct bearing on the determination of the application. It falls to the applicant and local planning authority, as part of the development management process, to determine the impact of the development on the building's special architectural/historic interest and its wider place within the conservation

area. Relevant guidance is contained in the NPPF. Notably, paras 64, 129, 131, 134 and 137. These are set out below for ease of reference.

National Planning policy Framework

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

129. 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. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

131. In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- the desirability of new development making a positive contribution to local character and distinctiveness.*

134. 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.

137. Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

8. The ducting will have a marked detrimental visual impact on views of the rear of the listed property. The industrial nature of the ducting is alien and out of place and will have a negative impact on the building's architectural/historic interest. It is of poor design and fails to realise the opportunities available to mitigate the harm. It is therefore contrary to para 64 of the NPPF.
9. Listed buildings are more than a façade and need to be viewed in the round. Although situated to the rear the proposed ducting would be readily visible from the publically accessible pub garden. The flat roofed

addition although a separate element is read in conjunction with the broader rear elevation. The bulk and alien nature of the ducting will have a notable presence and detract the character, appearance of the listed building as seen in these views. This is contrary to para.131 which seeks to sustain and enhance the significance of the listed building.

10. The public interest is in maintaining a use which positively contributes to the vitality of the area. Earlier draft proposals (not pursued) suggest there is every expectation that an acceptable resolution can be achieved through a modified design which properly addresses environmental (noise and smell) and visual impact. The applicant has not demonstrated or justified why a potentially more acceptable visual solution, which meets the functional needs of the premises, can not be pursued. The inference is the applicant simply chooses not to do so. Given this public benefit must carry little or no weight in support of the current proposal. The requirements of para 134 are not met in the current proposal.
11. Para 137 applies to the broad impact on the conservation area. The development fails to preserve or enhance the conservation area. and significance It therefore falls short of the basic test set out in statute and in para 137 of the NPPF.
12. At local level the prevailing policy is set out in Policy CS11 (4) of the adopted Local Plan which states:-

Protects and where appropriate enhances the borough's statutory and non statutory heritage designations by appropriately managing development in or adjacent to conservation areas, listed buildings, scheduled ancient monuments, historic parks and gardens, archaeological sites, buildings of local historic or architectural interest

The development by the fact that it causes harm (acknowledged by the applicant) does not meet the requirements of this policy.

CONCLUSION

The value of the current public house, the contribution it makes to the local economy, the vitality of this part of the conservation area and public benefit that arise from this are fully acknowledged. There is no intent to diminish this. In recognition the local planning authority has been in protracted negotiations and held enforcement action in abeyance in order to reach an acceptable outcome. The local planning authority has been the driver in trying to find an acceptable outcome and has been pro-active in establishing a framework for this. Conversely, no single party appears to have taken ownership of the problem on behalf of the applicant which has made proactive engagement problematical. It is unfortunate that advice which is very likely to lead to a positive outcome has been ignored in favour of pursuing the current proposal.

It leaves me no option but to recommend refusal and the prospect of enforcement action.

RECOMMENDATION

REFUSE

The proposed revision to the fume extract ducting will detract from the building's special architectural interest and wider conservation area by virtue of its design, bulk and visual prominence. As such it is contrary to national guidance set out in the National Planning Policy Framework, supporting extant guidance in the Practice Note to PPS.5 and Local Plan Policy CS.11.

INFORMATIVE

The local planning authority has provided positive guidance to establish a framework for resolution. Subject to detail, positive comment has been made on alternative proposals (not pursued) which should meet both functional and aesthetic concerns. It is in the applicant's interest to pursue this in order to reach what should be a positive and timely outcome.

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