

**Parish: West Tanfield**

Ward: Tanfield

**11**

**22/00526/FUL**

Committee Date :

7 July 2022

Officer dealing :

Mr Craig Allison

Target Date:

28<sup>th</sup> April 2022

Extension of time:

27<sup>th</sup> May 2022

**Retrospective application for the construction of timber sleeper styled boundary fencing and erection of pergola**

**At: Freemason Arms, Nosterfield, Bedale, DL8 2QP**

**For: Mr C Kinsell**

**The application is presented to Planning Committee due to the application being called in by a Member of the Council**

### **1.0 Site, context and proposal**

- 1.1 The application site is located within the settlement of Nosterfield and is situated within the curtilage of the Grade II Listed Building known as the Freemason Arms, Nosterfield. The premises is used as a public house. The premises fronts onto the main road (B6267) which runs through the settlement of Nosterfield.
- 1.2 The applicant seeks retrospective planning permission for the replacement of wooden planters to the front of the premises for timber sleeper styled boundary fence. This is a fixed to ground structure, hence development requiring planning permission. Furthermore the applicant also seeks planning permission for the construction of a pergola and outdoor burners proposed to be situated to the front of the premises to provide additional outdoor seating for customers of the public house.

### **2.0 Relevant planning history**

- 2.1 08/04466/LBC - Application for listed building consent to repaint/repair windows and doors and internal alterations – Approved 22 December 2008
- 2.2 09/00965/FUL - Alterations to part of public house ancillary accommodation and holiday cottage to form a dwelling – Approved 4 June 2009

### **3.0 Relevant planning policy**

- 3.1 As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.
- 3.2 Relevant policies of the Development Plan and any supplementary planning policy advice are as follows;

Local Plan Policy S1: Sustainable Development Principles

Local Plan Policy E5: Development affecting Heritage Assets

Local Plan Policy E1: Design

Local Plan Policy IC2: Transport and accessibility

## **4.0 Consultations**

4.1 Tanfield Parish Council raised no objections to the application.

4.2 North Yorkshire County Council (Highways Authority) raised no objections to the application.

4.3 A site notice was posted; an advertisement was displayed in the local newspaper and neighbours were consulted on the application. Four letters of support have been received in regard to the application of which the comments are summarised below:

- Investment made in the public house and the exterior encourages visitors to the area
- The new barriers put in place adjacent to the main road now makes it feel more secure as the road can be very busy with farming traffic and heavy goods vehicles
- Furthermore, the new paving behind the barriers has also increased accessibility to those less able.
- The revised boundary fencing in no way detracts from the structure or appearance of the listed building itself.

## **5.0 Analysis**

5.1 The main issues to consider from this application include the (i) principle of development; (ii) the impact of the development on heritage assets; (iii) impact of the development on the character and appearance of the area; and (v) impact on highway safety

The principle of development

5.2 In determining applications, decisions should be taken in accordance with the development plan unless there are material considerations that indicate otherwise. The development plan for Hambleton is the Hambleton Local Plan (Adopted February 2022), of which Policy S1 of the Local Plan states the Council will seek to ensure that development makes a positive contribution towards sustainability of communities, enhances the environment, and adapts to and mitigates the impact of climate change.

5.3 The site is located within the hamlet of Nosterfield and is therefore within a sustainable location. Therefore, it is considered that the timber sleeper styled boundary fence and proposal to erect a pergola and outdoor heaters to a public house is considered to be acceptable subject to other material planning considerations.

Impact on heritage assets

5.4 The development is located within the curtilage of a Grade II Listed Building known as the Freemason Arms, Nosterfield. Therefore, it is considered that the proposed development could have the potential to impact the setting of the Grade II Listed Building.

- 5.5 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in determining a planning application for development which affects a listed building or its setting, the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses.
- 5.6 The National Planning Policy Framework at paragraphs 189, 190 and 192 requires an assessment of the potential harm a proposed development would have upon the significance of a designated heritage asset and requires that harm should be weighed against the public benefits of the proposal, including securing the optimum viable use of the building. In this case the proposal does alter the setting of the Listed Building with development within the curtilage of the premises. Therefore, could impact upon the setting of the Grade II Listed Building.
- 5.7 Paragraph 199 of the NPPF states 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. This is irrespective of whether the potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 200 of the Framework requires that any harm to significance including harm from development within the assets setting should require clear and convincing justification. Crucially, no public benefits have been brought forward to the Council's attention which outweigh this identified harm.
- 5.8 Policy E5 of the plan states that support will only be given to development which ensures those features that contribute to the special architectural or historic interest of a listed building, or its setting are preserved and where appropriate enhanced. It requires that any harm to the significance of a designated heritage asset has a clear and convincing justification and less than substantial harm to significance will only be supported where the harm is outweighed by the public benefits of the proposal.
- 5.9 A heritage statement has not been provided, however the application states that the reason for the erection of the timber sleeper boundary wall was in order to provide a safe environment for customers using the outdoor area of the public house due to the site being adjacent to the B6267. Furthermore, the proposed erection of the pergola is to ensure that there is a covered area outdoors for people who may be considered to be clinical vulnerable due to the Covid-19 pandemic and wish to use an outdoor space rather than sitting indoors where there is more or a possibility of contracting the virus.
- 5.10 The Freemason Arms was listed in 1988 and is a 18<sup>th</sup> Century building with painted coursed squared stones and various stone dressings to the front of the premises. The building is a two-storey premises with three bays associated with the building and a pantile roof.
- 5.11 It is considered that the erection of a timber style sleeper boundary wall to the front of the premises causes less than substantial harm to the setting of the Listed Building. The wooden block fence although less than a metre in height brings a very visible, obvious and dominant feature to the front of the premises, highly visible and prominent within the public domain adjacent the main thoroughfare. It is considered that the structure, extending the width of the space outside the premises detracts

from the overall setting of the Listed Building. It is considered that the eye is instantly drawn to the wall rather than the important character of the listed building.

- 5.12 In regard to the pergola that is proposed to be erected to the front of the premises, this is proposed to be constructed from Anthracite powder coated aluminium. This would be sited adjacent to the front of the premises and would again detract from the overall character of the Listed Building. It is considered that this structure would also result in less than substantial harm being caused on the listed building. The proposed material use is not sympathetic to the setting of the listed building and would be a modern element which would fail to enhance the setting of the listed building.
- 5.13 When a proposal is considered to cause less than substantial harm on the setting of a listed building a consideration has to be made as to whether the harm caused would be outweighed by the public benefit. The applicant states that the boundary wall erected is to ensure safety is provided to users of the public house when using the outdoor area. No evidence has been provided to show that there has been accidents within this area and from undertaking research there has been no accidents in and around the Freemasons Arms since 1999 ([crashmap.co.uk](http://crashmap.co.uk)). Furthermore, the public house is located within a speed restricted area of 40mph. Therefore, it is considered that the harm caused by the wall on the listed building is not outweighed by public benefit and thus subsequently results in less than substantial harm on the setting of the Listed Building.
- 5.14 In regard to the pergola that is proposed to be erected, the applicant has stated that additional outdoor space is required in order to accommodate people who are considered to be clinically vulnerable from the Covid-19 pandemic and wish to sit outdoors where there is less risk of catching the virus. However, the Government have announced that the requirement to self isolate is not required anymore and people are encouraged to go about their day to day lives as normal. No data has been provided to show that this additional requirement is needed. Therefore, it is considered that the erection of the pergola causes less than substantial harm and is not outweighed by any public benefit.
- 5.15 Therefore, it is demonstrated that the development causes less than substantial harm and no justification can be provided which outweighs this harm. It is considered that the development is contrary to the overarching principles of Section 66 and Section 72 of the Act in that it fails to preserve the setting of the Conservation Area and the surrounding Grade II Listed Buildings.

#### Impact of the development on the Character of the Area

- 5.16 Policy E1 of the Local Plan states that all developments should be of a high quality, integrating successfully with its surroundings in terms of form and function, reinforcing local distinctiveness and help to create a strong sense of place. All development should have regard to relevant national and local policies, advice or guidance that promotes high quality design, details the quality or character of the area or describes how the area should develop in the future.
- 5.17 The National Planning Policy Framework Planning supports this approach and, at paragraph 134, states that planning 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. Paragraph 132 sets an expectation that applicants engage with the local community in drawing up the design of their schemes:

"Design quality should be considered throughout the evolution and assessment of individual proposals. Early discussion between applicants, the local planning authority and local community about the design and style of emerging schemes is important for clarifying expectations and reconciling local and commercial interests. Applicants should work closely with those affected by their proposals to evolve designs that take account of the views of the community. Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those that cannot."

- 5.18 Policy E1 goes on further to state that support would be given to development which responds positively to its context and draws inspiration from the key characteristics of its surroundings including the historic environment. The development must respect and contribute positively to local character and identity in terms of appearance, use of materials, visual relationship and views.
- 5.19 The erection of a timber sleeper boundary wall is visible from the street scene as is located to the front of the premises. The boundary wall although is less than 1 metre in height due to its stark nature it detracts the overall character of the area and creates an incongruous feature within this part of the village and is not considered to be of high quality design. The development fails to preserve or enhance the character of the area and is considered to be contrary to the Council's Local Plan Policies.
- 5.20 Furthermore, the proposed pergola would use materials of a modern design which would fail to enhance the overall character of the area and is not considered to be of high quality design or sympathetic to its surroundings. It is therefore considered that the proposed development is not in accordance with the overarching principles of the NPPF and the Council's Local Plan Policies.

#### Impact on highway safety

- 5.21 Policy IC2 of the Hambleton Local Plan states the Council will work with other authorities and transport providers to secure a safe and efficient transport system that supports a sustainable pattern of development that is accessible to all. A proposal will only be supported where it is demonstrated that highway safety would not be compromised, and safe physical access can be provided to the proposed development from the footpath and highway networks.
- 5.22 Upon discussing the application further with North Yorkshire County Council (Highways) they have stated that the frontage of the Freemason Arms is within the highway extents however the footway around the radius of the junction leads to an end at the establishment. Along with providing an element of safety to their patrons, the furniture erected does allow space for pedestrians to pass behind should they require without having to step into the carriageway. It is noted that space is provided for pedestrians between the frontage of the public house and the furniture.

5.23 The applicant states that one of the reasons for providing the wall was to provide safety to the users of the outside space due to its close proximity to the main road. However North Yorkshire County Council (Highways Authority) are not aware of any safety concerns raised by members of the public about any previous arrangements that the public house had in place when the tables and benches were present nor when the planters were in situ. It is also worth noting that the wall that has been erected is narrower in width than when the planters were previously used. Therefore, from a highway perspective there is still access to the highway network for users on the footpath and therefore it is considered an acceptable form of development and in accordance with the Council's Local Plan Policies.

Planning balance

5.24 The retrospective application is for the construction of a timber sleeper boundary wall and the proposed erection of a pergola to the front of the premises (non retrospective element). The development is located within the curtilage of a Grade II Listed Building. It is considered that the boundary wall and the pergola do not respect or enhance the character and appearance of the area. Furthermore, it is considered that the proposal causes less than substantial harm to the setting of the building. No accepted justification has been provided or demonstrated to show that the harm is outweighed by the public benefits of the development. Therefore, the development fails to preserve the setting and character of the Listed Building and is subsequently contrary to national and local policy.

## **6.0 Recommendation:**

6.1 That subject to any outstanding consultations the application be **REFUSED** for the following reason(s):

1. It is considered that the proposal development causes less than substantial harm to the setting of the Grade II Listed Building known as the Freemason Arms, Nosterfield. The wooden block fence results in a highly visible dominant feature to the front of the property and detracts from the setting of the Listed Building. The proposed pergola would be constructed in unsympathetic modern materials, again resulting in harm to the setting of the Listed building. With less than substantial harm being caused on the Listed Building, public benefits have to be presented to outweigh any harm being caused. No accepted justified public benefit is provided which outweighs this harm. It is considered that the development is contrary to the overarching principles of Section 66 of the Town and Country Planning Act in that it fails to preserve the setting of the Grade II Listed Building.