

Development Management Delegated Decision Report

B/21/0304



SUMMARY OF APPLICATION

Application Reference	B/21/0304		
Application Type	Full Planning Permission		
Proposal	Proposed play ground with x3 equipment and pergola steel structure with timber screening at rear		
Location	Witham Tavern, 3 Witham Bank East, Boston PE21 9JU		
Applicant	Mr Romas Valukonis		
Agent	Mr Bulwant Singh Gill, Gill and Associates		
Received Date:	23-Jun-2021	Consultation Expiry Date:	19-Aug-2021
Valid Date:	21-Jul-2021	Statutory Expiry Date:	15-Sep-2021
Date of Site Visit:	16-Sep-2021	Extension of Time Date:	21-Sep-2021
Objections received?	None		
5 day notification record: Not applicable			
Councillors notified	Date	Response received – date	Ok to continue
Recommendation	GRANT Planning Permission		
Report by:	Simon Eldred		
Date:	16 th September 2021		

OFFICER REPORT

SITE AND SURROUNDINGS:

The application site is located to the east of Witham Bank East and north of Fracknal's Row, and contains a two-storey public house (with single-storey elements to its rear), a car park and beer garden. The building is Grade II listed and is located within the Boston Conservation Area. The surrounding area has a mixed character – to its east is an elevated railway line, to its west are moorings and the River Witham, to its north is an area of unused land, and to its south is a dwelling.

DETAILS OF PROPOSAL:

It is proposed to erect (at the rear of the public house):

- a free-standing, steel-framed pergola structure with a transparent polycarbonate roof and timber screening; and
- a children's playground with rubber fall-protection slabs, a climbing-frame/slide, and other items of play equipment.



RELEVANT HISTORY:

- Listed building consent (B/14/0307) was granted for demolition of part of boundary wall to provide pedestrian access to car park and erection of gate.
- Applications for full planning permission (B/15/0307) and listed building consent (B/15/0308) to change the use of the public house to 6 apartments were withdrawn.
- Listed building consent (B/16/0009) was granted for internal and external alterations plus erection of a rear extension to facilitate change of use from public house to 6 apartments. However, full planning permission (B/16/0010) was refused for change of use from public house to 6 apartments.
- Full planning permission (B/19/0412) and listed building consent (B/19/0413) were granted for the erection of a single-storey rear extension and internal alterations.
- Advertisement consent (B/20/0181) was granted for the replacement of 2 non-illuminated fascia signs and 1 non-illuminated hanging sign.
- Listed building consent (B/20/0182) was granted for the replacement of existing sash windows, new French-doors, and installation of disabled access and internal disabled platform lift.

RELEVANT DEVELOPMENT PLAN POLICIES AND DOCUMENTS:

The **South East Lincolnshire Local Plan 2011-2036** shows the application site as being within Boston's Settlement Boundary and the Conservation Area. The unused land to its north is shown as a Housing Commitment, and a Cycle Route is shown passing to its west. The relevant policies are:

- Policy 2 – Development Management;
- Policy 3 – Design of New Development; and
- Policy 29 – The Historic Environment.

OTHER RELEVANT DOCUMENTS / LEGISLATION / GUIDANCE:

National Planning Policy Framework (2021)

At the heart of the 2021 Framework is a presumption in favour of sustainable development. The following sections are relevant to this scheme:

- Section 12 – Achieving well-designed places; and
- Section 16 – Conserving and enhancing the historic environment.

CONSULTATION RESPONSES:

Lincolnshire County Council (the Local Highway and Lead Local Flood Authority) notes that access and parking arrangements are unchanged, considers that the proposals will not result in an unacceptable impact on highway safety, and therefore indicates that it has no objections.

Boston Borough Council's Environmental Health department indicates that it has no objections.

The Witham Fourth District Internal Drainage Board indicates that it has no comments.

Heritage Lincolnshire notes that the site is located within the Boston Conservation Area, and that the Witham Tavern is a Grade II listed building, but concludes that the proposals will not affect the character of the listed building.

THIRD PARTY REPRESENTATIONS RECEIVED:

No third party representations have been received.

EVALUATION:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determination must be made in accordance with the Plan unless material considerations indicate otherwise. The key considerations in regard to this application are impacts on: the character and appearance of the area; neighbours' amenity; and heritage assets.

Character and appearance of the area

Policy 2 of the Local Plan indicates that developments will be permitted which will not have harmful impacts upon the character and appearance of the area.

The application site is the curtilage to a public house, and is located in an area with a mixed character – to its east is an elevated railway line, to its west are moorings and the River Witham, to its north is an area of unused land (identified in the Local Plan as a Housing Commitment), and to its south is a dwelling. It is considered that the proposed pergola and playground will not be alien or out-of-character in this context.

The pergola and playground are both relatively modest in scale, and will have little impact on the street-scene, given that they will be largely hidden from view from public vantage points because:

- they will be located immediately to the rear of the public house building; and
- the site's boundary onto Fracknal's Row is defined by a 2m-high brick wall.

In all, it is considered that the proposals will not harm the character or appearance of the area, and that they therefore meet these requirements of Policy 2.

Neighbours' amenity

Policies 2 and 3 of the Local Plan require the amenity of neighbouring land users to be protected. The application site is bounded by an elevated railway line to its east, moorings and the River Witham to its west, and unused land to its north, and it is not considered that the proposals will have any adverse impacts on these neighbouring land users. However, potential impacts upon the dwelling to the site's south (on the opposite side of Fracknal's Row) require more detailed consideration.

The proposed pergola will be located approximately 13m from this dwelling (The Boat House), and the proposed playground will be approximately 25m distant. However, both structures are modest in their scale and are separated from The Boat House by a 2m-high brick wall, a 3m-high close-boarded fence, and a substantial outbuilding within The Boat House's curtilage. In these circumstances, it is considered that there will be no adverse impacts on The Boat House in terms of over-shadowing, loss of light, harm to outlook, overlooking or loss of privacy. The structures will potentially increase the use of the public house's outdoor space, with the risk of

increased noise but, again, it is considered that the above factors will mitigate noise nuisance, and it is noted that the Borough Council's Environmental Health department has raised no concerns.

In all, it is considered that the proposal will not harm neighbours' amenity to an unacceptable degree, and that they therefore meet these requirements of Policies 2 and 3.

Heritage assets

Policy 29 of the Local Plan requires the conservation and, where appropriate, enhancement of the area's heritage assets.

The Planning (Listed Buildings and Conservation Areas) Act 1990 confirms the duty of the Local Planning Authority to have special regard to the desirability of preserving listed buildings, their setting and any features of special architectural or historic interest. The objective of preservation is to cause no harm, and the courts have said that this statutory requirement operates as a paramount consideration – 'the first consideration for a decision-maker'. Planning decisions require balanced judgement but, in that exercise, significant weight must be given to the objective of heritage asset conservation, and this statutory duty sits above the policy objectives identified within the earlier section of this report.

Where harm will be caused, there is a necessity to establish the extent of that harm, and consider this within the policy context. In practice, this requires a methodical approach to be followed wherein the relevant assets which could be affected need to be identified, along with their significance. Consideration can then be given to any effects on this significance resulting from the proposals, which may be reduced through mitigation. If harm is identified, it is then required to establish the scale and extent of such harm, before moving on to matters such as the planning balance and weighing the public benefits arising against any identified harm.

Heritage assets affected – The application site is located within the Boston Conservation Area, and the Witham Tavern is a Grade II listed building - the list description reads:

Public house. Early C19, altered later C19. Red brick in Flemish bond, hipped slate roof, rear wall stack. EXTERIOR: 2 storeys, 3 bay front, with plinth and overhanging eaves on paired brackets, arranged with shallow brick pilasters at ends and between bays. To ground floor a pair of double panelled doors with blocked overlight are set in a pilastered timber surround with cornice, flat hood and panelled ingoos?. Flanked by single tripartite sashes, that on the left with glazing bars. Above are 3 glazing bar sashes. To the left, a slightly set back later C19 single bay, with tripartite sash and glazing bar sash above. To the right-hand end a broad shallow recess contains a tripartite sash to ground floor, and double sash to 1st floor. Window openings have rusticated stucco flat arches with keystones, and roundels to fluted mullions on the tripartite windows. INTERIOR: not inspected. HISTORY: the inn was recorded as first licenced in 1765, presumably an earlier building on this site, and would date from the construction of the nearby Grand Sluice.

Impacts of the proposals on these assets – The proposed pergola will not be fixed to the listed building, but will be a freestanding structure. Both the pergola and the playground will be relatively modest in scale, and will be constructed in materials that will be appropriately sympathetic to both the interest of the listed building and the character of the Conservation Area. Both elements of the proposals will be largely hidden from view from public vantage points

given that they will be located immediately to the rear of the public house building, and will be hidden by the 2m-high brick wall which defines the property's boundary onto Fracknal's Row.

In all, therefore, it is considered that the proposals will not have harmful impacts upon heritage assets, and will meet the requirements of Policy 29 of the Local Plan, Chapter 16 of the NPPF, and the Planning (Listed Buildings and Conservation Areas) Act 1990 - a view which is shared by Heritage Lincolnshire.

CONCLUSION:

It is considered that the proposal:

- will not harm the character and appearance of the area;
- will not harm neighbours' amenity to an unacceptable degree; and
- will have no negative impacts upon the significance of the nearby listed building or the character and appearance of the Boston Conservation Area.

RECOMMENDATION:

GRANT Planning Permission subject to the following conditions and reasons:-

CONDITIONS / REASONS	
Pre-commencement conditions?	Agreed with applicant/agent - Date:
1	<p>The development hereby permitted shall be begun before the expiration of four years from the date of this permission.</p> <p>Reason: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.</p>
2	<p>The development hereby permitted shall be carried out in strict accordance with the application received 23-Jun-2021 and in accordance with the associated documents referenced:</p> <ul style="list-style-type: none"> • Existing Location Map; • Existing & Proposed Block Plans; • Courtyard Plan; • Manufacturer's declaration – item R34-FIROW3; • Product specification – fall protection slabs; • Product specification certificate – items J3401 and J3404; • Product data sheet – item KA2; • Product data sheet - item SE302; • Product data sheet – item SE602; • A230 – Pergola plans; • A231 – Pergola view/elevation; and • A232 – Pergola structure. <p>Reason: To ensure that the development is undertaken in accordance with the approved details, in the interest of residential amenity and to comply with Policies 2, 3, and 29 of the South East Lincolnshire Local Plan 2011-2036.</p>

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INFORMATIVES / NOTES TO BE INCLUDED ON/WITH DECISION NOTICE
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<u>STATEMENT OF PROACTIVE WORKING:</u>
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<p>In determining this application, the authority has taken account of the guidance in paragraph 38 of the National Planning Policy Framework 2021 in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.</p>
