



PLANNING COMMITTEE: 23rd November 2023

Report of: Corporate Director of Transformation, Housing and Resources

Contact for further information:

Case Officer: Rachel Lightfoot (Extn.) (E-mail:Rachel.lightfoot@westlancs.gov.uk)

PLANNING APPLICATION REF: 2022/0624/FUL

PROPOSAL: Retrospective permission for water fountain, wedding gazebo and fence

APPLICANT: David A Lee and Sons Ltd

ADDRESS: The Aviary Restaurant, Blindmans Lane, Ormskirk, L39 3AD

REASON FOR CALL IN: Application has been called in by Cllr Dowling to consider impacts on residential properties

Wards affected: Ormskirk West

1.0 PURPOSE OF THE REPORT

- 1.1 To advise Planning Committee on an application which seeks to retain a wedding gazebo which has been in place since 2021 and the retention of a water fountain which has been in situ since 2019. A fence is referred to but as this is below 2m in height and is not adjacent to a highway therefore no planning permission is required in this regard.
- 1.2 It is considered that subject to planning conditions, the retention of the development is acceptable in terms of design, access, landscaping, layout, scale and amenity. The development is considered to be compliant with the NPPF and Local Plan in respect of amenity, impact on the Green Belt and other relevant matters.

2.0 RECOMMENDATION TO PLANNING COMMITTEE

- 2.1 That planning permission be **GRANTED** subject to conditions

3.0 THE SITE

- 3.1 The application site is located on the west side of Blindman's Lane and is a single storey building with planning permission to be used as a restaurant/café. More recently it has been acting as a function venue for weddings and other functions.
- 3.2 The site was a former agricultural barn, granted planning permission in 2020 to be used partially as a function room.

4.0 PROPOSAL

- 4.1 The application is for the retention of a gazebo which is used for outdoor weddings within the grounds of the property and a water fountain.
- 4.2 It is understood that the gazebo has been in situ since 2021 and the fountain since 2019. The gazebo is used as part of wedding functions between the hours of 1100-1800. It is an open wooden structure enabling a couple and celebrant to stand underneath. The fountain is a two-tier fountain within the lawned area of the grounds.
- 4.3 Additional information in relation to noise mitigation has been received since the receipt of the planning application.

5.0 PREVIOUS RELEVANT DECISIONS

- 5.1 2019/0913/FUL – Change of use of former butchers o function room including entrance shelter and additional extensions (retrospective) and extension to function room – APPROVED 14 May 2020

2022/0626/FUL – Retrospective change of use from café to function room – Awaiting Determination

2015/0062/COU – Change of use of existing agricultural barn to A3 use (café). Various external fabric alterations including new windows, door openings and timber overcladding – APPROVED 20 April 2015

- 5.2 In respect of the building adjacent to the site:

2018/575/COU – Change of use from agricultural building to beauty salon – APPROVED 4 September 2018.

6.0 OBSERVATION OF CONSULTEES

- 6.1 Environmental Protection (22.09.2023) – The submitted information has been reviewed and there is no environmental impact from the gazebo or fountain.

7.0 OTHER REPRESENTATIONS

- 7.1 No other representations received.

8.0 SUPPORTING INFORMATION

- 8.1 Plans and photographs
- 8.2 Information in relation to noise management

9.0 RELEVANT PLANNING POLICIES

- 9.1 The National Planning Policy Framework (NPPF) and the West Lancashire Local Plan 2012-2027 provide the policy framework against which the development proposals will be assessed. The site is located within the Green Belt as designated in the West Lancashire Local Plan 2012-2027.

West Lancashire Local Plan 2012-2027

GN1 – Settlement Boundaries
GN3 – Criteria for Sustainable Development
EC2 – The Rural Economy
IF2 – Enhancing Sustainable Transport Choice

Supplementary Planning Documents

Development in the Green Belt (2015)
Design Guide (2008)

10.0 OBSERVATIONS OF CORPORATE DIRECTOR OF TRANSFORMATION, HOUSING AND RESOURCES

- 10.1 The main considerations for this application are:

1. The principle/impact on the Green Belt
2. Design and Visual Appearance
3. Residential Amenity

Principle of Development/Impact on the Green Belt

- 10.2 The West Lancashire Local Plan policy GN1, states that development proposals within the Green Belt will be assessed against national policy and relevant local plan policies.
- 10.3 Paragraph 137 of the NPPF states that the Government attaches great importance to Green Belts. It states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 10.4 In relation to the retention of the structures, paragraph 149 of the NPPF is a relevant consideration and states that local planning authorities should regard the construction of new buildings in the Green Belt as inappropriate. There are a number of exceptions within the paragraph which include: limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt or would not cause substantial harm to the openness of the Green Belt.
- 10.5 The land is associated with The Aviary, a restaurant which is an established business and benefits from previous planning approvals. It would therefore be considered as limited infilling of previously developed land. The principle is therefore acceptable provided that there would be no greater impact on the openness of the Green Belt than that which currently exists.

- 10.6 The gazebo is located adjacent to the main building and would be seen in connection to this. The building is generally open and can be seen through with the fountain low level within the landscape. It is considered therefore that the retention of the structures would not have a greater impact on the openness of the Green Belt than that which currently exists.
- 10.7 It is considered that the retention of the structures is acceptable in principle and would comply with the requirements of Policy GN1 of the West Lancashire Local Plan 2023-2027 and paragraph 149 of the NPPF.

Design and Visual Appearance

- 10.8 Policy GN3 of the West Lancashire Local Plan together with the Design Guide SPD is relevant to the assessment of the design and external appearance of the development and requires that development should be of a scale, mass and built form which responds to the characteristics of the site and its surroundings.
- 10.9 The gazebo is a white painted single storey timber structure with a grey roof. It sits in a location which is surrounded by fencing and retained mature landscaping. The fountain sits in the centre of a lawned area which is surrounded by 1.8m close boarded timber fencing.
- 10.10 The gazebo structure itself is lightweight with very limited views outside of the immediate environs of the garden area which is surrounded itself by close boarded timber fencing. It is not considered therefore that the gazebo would have a detrimental impact on the appearance of the existing buildings in the area which comprises a mixture of residential and commercial. The fountain has a standard two tier appearance and by virtue of this would have a low impact. It is considered that within the confines of an area of land associated with the approved function room/ restaurant the appearance is acceptable.
- 10.11 It is considered that the proposal is in accordance with Policy GN3 of the West Lancashire Local Plan and the Council's Design SPD.

Residential Amenity

- 10.12 There are a number of residential dwellings within the vicinity. The application for the change of use of the barn in 2019 under reference 2019/0913/FUL was granted subject to a number of conditions including noise limiter installation. Following the receipt of the planning application, further information was sought in relation to the use of the gazebo. As a result, it can be confirmed that the gazebo is used for outdoor ceremonies between the hours of 1100 to 1800.
- 10.13 Environmental Protection have been consulted on the application and have responded following the confirmation regarding the hours of use that there is no objection to the proposal and there will be no environmental impact from these elements. A condition restricting the hours of use of the gazebo have been appended to those proposed.
- 10.14 In terms of the proposed impact from the gazebo and fountain, it is considered that these are small spaces which will not directly result in demonstrable harm being caused to the occupiers of adjacent residential properties. The use of the outdoor space does not require planning permission in itself and the external space is subject to conditions regarding noise etc under licencing.

- 10.15 Paragraph 187 of the NPPF states 'Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established.' Paragraph 188 states 'The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning should assume that these regimes will operate effectively.' In this case, the external noise issues are controlled via the licencing regime and therefore should be assumed to be working correctly. Environmental Protection have confirmed that there are no active complaints against the property in respect of noise.
- 10.16 It is considered that the imposition of a condition ensuring that the gazebo is used between the hours confirmed by the applicant would maintain levels of residential amenity and the retention of the proposed gazebo and fountain comply with the requirements of Policy GN3 of the West Lancashire Local Plan 2012-2027.

11.0 CONCLUSION

- 11.1 The retention of the gazebo and fountain will have limited impacts on the landscape and support an existing rural business. There are no objections from Environmental Protection.
- 11.2 It is considered that, subject to the imposition of conditions relating to hours of use of the gazebo feature, the application would have no demonstrable impacts.
- 11.3 The application is considered to be in accordance with the relevant policies of the NPPF and the West Lancashire Local Plan 2012-2027.

12.0 RECOMMENDATION

- 12.1 That planning permission be GRANTED subject to the following conditions:
1. The development hereby approved shall be carried out in accordance with details shown on the following plans:

Site Location Plan dwg no. LO4 received by the Local Planning Authority on 30th May 2022
Existing Site Plan dwg no. LO5 received by the Local Planning Authority on 12th July 2022

Reason: For the avoidance of doubt and to ensure compliance with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
 2. The gazebo shall only be used between the hours of 11:00-18:00 and at no other time.

Reason: To safeguard the amenities of nearby residents and to comply with Policy GN3 of the adopted West Lancashire Local Plan 2012-2027.
 3. The noise limiter shall be operational at all times during events.

Reason: To safeguard the amenities of nearby residents in compliance with Policy GN3 of the adopted West Lancashire Local Plan 2012-2027.

13.0 SUSTAINABILITY IMPLICATIONS

13.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder.

14.0 FINANCIAL AND RESOURCE IMPLICATIONS

14.1 There are no significant financial or resource implications arising from this report.

15.0 RISK ASSESSMENT

15.1 The actions referred to in this report are covered by the scheme of delegation to officers and any necessary changes have been made in the relevant risk registers.

16.0 HEALTH AND WELLBEING IMPLICATIONS

16.1 There are no health and wellbeing implications arising from this report.

Background Documents

In accordance with Section 100D of the Local Government Act 1972 the background papers used in the compilation of reports relating to planning applications are listed within the text of each report and are available for inspection in the Planning Division, except for such documents as contain exempt or confidential information defined in Schedule 12A of the Act.

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore, no Equality Impact Assessment is required.

Human Rights

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from Article 8 (the right to respect for private and family life, home and correspondence) and Article 1 of Protocol 1 (the right of peaceful enjoyment of possessions and protection of property).

Appendices

None.