

Agenda Item	A7
Application Number	21/01230/FUL
Proposal	Change of use of the rear of 4 Dalton Square to form extension to existing beer garden, erection of external cold store, and creation of opening in boundary wall plus regularisation of an external flue
Application site	3 And 4 Dalton Square Lancaster Lancashire LA1 1PP
Applicant	Mr Martin Horner
Agent	HPA Chartered Architects
Case Officer	Mr Andrew Clement
Departure	None
Summary of Recommendation	Approval

1.0 Application Site and Setting

1.1 The site that forms the subject of this application is No. 3 and 4 Dalton Square, currently operated as a public house, restaurant and hotel accommodation, with associated offices and rear beer garden area. The two properties were previously separated, and remain so at the rear gardens and ground and first floor levels. Permissions granted in 2013 and subsequently implemented created a physical link between the two properties at second floor level, and permitted use of the second floor of No.3, outbuilding in No.3 and entirety of No.4 to be used as hotel accommodation in association with the public house and restaurant operated at No.3 at the time. These permissions also granted a physical link through partial demolition of the rear boundary wall, however this aspect has yet to be implemented. The two properties were linked further subsequently through an external fire exit to No.3 being re-routed into the external rear curtilage area of No.4. The two properties are in separate ownership, with No.4 owned by Lancaster City Council.

1.2 The site is located on the northeast corner of Dalton Square in Lancaster City Centre, within the Conservation Area and part of the Dalton Square character area. The site comprises No.3 and 4, both of which are Grade II Listed Buildings, constructed of sandstone ashlar. No. 3 Dalton Square was constructed in 1824 and altered in the late 19th century becoming 'The Borough' restaurant and bar in 2006. No. 4 Dalton Square was constructed around 1830 and was a house, which was subsequently converted to council offices when the building was restored in the late 1980s, prior to becoming hotel accommodation linked to 'The Borough'. The site is within the setting of various other Listed Buildings, notably the Grade II* Listed Buildings Queen Victoria Memorial and Lancaster Town Hall. The site is within a smoke control area, opposite the designated open space of Dalton Square, with surface water flooding 1in1000 year events impacting the surrounding roads, susceptible to groundwater clearwater flooding at 25-50% risk. The application site is within the impact risk buffer zone of the Morecambe Bay and its environmental designations, in a parking permit area with Article 4 and Regulation 7 directions remove permitted and deemed developments

for small scale housing in multiple occupancy and residential 'To Let' signs in this area.

2.0 Proposal

2.1 This application seeks planning and listed building consent to erect a cold store as an extension to an existing timber under slate lean-to outbuilding, accessed internally from a proposed new opening to the existing kitchen area. To the rear outrigger, the application proposes a partial re-slating of the existing roof, regularisation of an existing flue and change of use of the rear curtilage to No4 to an extended beer garden. Within the rear curtilages, development sought relates to creation of an opening between the existing rear boundary stone wall between No.3 and 4, installation of a gate in this opening, installation of planters and a 1.1-metre-tall black galvanised steel railing with the rear curtilage of No.4. The concurrent listed building application also proposes internal alterations to the basement layout of No.3.

3.0 Site History

3.1 A number of relevant applications relating to this site have previously been received by the Local Planning Authority. These include:

Application Number	Proposal	Decision
19/00128/FUL and 19/00129/LB	Change of use of the rear of 4 Dalton Square to form extension to existing beer garden, erection of a single storey rear extension, creation of an opening in boundary wall, erection of a boundary wall, construction of a raised terraced area with water features, erection of dining pods and installation of a retractable canopy system	Withdrawn
16/00955/FUL and 16/00956/LB	Installation of a replacement external fire escape staircase	Approved
14/00414/ADV	Advertisement application for the display of externally illuminated fascia and hanging signs	Approved
13/01195/FUL and 13/01196/LB	Listed Building Consent for the erection of a shed to the rear garden, internal and external alterations to the Coach House and the installation of cowls to a chimney stack	Approved
13/00628/CU and 13/00629/LB	Change of use of 4 Dalton Square, the second floor of 3 Dalton Square and the Coach House to create 11 ensuite bedroom hotel accommodation and 1 en-suite bedroom for staff accommodation	Approved
10/00216/FUL and 10/00217/LB	Installation of evacuated tube solar thermal collectors to east side of the roof	Approved

4.0 Consultation Responses

4.1 The following responses have been received from statutory and internal consultees:

Consultee	Response
Conservation Section	It was considered that the proposal to divide the first floor function room, which was the former drawing room, into bedrooms including installation of ensuite bedrooms and associated services was the most harmful aspect of the scheme. This has subsequently removed from the scheme as amended, and so the level of harm has been reduced (but not removed).
County Archaeology	No objection , subject to an archaeological written scheme for any groundworks and wall removal
National Amenity Societies	No observation received
Property Services	Concerns regarding adverse impacts upon neighbouring office use from noise and nuisance of the beer garden, and detract from security
Tree Officer	No adverse comment

Environmental Health	No objection, subject to condition regarding plant noise
Natural England	No objection subject to any additional visitor accommodation having Visitor Information Packs to explain sensitivities of designated environmental sites

4.2 No response has been received from members of the public:

5.0 Analysis

5.1 The key considerations in the assessment of this application are:

- Principle of development
- Design, scale and heritage impacts
- Amenity standards
- Tree, highways and the environment

5.2 **Principle of development** (DM DPD Policies DM15, DM16, DM23, DM24, DM25, DM56; SPLA DPD Policies SP1, SP2, SG4, TC2, EC5; NPPF Section 2, 4, 6, 7 and 11)

5.2.1 This application seeks planning and listed building consent for developments, alteration and retention of existing works that are required for the continued operation of the site in an efficient manner. The proposal seeks a cold store extension to be accessed directly from the kitchen, as opposed to the existing arrangements in the basement. The existing site is used as a public house, restaurant and hotel, and whilst the two original properties retain a degree of separation in built form and ownership, they're effectively operated as one business at present. Other works and developments include flues, re-slating a roof and installation of planters and fences in the proposed beer garden area.

5.2.2 The principle of improving the functionality of the site and extending the external beer garden area to be used in association with the site is considered to be acceptable. This would support the sustainable expansion of the existing small business within a suitable sustainable location of Lancaster City Centre, supporting the continuation of this town centre use that contributes to the local evening and night-time economic. The proposal will make a moderate economic contribution through expanded business activities, and very modest contribution to the regeneration priorities for Central Lancaster as a visitor destination. Aspects of heritage, highways, amenity and environmental impacts will be covered within following sections of this report, but the principle of the development is considered to be acceptable, and economic benefits weigh moderately in favour of the proposal.

5.3 **Design, scale and heritage impacts** (DM DPD Policies DM29, DM30, DM37, DM38, DM39, DM41, DM42; SPLA DPD Policy SP7; NPPF sections 12, and 16; National Model Design Code; Listed Building and Conservation Areas Act 1990 Sections 7 and 17 and Paragraphs 72 and 73)

5.3.1 In accordance with the Listed Building and Conservation Areas Act, when considering any application that affects a Listed building, a Conservation Area or their setting, the local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the heritage asset or its setting. This is reiterated by policies DM37 and DM38. DM38 sets out that development within Conservation Areas will only be permitted where it has been demonstrated that:

- Proposals respect the character of the surrounding built form and its wider setting in terms of design, siting, scale, massing, height and the materials used; and,
- Proposals will not result in the loss or alteration of features which contribute to the special character of the building and area; and,
- Proposed uses are sympathetic and appropriate to the character of the existing building and will not result in any detrimental impact on the visual amenity and wider setting of the Conservation Area.

5.3.2 Whilst the site originally formed two town houses, given the duration of time the site has been used as a public house, restaurant and hotel, this is considered to be the optimal viable use of the site and heritage asset. The continuation of this use is consistent with the conservation of the asset, as this allows the building to be appreciated publicly, with continued economic activity at the site

encouraging ongoing maintenance and use of the building.

- 5.3.3 Some of the physical aspects of development would cause harm to the Listed Buildings and Conservation Area. Whilst there is an existing flue, this is unregularised, and cannot be immune to enforcement to a Listed Building. Whilst the proposal seeks to paint this flue, given this has no consent to date, this merely reduces the level of harm the flue causes, as opposed to being considered an enhancement to the existing heritage asset. Supporting information has been provided to justify the scale of the existing flue, which projects just under 2 metres from the existing roof and contains features to reduce odour and noise in proximity to windows. Subject to this being painted in matt anthracite grey colour within months of the decision notice, and viewed in the context of existing chimneys and roof forms, there is no clear way of improving the extraction facilities necessary for the optimal viable use of the site as partly restaurant. Once painted, this flue causes a modest degree of harm to the listed building and conservation area, which is considered justified. Other changes to existing facilities result in modest enhancements, namely the removal of a window ventilation unit and replacement with a glazed pane.
- 5.3.4 The proposed cold store would appear as an extension to an existing outbuilding shed, finished in matching materials of timber walls under a slate roof. This would appear congruent to the existing built form, at a modest scale of circa 3.3 metres by 2.5 metres, similar dimensions and matching height to the existing boiler store shed. Subject to being externally finished in matching materials, the cold store is considered to cause no undue harm to the heritage assets, whilst improving the viability of the continuation of business activities and occupation of the site. Modest harm would be caused to the listed building by creating a door opening between the existing kitchen and the proposed cold store, which could be reduced but not eliminated by suitable details of the proposed internal doorway through the concurrent listed building application.
- 5.3.5 The removal of part of the historic garden wall separating the two curtilage areas would harm the Listed Buildings to a modest degree, diluting the visual separation of the two former townhouses, whilst also potentially uncovering archaeological heritage within this historic wall. However, this part of the application has already been granted consent through extant permissions 13/00628/CU and 13/00629/LB, which permitted a larger opening in the same section of wall, and as such the impacts of this can be implemented irrespective of this determination. As such, resistance of the application from this perspective or imposing archaeological conditions for this aspect of the development would not meet the requirements of a planning condition. The proposed cold store seeks to be sited at existing ground level, with no excavations. Should excavation be required, an archaeological investigation could be imposed through planning condition for this element of the development, but unfortunately not for the creation of the gateway gap within the existing wall. Subject to the proposed gate and fencing being implemented in accordance with the submitted information, this aspect is considered to cause no undue harm to heritage assets beyond those previously permitted.
- 5.3.6 The most harmful aspect of the original proposal for the first-floor function room to be subdivided and form visitor accommodation has been removed from the proposal, which would've been particularly harmful to the piano nobile of the former Georgian house. Other aspect cause harm, namely the internal doorway to the cold store and retention of the existing flue, and the impacts of these can be reduced by sympathetic detailing through condition, although these cannot be completely mitigated, and would still cause modest harm to the Listed Building and Conservation Area (for the flue). Heritage aluminium rainwater goods and removal of an existing window extract fan would result in very modest benefits, insufficient to outweigh these impacts. However, when considered that the extraction system is required to facilitate the ongoing restaurant use of the site, and the cold store directly accessible from the existing kitchen will improve the commercial functionality of the site as an ongoing business enterprise, it is considered that these benefits to the optimal viable use outweigh the modest degree of harm cause by the amended physical interventions at the site. As such, the proposal is considered to be acceptable from a heritage perspective, despite the heritage harm identified within Conservation consultation responses.

5.4 **Amenity standards** (DM DPD Policies DM25, DM29; NPPF Section 12)

- 5.4.1 The application site is an established public house, restaurant and hotel, currently licensed and benefitting from an external beer garden area within the tall stone walled rear curtilage of No.3. Whilst the removal of a section of wall linking the rear curtilages was previously permitted through extant consents, it appears this was to form a landscaped fire exit, as opposed to use as part of an

extended beer garden. The current application seeks to use the eastern half of the curtilage to No.4 as an extended beer garden area. This area of curtilage is closer to the hotel accommodation rooms within the property, in addition to being immediately adjacent to an office building to the south that has north facing windows directly overlooking this area.

5.4.2 The application site is split in ownership, with Lancaster City Council owning No.4 Dalton Square and the office building to the south. Property Services have raised concerns regarding this element of the proposal, and particularly the impact upon the office to the south, and noted such use is outside of the existing lease arrangements with the applicant. The application site is within a city centre location, with an existing beer garden use and noise environment. The windows to the neighbouring office are circa 1.5 metres above the external ground level, and whilst this is sufficient height to prevent overlooking when seated, this would not prevent privacy issues if patrons in the extended beer garden were standing. Furthermore, under the agent of change principle, the proposal would bring a potential noise generating use closer to these windows, without the existing mitigation of circa 5 metres separation and behind a large stone wall.

5.4.3 Whilst planters have been proposed adjacent to the aforementioned windows, there is no quantitative information to support any noise or privacy mitigation that these would provide, particularly as these windows may need to be opened for ventilation and temperature control. The proposal would potentially impact the two closest office rooms that immediately abut the proposed beer garden at ground floor level, and to a lesser degree to those immediately above. There is an existing noise environment of the city centre location, and potential impacts are reduced by the fact that the affected office rooms benefit from additional windows to elevations away from the beer garden. Combined with the likely normal office daytime weekday working hours for this existing neighbouring use, subject to a planning condition restricting the hours of use of the proposed beer garden to weekday evenings and weekends, it is considered that the proposal would have no undue impact upon this neighbouring office use. It is considered that such a planning condition would avoid restricting or adversely impacting the existing neighbouring office use, and is therefore acceptable under the agent of change principle during such hours to prevent any conflict.

5.4.4 Depending on the design of the cold store, the cooling mechanisms of this could potentially generate noise within close proximity to the rear facing windows of the hotel rooms within No.4. Whilst the development is within the curtilage of No.4, and it would be in the interest of the operator to protect the amenity of associated hotel occupants, given the physical separations and ownership and the cold store would be internally accessible from No.3, it is considered necessary to consider impacts upon this hotel occupants, particularly given the proximity a few metres from windows. The timber cladding and roof to this cold room is likely to offer some degree of mitigation, in addition to an existing fence between the aforementioned windows and the proposed cold store. Given that the impact is dependent upon the noise generated and mitigation measures, it is considered that an acceptable scheme can be devised, subject to the precise specifications of the proposed cold store and impact of any mitigation measures. This can be controlled through planning condition, as recommended by the Environmental Health consultee, to ensure the noise within adjacent habitable rooms remains unimpacted or below 35dB from the proposal, in accordance with WHO guidance.

5.5 **Trees, highways and the environment** (DM DPD Policies DM44, DM45; SPLA DPD Policy SP8 NPPF Sections 12 and 15)

5.5.1 There are two reasonable sized trees as existing within the rear curtilage area of No.4, which are protected due to their location within the Conservation Area. Whilst no ground works are proposed, given the proposal furniture and planters within the root areas of these trees, and construction activities including materials movement is anticipated, it is considered necessary to ensure these trees are protected through an arboriculture method statement and tree protection scheme, which can be controlled through planning condition.

5.5.2 Whilst a Habitats Regulations Assessment was undertaken for the original proposal, amended plans have been received removing the two proposed additional hotel rooms within the property, primarily due to concerns regarding the heritage impacts of the requisite subdivisions to create these rooms. As such, there would be no additional recreational pressure or other environmental impacts from the proposal, and therefore attaching visitor accommodation information pack would no longer meet the requirements of a planning condition, and should not be imposed.

5.5.3 The proposal is considered to have no undue impact upon the public highway, and despite the heavily trafficked city centre location. The proposed development would not generate additional vehicle trips following completion, and given the modest scale of developments and proximity to goods vehicle loading area and on-street parking provision, it is considered that a construction management plan would be unnecessary.

6.0 Conclusion and Planning Balance

6.1 In conclusion, the proposal would expand upon an existing business, delivering moderate economic benefits and assisting with the continuation of the optimal viable use of the site. To facilitate the proposal, interventions into the existing historic wall and retention of an existing flue are necessary to improve the efficiency of the restaurant kitchen service and ensure this use meets suitable Environmental Health requirements and mitigates noise and odour. Subject to the precise details of development and works to mitigate and reduce impacts, whilst this would still cause a modest degree of less than substantial heritage harm, this is considered justified to ensure the continuation of the optimal viable use of the site. Subject to conditions to protect trees and neighbouring amenity standards through hours of use and noise mitigation, the economic benefits are considered to weigh in favour of the proposal, and combined with facilitating the optimal viable use of the site, this is considered to outweigh the great weight attached to the modest degree of heritage harm through the requisite physical interventions required to enable this.

Recommendation

That Planning Permission BE GRANTED subject to the following conditions:

Condition no.	Description	Type
1	Time limit for commencement	Control
2	Approved plans list	Control
3	Paint flue	Time triggered following decision notice
4	Tree protection measures	Pre-commencement
5	Details of stone lintel	Pre-commencement
6	Archaeological investigation if ground excavated (not wall removal)	Pre-commencement
7	Finish cold store in matching external materials	Prior to first use
8	Acoustic details of cold store and any mitigation	Prior to first use
9	Hours of operation for beer garden	Prior to first use

Article 35, Town and Country Planning (Development Management Procedure) (England) Order 2015

Officers have made this recommendation in a positive and proactive way to foster the delivery of sustainable development, working proactively with the applicant to secure development that improves the economic, social and environmental conditions of the area. The decision has been taken having had regard to the impact of development, and in particular to the relevant policies contained in the Development Plan, as presented in full in the officer report, and to all relevant material planning considerations, including the National Planning Policy Framework, National Planning Practice Guidance and relevant Supplementary Planning Documents/ Guidance.

Background Papers

None