

Agenda Item A9	Committee Date 18 September 2017	Application Number 17/00643/FUL
Application Site Green Dragon Hotel 54 Main Road Galgate Lancaster	Proposal Change of use of public house/cafe (A4/A3) and associated living accommodation to 3 self-contained flats and erection of rear fire escape	
Name of Applicant Mr Lookman Thagia	Name of Agent David Tarbun	
Decision Target Date 26 July 2017	Reason For Delay Committee deadline and officer workload	
Case Officer	Mrs Eleanor Fawcett	
Departure	No	
Summary of Recommendation	Refusal	

(i) Procedural Matters

This form of development would normally be dealt with under the Scheme of Delegation. However, the applicant is a member of staff and, as such, the application must be determined by the Planning Committee.

1.0 The Site and its Surroundings

1.1 This application relates to a large two-storey stone building located on the corner of the A6 and Salford Road, in the centre of Galgate. It was vacant but is understood that it is currently used for residential accommodation without the benefit of planning permission. It was previously used as a public house, but more recently as a café, which was a permitted change of use not requiring planning permission. The building fronts onto the A6 and has a single storey extension to the north of the main part of the building, and a single storey attached garage to the west, which fronts onto Salford Road. In the vicinity of the site are predominantly terraced properties, with a row of 5 to the west set back from the highway, and a longer row to the south/ south west which abut the pavement. A number of the properties located around the main crossroads have a commercial use.

1.2 The site is located within the Countryside Area, as identified on the Local Plan Proposals Map. It is also within the Galgate Air Quality Management Area (AQMA) and Flood Zone 3.

2.0 The Proposal

2.1 Planning permission is sought for the change of use of the building to one three-bedroom flat and two two-bedroom flats. An external staircase is proposed to be constructed at the rear of the garage to provide access to the first floor of this to be used as a refuge room in the event of a flood.

3.0 Site History

3.1 Planning permission was refused at Planning Committee in June 2016 for the change of use of the building to a 6 bedroom house in multiple occupation and a separate 2 bedroom flat. It was refused for the following reasons:

1. The proposal will result in the conversion of the main part of the building to a large House in Multiple Occupancy (HMO) without sufficient justification as to how this form of accommodation will address local housing needs and imbalances in the local housing market. It is not considered that the scheme will provide an appropriate form of residential accommodation and is contrary to the aims and objectives of the National Planning Policy Framework, in particular the Core Planning Principles and Section 6, and Policies DM41 and DM44 of the Development Management Development Plan Document.
2. Insufficient evidence has been provided to justify the loss of the local facility within this rural settlement. The proposal is therefore contrary to the aims and objectives of the National Planning Policy Framework, in particular the Core Planning Principles and Section 8, and Policy DM49 of the Development Management Development Plan Document.

Application Number	Proposal	Decision
16/00053/CU	Change of use of public house/cafe (A4/A3) to a 6-bed house of multiple occupancy (C4), a 2-bed flat (C3) and creation of a new access point	Refused
11/00440/CU	Change of use of part of the ground floor to a self-contained flat and erection of boundary fence to the northern yard area.	Approved
11/00131/CU	Change of use of part of the ground floor to self-contained flat and erection of boundary fence to the northern yard area	Withdrawn
10/01122/CU	Change of use of part of the ground floor to self-contained flat and replacement of existing windows throughout with uPVC windows.	Refused
07/01275/FUL	Erection of a covered area to rear and construction of new boundary wall	Approved
07/00736/FUL	Erection of an external covered area, decking and wall	Refused
1/79/27	Alterations and extensions to existing public house and new detached garage	Approved

4.0 Consultation Responses

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

Consultee	Response
Parish Council	No comments received within the statutory consultation period.
County Highways	No objection.
Environmental Health	No comments received within the statutory consultation period.
Natural England	No comments to make.
Environment Agency	Flood Risk Standing Advice should be applied.

5.0 Neighbour Representations

5.1 4 pieces of correspondence have been received objecting to the proposal and raise the following concerns:

- Would increase parking problems in the area which are caused by limited on street parking and pedestrian access being limited by vehicles parked on the pavement.
- The building has been occupied since the last application was refused.

5.2 1 piece of correspondence has been received which neither objects or supports the proposal but queries the proposed parking provision and raises concerns about the current situation.

6.0 Principal National and Development Plan Policies

6.1 National Planning Policy Framework (NPPF)

Paragraphs 7, 14 and 17 - Sustainable Development and Core Principles
Paragraphs 49 and 50 – Delivering Housing
Paragraphs 56, 58 and 60 – Requiring Good Design
Paragraph 70 – Loss of services and facilities
Paragraphs 100 and 103 - Flooding
Paragraph 118 – Conserving and Enhancing Biodiversity
Paragraphs 135 – Non-Designated Heritage Assets

6.2 Local Planning Policy Overview – Current Position

At the 14 December 2016 meeting of its Full Council, the local authority resolved to undertake public consultation on:

- (i) The Strategic Policies and Land Allocations Development Plan Document (DPD); and,
- (ii) A Review of the Development Management DPD.

This enabled progress to be made on the preparation of a Local Plan for the Lancaster District. Public consultation took place from 27 January 2017 to 24 March 2017. Whilst the consultation responses are currently being fully considered, the local authority remains in a position to make swift progress in moving towards the latter stages of: reviewing the draft documents to take account of consultation outcomes, formal publication and submission to Government, and, then independent Examination of the Local Plan. If an Inspector finds that the submitted DPDs have been soundly prepared they may be adopted by the Council, potentially in 2018.

The Strategic Policies and Land Allocations DPD will replace the remaining policies of the Lancaster District Core Strategy (2008) and the residual ‘saved’ land allocation policies from the 2004 District Local Plan. Following the Council resolution in December 2016, it is considered that the Strategic Policies and Land Allocations DPD is a material consideration in decision-making, although with limited weight. The weight attributed to this DPD will increase as the plan’s preparation progresses through the stages described above.

The Review of the Development Management DPD updates the policies that are contained within the current document, which was adopted in December 2014. As it is part of the development plan the current document is already material in terms of decision-making. Where any policies in the draft ‘Review’ document are different from those adopted in 2014, and those policies materially affect the consideration of the planning application, then these will be taken into account during decision making, although again with limited weight. The weight attributed to the revised policies in the ‘Review’ will increase as the plan’s preparation progresses through the stages described above.

6.2 Lancaster District Core Strategy (adopted July 2008)

SC1 – Sustainable Development
SC5 – Achieving Quality in Design

6.3 Development Management Development Plan Document (adopted December 2014)

DM20 – Enhancing Accessibility and Transport Linkages
DM33 – Development Affecting Non-Designated Heritage Assets or their Settings
DM35 – Key Design Principles
DM37 – Air Quality Management and Pollution
DM38 – Development and Flood Risk
DM41 – New Residential Development
DM42 – Managing Rural Housing Growth
DM44 – Residential Conversions
DM49 – Local Services

7.0 Comment and Analysis

7.1 The main issues are:

- Type of accommodation proposed
- Loss of rural facility
- Flooding
- Highway Implications
- Impact on residential amenity
- Design

7.1 Type of accommodation proposed

7.1.1 The application proposes to convert the building into three separate flats, one on each floor of the main building and one within the single storey extension on the north elevation. The site is located within the centre of Galgate, which is a village identified as suitable for residential development in Policy DM42 of the DM DPD. Although a three-bedroom flat at first floor is not ideal, the change of use of the building to flats is considered to be acceptable in principle given the sustainable location. However this does raise a number of other issues which are discussed below.

7.2 Loss of a rural facility

7.2.1 The property was previously used as a pub and more recently a café, although this change of use did not require planning permission. It is considered that the proposal results in the loss of a local service and as such it must comply with Policy DM49. This sets out that proposals that would result in the loss of buildings/uses which currently (or have previously) provided the community with a local service must provide compelling and detailed evidence to show:

- A robust and transparent marketing exercise has taken place demonstrating that the use is no longer economically viable or feasible, comprising an advertising period of at least 12 months at a realistic price;
- That alternative provision of the service existing within the settlement or a nearby settlement;
- That the use no longer retains an economic and social value for the community it serves.

7.2.2 One of the reasons that the previous application was refused was because it was not considered that sufficient evidence had been provided to justify the loss of the local service. Unfortunately no further evidence has been provided with the current submission, despite the length of time that has elapsed since the previous refusal. The initial submission set out that there had been a 'for sale' sign at the property since 2014 but provided no further information or evidence. Following this, an email was submitted from Thwaites Brewery regarding the reason for the sale of the property in 2010, and set out that the business at the property was not viable under their tenanted business model. Following the sale, the submission sets out that the building continued to be operated as a pub and then a café but proved not to be viable. Details of the tenants from 2005 until November 2015 have been provided and it has been set out that none of these managed to operate a viable business. A letter has been provided from Northwood Estate agents stating out that the property was marketed from 14 August 2013 to 3 October 2013 and there were no viewings, then from 21 August 2014 to 15 April 2016 with 1 viewing. The feedback from the viewing was that a lack of parking would not allow a restaurant business to succeed. Whilst the second period is longer than 12 months, no evidence has been provided in support of this in terms of how the property was marketed and at what value and the information is very vague.

7.2.3 There is another public house within Galgate and none of the letters objecting to the proposal are on the grounds of the loss of a local service. However, it is still considered that it has not been fully demonstrated that a robust and transparent marketing exercise has taken place demonstrating that the use is no longer economically viable or feasible.

7.3 Flooding

7.3.1 The site is located within Flood Zone 3, defined by the Planning Practice Guidance to the National Planning Policy Framework as having a high probability of flooding. As it involves the change of use of a building, the applicant is not required to undertake a sequential test to demonstrate that the

proposal cannot be provided in an area at lower risk of flooding. However, it needs to be ensured that the development is appropriately flood resilient and resistant, including safe access and escape routes where required.

7.3.2 Unfortunately, this is not a development on which the Environment Agency will routinely comment as they have adopted standing advice. However, during the previous application, they strongly recommended that there should not be sleeping accommodation on the ground floor and that the risk to life within the development from fluvial inundation remains high. The provision of sleeping accommodation on the ground floor, especially in the self-contained flat where there is no internal access to a safe 'haven', was considered to be of particular risk. It was advised that during a flood, residents trying to leave the site to reach a safe haven would be at considerable danger from the floodwater itself and also from various other hazards such as unmarked drops and water-borne debris. However, the previous application was not refused on this ground, following discussions with the Environment Agency, as the occupants of the ground floor bedroom would have access to the upper floor and a safe room and escape window was provided in the roof space of the self-contained flat, although it was considered not to be an ideal situation.

7.3.3 The current application proposes two self-contained flats at ground floor level, one in the main building and one in the extension. The latter was granted consent in 2011 but only as ancillary accommodation to the public house for employees. A refuge room has been proposed above the attached garage to serve both the ground floor flats, in the event of a flood, but this would also serve as the living room to the first floor flat. In order to access this, the occupiers of both flats would need to exit the building and walk outside around part of the building to access the proposed external staircase on the west elevation. In the event of the flood it would be likely that they would be walking through floodwater and there would be a significant risk of debris and other obstacles particularly given the location within a built up area. It is also not clear if this would always be accessible as it is not only proposed to serve two flats but is the living room to the first floor flat. Paragraph 103 of the NPPF sets out that local planning authorities should only consider development appropriate in areas at risk of flooding where development is appropriately floor resilient and resistant, including safe access and escape routes. Given the above, it is not considered that the proposal would provide a safe escape route and refuge and there would be a high risk to the health and safety of the occupants in a flood event.

7.4 Highway Implications

7.4.1 The Highways Authority has raised no objection to the proposal and set out that the use of extensive traffic regulation orders restricting vehicle movements over surrounding lengths of the public highway network are likely in themselves to act as a deterrent and limit any perceived vehicular access problems one might associate with the consequences of additional on street parking requirements due to use of the site as a house in multiple occupation. There is very little in the way of on street parking in the vicinity of the site and there are a number of terraced properties that have no off street parking. Given the size of the flats, there could be 2 cars for each unit which would likely put strain on the existing limited parking provision in the area. The submission sets out that the existing garage can be used to house a car and provide cycle storage. The previous application was not refused on the grounds of insufficient parking, although there are significant concerns regarding this. It is difficult to see how this could be overcome and people will normally seek to park as close to their door as possible. A student housing scheme could overcome this as there would be less requirement for parking, given the public transport links to the Universities and the Town Centre, although there would still be no control over this.

7.5 Impact on residential amenity

7.5.1 The only extension to the building is the external staircase to the rear of the garage. Given the location of this, facing the gable of the adjacent property, and its limited use, it is not considered that this would result in a significant level of overlooking. The upper floor has already been used as residential accommodation in relation to the public house. Although the separation distance is less than would usually be expected with facing habitable room windows, this is due to the historic layout of the settlement and is an existing situation. There is a first floor window which faces towards the end of the adjacent terrace, 2 Salford Road, but this is a blank gable. The boundary wall adjacent to this property is also proposed to be raised to 2 metres. Given the above, it is not considered that there will be a significant impact on the amenities of the adjacent residential properties.

7.5.2 The application site adjoins a busy road and therefore a noise assessment is required to determine satisfactory mitigation measures in respect of noise impacts. Environmental Health previously advised that this can be requested by way of condition. The site is also located within the Galgate AQMA. The submitted air quality assessment proposes the installation of mechanical ventilation system with inlet and outlet grills to each habitable room and separate ventilation systems for the properties. Environmental Health previously recommended a condition to require a mechanical ventilation scheme for the totality of the proposed development to be submitted to for approval and subsequent installation in accordance with agreed scheme. Although no comments have been provided in relation to this application, this seems an acceptable approach in this instance.

7.6 Design

7.6.1 There are limited alterations proposed to the external appearance of the building with some external windows, facing into the site, increased in size, although it appears that this may have already been undertaken, and the erection of an external staircase and door. These would all be well contained within the site and not prominent from public viewpoints. On a previous application, in 2010, the replacement of all the timber windows in the building with UPVC was refused. However, the current windows in the building are UPVC and have been replaced without consent. The agent argued on the last application that they do not look any different to the top hung timber windows. However, although the design is similar, it is clearly identifiable that they are UPVC and the central glazing bar appears to be integral so is not as pronounced and, from some angles, is barely discernible. It would have been preferable if the timber windows had been retained, given the prominent position of the building and the likelihood that this would be considered as a non-designated heritage asset. However, the site is not in a Conservation Area and a number of the properties around the junction have UPVC windows. As such, this is not considered to be a substantive reason to refuse the application.

8.0 Planning Obligations

8.1 There are no planning obligations to consider as part of this application.

9.0 Conclusions

9.1 The proposal results in a loss of a local facility, with limited evidence provided to demonstrate that it has been adequately marketed and also proposes self-contained sleeping accommodation on the ground floor within a flood Zone 3, without an acceptable safe access and haven in the event of a flood. Therefore it is considered that the proposal fails to comply with Local or National planning policy, in particular Policies DM49 and DM38 of the Development Management DPD.

Recommendation

That Planning Permission **BE REFUSED** for the following reasons:

1. Insufficient evidence has been provided to justify the loss of the local facility within this rural settlement. The proposal is therefore contrary to the aims and objectives of the National Planning Policy Framework, in particular the Core Planning Principles and Section 8, and Policy DM49 of the Development Management Development Plan Document.
2. As a result of the location of the site within flood zone 3, with self-contained residential accommodation on the ground floor, it is considered that the proposal would result in unacceptable risks from flooding to future occupiers of the development, which have not been adequately mitigated. As a result, the proposal is contrary to the aims and objectives of the National Planning Policy Framework, in particular the Core Planning Principles and Section 10 and Policy DM38 of the Development Management Development Plan Document.

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

In accordance with the above legislation, the City Council can confirm the following:

Lancaster City Council takes a positive and proactive approach to development proposals, in the interests of delivering sustainable development. As part of this approach the Council offers a pre-application service,

aimed at positively influencing development proposals. Regrettably the applicant has failed to take advantage of this service and the resulting proposal is unacceptable for the reasons prescribed in the report. The applicant is encouraged to utilise the pre-application service prior to the submission of any future planning applications, in order to engage with the local planning authority to attempt to resolve the reasons for refusal.

Background Papers

None