

Application Number:	2018/0158/FUL
Site Address:	1 St Pauls Lane, Lincoln, Lincolnshire
Target Date:	23rd March 2018
Agent Name:	ADSDF
Applicant Name:	Lewis Delahay
Proposal:	Installation of perspex dining igloos on roof terrace (Retrospective)

Background - Site Location and Description

The application building is the Tap House Bar and Kitchen, which is situated at the corner of St. Pauls Lane and Westgate and is a single and two-storey building, which incorporates a roof terrace.

The application building is not listed but is located within the Cathedral and City Centre Conservation Area (No.1) and adjacent to the ramparts of the Lincoln Castle, which is a Grade I Listed Building and Scheduled Monument.

The proposals are to retain two structures described by the applicant as 'dining igloos' and are in a dome format. However, there are two further unauthorised structures that have been erected prior to and alongside these structures, i.e. a building which has the appearance of a shed and a roof-top bar. All three types of structure have a differing appearance.

Site History

There is no relevant planning history for the site but it is important to note that the current application is retrospective for the two dome structures shown in the plans attached to this report. Moreover, these were erected at different points in time alongside the 'shed' structure and external bar, all without planning permission and only the domes are shown within this application.

Case Officer Site Visit

Undertaken on 13th February 2018.

Policies Referred to

- Policy LP1 A Presumption in Favour of Sustainable Development
- Policy LP2 The Spatial Strategy and Settlement Hierarchy
- Policy LP3 Level and Distribution of Growth
- Policy LP5 Delivering Prosperity and Jobs
- Policy LP7 A Sustainable Visitor Economy
- Policy LP13 Accessibility and Transport
- Policy LP17 Landscape, Townscape and Views
- Policy LP25 The Historic Environment
- Policy LP26 Design and Amenity
- Policy LP29 Protecting Lincoln's Setting and Character
- Policy LP31 Lincoln's Economy

- National Planning Policy Framework

Issues

In this instance the main issues relevant to the consideration of the application are as follows:

1. The Principle of the Development;
2. The Impact of the Proposals upon Heritage Assets;
3. Other Matters; and
4. The Planning Balance.

Consultations

Consultations were carried out in accordance with the Statement of Community Involvement, adopted May 2014.

Statutory Consultation Responses

Consultee	Comment
Highways & Planning	No objections
Environmental Health	No objections
Principal Conservation Officer	Comments included in Officer Report
Lincoln Civic Trust	No objections
Historic England	Advice provided in respect of planning policy and guidance

Public Consultation Responses

No responses received

Consideration

1) The Principle of the Development

a) *Relevant Planning Policies*

i) *Sustainable Development and the Proposed Uses*

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations

indicate otherwise. The National Planning Policy Framework (the Framework) is a material consideration in determining planning applications. Framework paragraph 215 indicates that due weight should be given to relevant policies in the development plan according to their consistency with the Framework i.e. the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.

The development plan comprises the adopted Central Lincolnshire Local Plan (the Plan) and during its examination the policies therein were tested for their compliance with the Framework.

Paragraph 14 of the National Planning Policy Framework (the Framework) outlines the following in relation to the principle of development:

"At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking.

For decision taking this means (unless material considerations indicate otherwise):

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.

In terms of sustainable development, Paragraph 7 of the Framework suggests that there are three dimensions: economic, social and environmental. "These dimensions give rise to the need for the planning system to perform a number of roles:

- **an economic role** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- **a social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- **an environmental role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy."

Meanwhile, at the heart of the Core Planning Principles within the Framework (Paragraph 17) is the expectation that planning should:-

"proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the

housing, business and other development needs of an area, and respond positively to wider opportunities for growth”

Turning to Local Plan Policy, Policy LP1 of the Plan supports this approach and advocates that proposals that accord with the Plan should be approved, unless material considerations indicate otherwise.

In terms of the spatial dimension of sustainability, proposals need to demonstrate that they contribute to the creation of a strong, cohesive and inclusive community, making use of previously developed land and enable larger numbers of people to access jobs, services and facilities locally, whilst not affecting the delivery of allocated sites and strengthening the role of Lincoln (Policy LP2). Meanwhile, Policy LP3 sets out how growth would be prioritised and Lincoln is the main focus for urban regeneration; and Policy LP5 supports the growth of job creating development which also supports economic prosperity but only where proposals have considered suitable allocated sites or buildings or within the built up area of the settlement; and the scale of what is proposed is commensurate with its location.

The relatively recent adoption of the Plan ensures that there is a very clear picture of the options for growth in Central Lincolnshire

In more broader terms, Policy LP33 sets out the general mix of uses that would be supported within the Central Mixed Use Area, including shops (A1); offices used by the public (A2); Food and Drink Outlets (A3, A4 and A5); houses and flats (C3); hotels (C1); student halls of residence and theatres.

b) Assessment of the Impact of the Proposals

As the proposals would be for the extension of provision of facilities in connection with an existing commercial use supported by policies of the Plan, the principle of development would be acceptable. However, it would still be necessary to consider the impacts of the proposals upon the principles of sustainable development outlined in the Framework, particularly in relation to heritage assets.

2) The Impact of the Proposals upon Heritage Assets

a) Relevant Planning Policy

So far as this issue is concerned, as alluded to above, the proposals must achieve sustainable development and it is the social dimension of sustainability that relates to design. Moreover, Paragraph 7 of the Framework requires the creation of high quality built environment. In addition, the policy principles outlined in Paragraphs 17, 58, 60, 61 and 64 of the Framework also apply. Moreover, the Framework states that good design is a key aspect of sustainable development and is indivisible from good planning. Design is to contribute positively to making places better for people (para. 56). To accomplish this development is to establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live and responding to local character and history (para. 58). It is also proper to seek to promote or reinforce local distinctiveness (para. 60).

At the local level, the Council, in partnership with English Heritage, have undertaken the Lincoln Townscape Appraisal (the LTA), which has resulted in the systematic identification

of 105 separate “character areas” within the City. The application site lies within the Castle Character Area. Policy LP29 refers to the LTA and requires that developments should “protect the dominance and approach views of Lincoln Cathedral, Lincoln Castle and uphill Lincoln on the skyline”. This policy is supported by Policy LP17, which is relevant to the protection of views and suggests that:-

“All development proposals should take account of views in to, out of and within development areas: schemes should be designed (through considerate development, layout and design) to preserve or enhance key local views and vistas, and create new public views where possible. Particular consideration should be given to views of significant buildings and views within landscapes which are more sensitive to change due to their open, exposed nature and extensive intervisibility from various viewpoints.”

Policy LP26 refers to design in wider terms and requires that “all development, including extensions and alterations to existing buildings, must achieve high quality sustainable design that contributes positively to local character, landscape and townscape, and supports diversity, equality and access for all.” The policy includes 12 detailed and diverse principles which should be assessed. This policy is supported by Policy LP5 which also refers to the impact on the character and appearance of the area; and Policy LP31, which refers to the protection and enhancement of the character of the city.

In terms of the wider impacts upon built heritage, Policy LP29 also requires that “proposals within, adjoining or affecting the setting of the 11 Conservation Areas and 3 historic parks and gardens within the built up area of Lincoln, should preserve and enhance their special character, setting, appearance and respecting their special historic and architectural context”; and “protect, conserve and, where appropriate, enhance heritage assets, key landmarks and their settings and their contribution to local distinctiveness and sense of place, including through sensitive development and environmental improvements”.

Meanwhile, conservation is enshrined in the Core Planning Principles of the Framework (Paragraph 17) as planning is expected to “conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations”. In addition, Section 12 of the Framework also refers to the impacts of development upon designated heritage assets and is supported by Policy LP25 also applies as it specifically refers to the impacts of developments upon these assets. In terms of conservation areas, the policy requires that development should either enhance or reinforce features that contribute positively to the area’s character, appearance and setting. Meanwhile, proposals also need to have regard to the setting of other designated assets, including listed buildings and scheduled monuments.

b) Assessment of the Implications of the Proposals

This section of this case officer report has been written in conjunction with the Council’s Principal Conservation Officer, having regard to the comments received from Historic England and the Conservation Officer’s advice which followed a joint site visit undertaken in February.

i) The Site Context

Number 1 St Paul’s Lane is situated within a particularly heritage sensitive area of the city namely the Bail, within the Cathedral and City Centre conservation Area and is within the

setting of Lincoln Castle which is a Grade I Listed Building and a Scheduled Monument; and Lincoln Cathedral which is also Grade I. In light of this, both have been designated at the highest levels in terms of historic, architectural, and archaeological interest.

It is considered that the proposals have the potential to affect views within the Conservation Area and the setting of the key heritage assets adjacent. As such, the visual implications of the proposals for the site are key to the assimilation of development into its context and maintaining the high quality of the built environment.

Moreover, views towards the Castle and Cathedral are an essential element of their significance as deliberate landmarks which sit in, but intentionally dominate, their context. The clear legibility of the castle and its ramparts is a key feature of this experience, as this communicates the military origins of Lincoln Castle and as a symbol of state to stamp royal authority. What is more, clear views towards the walls was a priority of the recent multi million pound 'Castle Revealed' project.

In terms of the wider Cathedral and City Centre Conservation Area, the Lincoln Townscape Assessment describes how the townscape dominated by the curtain wall contributes to the character of the area. The host building is typical of the smaller scale buildings around the ramparts which reinforce the status of the castle. Furthermore, close views of the Castle from St Pauls Lane have a strong influence on the townscape character of this area. The simple palette of materials and traditional forms of primarily 19th century red brick and slate roof buildings enhance the visual experience of contrasting with the monumental backdrops of the stone built Lincoln castle and in medium distant views Lincoln Cathedral and contribute to a very strong sense of place.

ii) Implications upon the Setting of Heritage Assets

The responsibility of the authority with respect to heritage assets is outlined in the Framework and the 1990 Listed Buildings and Conservation Areas Act. Moreover, the Authority should have special regard in respect of the desirability of the preservation of the Castle and its setting and the character of the Conservation Area and more broadly should give great weight to the conservation of designated heritage assets. What is more, the Framework sets out that any harm to significance that is accepted in the granting of planning consent must be shown to be both necessary and justified in terms of public benefits.

Setting, and the contribution it makes to the significance of a heritage asset is considered in Historic England's Good Practice Advice in Planning Note 3 – the Setting of Heritage Assets. Paragraph 5 confirms that 'consideration of the contribution of setting to significance of heritage assets, and how it can enable that significance to be appreciated, will almost always include the consideration of views'.

In this instance, the location, design and appearance of the proposals are considered to cause incongruous and harmful visual clutter when seen in views from St Paul in the Bail site, an important designed open space and heritage asset in its own right which offers an opportunity to stop, rest and appreciate views towards the Castle. Formerly the low profile of the building with its single storey scale, flat roof form and inclusion of parasols to the roof, did not impinge unnecessarily upon these views and allowed the heritage assets to appropriately dominate the view and character of the area.

The two parasols that were originally situated on the roof of the building would be moveable or collapsible when not in use during or at the end of the day and are an element that one would expect to find in relation to a roof terrace. In contrast, the domes and shed would be permanently erected when in use. Moreover, these structures would populate the foreground of the important view toward the Castle.

As alluded to, the impact of the dome structures is exacerbated by the presence of the shed structure but also the bar (which does not have consent), all of which add to the cumulative impact of disparate elements which clutter the roof scape and view. This piecemeal arrangement of structures on top of the flat roof is poorly designed and conceived in terms of the prevailing quality and character of the existing sensitive townscape. Furthermore, the effect is exacerbated by illumination at night creating unnecessary light pollution which is a competitive element with the lighting of the rampart walls.

In terms of the benefits that one may associate with such a proposal, it is somewhat contradictory that the proposal seeks to provide enclosed seating which would take advantage of the views towards the Castle and Cathedral but in doing so it compromises those very views from the public realm. Consequently, the provision of the domes in themselves would not provide public benefits that would outweigh the harm that they would cause to the setting of the heritage assets. The impact of the provision of additional jobs associated with the proposals will be referred to in the next section of this report.

c) Summary in Relation to this Issue

Officers consider that the introduction of the dome structures, in addition to the overly suburban form of the shed building and rustic makeshift bar, would sit on the roof as incongruous structures which introduce visual clutter and impede and diminish the quality of the views towards Lincoln Castle and consequently cause harm to its significance. The impact on the character and appearance of the Conservation Area is not preserved by the proposal and diminishes the character of the area in a harmful way. In both cases, this harm is not outweighed by public benefit and actually it is the public benefit of those views from the public realm which are particularly affected.

The proposals are considered to be in conflict with the policies referred to above and the application would not accord with the duty contained within section 66 (1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 'in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses' and section 72 (1) 'In the exercise, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'.

In light of the above, if consented, the proposals would result in development which would be harmful to social and environmental sustainability in conflict with the Framework.

3) Other Matters

a) *Implications of the Proposals upon Amenity*

i) Relevant Planning Policy

In terms of national policy, the NPPF suggests that development that results in poor design and/or impacts upon the quality of peoples' lives would not amount to sustainable development. Consequently, the implications of both are key to the consideration of the acceptability of the principle of development within a given site. Moreover, the Framework (Paragraph 9) sees "seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life" as being important to the delivery of sustainable development, through "replacing poor design with better design" and "improving the conditions in which people live" amongst others. Furthermore, the core principles of the Framework (Paragraph 17) indicate that "planning should...always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings".

Policy LP26 of the Plan deals with design and amenity. The latter refers to the amenities which all existing and future occupants of neighbouring land and buildings may reasonably expect to enjoy and suggests that these must not be unduly harmed by, or as a result of, the development. There are nine specific criteria which must be considered. The policy is in line with the policy principles outlined in Paragraphs 17, 59 and 123 of the NPPF. Indeed, Paragraph 123 of the Framework suggests that "decisions should aim to...avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development".

ii) Consideration of the Impacts of the Development

In this instance the proposals are in connection with the existing use of the building and would result in a different form of seating to the roof of the building, as such there would not be a harmful impact upon the amenities of the occupants of adjacent properties in respect of noise or disturbance. Furthermore, the scale of development would not be overbearing upon neighbouring uses.

b) *Sustainable Access, Highway Safety and Air Quality*

i) Relevant Planning Policies

The impacts of growth are enshrined in the Core Planning Principles of the Framework (Paragraph 17), which expects planning to actively manage this growth "to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable". As such, Paragraph 35 requires that: "developments should be located and designed where practical to [amongst other things] give priority to pedestrian and cycle movements, and have access to high quality public transport facilities; and should be located and designed where practical to create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones".

A number of Local Plan Policies are relevant to the access, parking and highway design of proposals. In particular, the key points of Policy LP13 are that "all developments should demonstrate, where appropriate, that they have had regard to the following criteria:

- a) Located where travel can be minimised and the use of sustainable transport modes maximised;
- b) Minimise additional travel demand through the use of measures such as travel planning, safe and convenient public transport, walking and cycling links and integration with existing infrastructure;
- c) Should provide well designed, safe and convenient access for all, giving priority to the needs of pedestrians, cyclists, people with impaired mobility and users of public transport by providing a network of pedestrian and cycle routes and green corridors, linking to existing routes where opportunities exist, that give easy access and permeability to adjacent areas”

There are also transport measures referred to in Policy LP36, which more specifically refers to development in the ‘Lincoln Area’, the key measures add to and reinforce the criteria within Policies LP5 and LP13. As such, they are intended to reduce the impact upon the local highway network and improve opportunities for modal shift away from the private car. In particular, development should support the East West Link in order to reduce congestion, improve air quality and encourage regeneration; and improve connectivity by means of transport other than the car. Similarly, Policy LP33 also requires that developments do not result in “levels of traffic or on-street parking which would cause either road safety or amenity problems.” Moreover, the policy also highlights the importance of providing appropriate parking for vehicles and cycles for all users within developments; and that walking and cycling links are maintained and promoted.

Paragraph 32 of the Framework suggests that the residual cumulative impacts of the development would need to be severe for proposals to warrant refusal. This is reinforced by Policy LP13 of the Local Plan which suggests that only proposals that would have “severe transport implications will not be granted planning permission unless deliverable mitigation measures have been identified, and arrangements secured for their implementation, which will make the development acceptable in transport terms.”

ii) Sustainable Access and Highway Safety

The Highway Authority has not raised any concerns regarding the application upon the grounds of traffic capacity or highway safety regarding the development.

c) Economic Benefits

The applicant’s Design and Access Statement outlines that the provision of the proposed domes would enable an additional 96 covers to be provided on a daily basis with the equivalent of three additional full-time members of staff.

Whilst officers do not doubt that there would be additional demand for seating externally that is enclosed and not necessarily weather-dependent and that there might be direct benefit to the applicant and indirect benefit from other spend locally. However, this has not been formally quantified with a business plan or with actual figures since the applicant has been trading in the domes whilst they have been unlawfully erected.

Nonetheless, these benefits would need to be weighed in the planning balance against the impacts of the development upon heritage assets referred to in the previous section of the report.

d) Summary on these Issues

Taking all the above in to account, it is considered that the proposals would not cause unacceptable harm in respect of the protection of amenity or highway matters. However, the economic benefits of the development would need to be weighed against its impacts upon heritage assets in the planning balance.

4) Planning Balance

Paragraph 14 of the Framework sets out a presumption in favour of sustainable development which for decision taking means that where relevant policies of the development plan are out-of-date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework, taken as a whole; or specific Framework policies indicate development should be restricted. In this instance, there are restrictive policies in relation to heritage assets that would lead to the proposals not being sustainable.

Moreover, whilst there would not be harm caused to the general amenities of people living or working nearby or to highway safety, it is clear from the main body of the report that the proposals could not be accommodated without causing harm to the character and appearance of the Cathedral and City Centre Conservation Area or the setting of the Grade I Listed and Scheduled Castle. Furthermore, this harm is not outweighed by public benefit and actually it is the public benefit of those views from the public realm which are particularly affected. Similarly, whilst officers accept that there would be some economic benefits either directly to the applicant or indirectly in the locality resulting from the proposals, it is considered that these benefits would not be so significant that they should outweigh the harm that is and would continue to be evident through the development, were it be granted permission.

As such, officers consider that the proposals would be in conflict with the policies referred to in this report and the application would not accord with the duty contained within section 66 (1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 'in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses' and section 72 (1) 'In the exercise, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'.

Thus, assessing the development as a whole in relation to its economic, social and environmental dimensions and benefits, officers are not satisfied that the benefits of the proposals would outweigh the harm caused. As such, it is considered that, in the round, this proposal could not be considered as sustainable development and would fail to accord with the Plan and Framework, sufficient for the recommendation of officers to be that suitable planning permission should not be granted.

Application Negotiated either at Pre-Application or During Process of Application

Yes, to explain concerns of officers.

Financial Implications

The proposals would be subject to business rates, which the Council would receive.

Legal Implications

None.

Equality Implications

None.

Conclusion

The presumption in favour of sustainable development required by the National Planning Policy Framework would not apply to the proposals as there would be conflict with the three strands of sustainability that would apply to development as set out in the planning balance. Therefore, there would be harm caused by approving the development. As such, it is considered that the application should not benefit from planning permission for the reasons identified in the report and below.

Application Determined within Target Date

Yes, subject to extension of time.

Recommendation

That the application is refused permission for the reasons outlined below:-

By reason of their form, external appearance (including materials of construction) and ancillary lighting, the proposals would be incongruous additions to the roof terrace of the building, which introduce visual clutter and impede and diminish the quality of the views towards the Scheduled and Grade I Listed Lincoln Castle, thereby causing harm to its setting and significance. What is more, the impact upon the character and appearance of the Cathedral and City Centre Conservation Area is not preserved by the proposal and diminishes the character of the area in a harmful way. The proposals would therefore be contrary to the requirements of Policies LP5, LP17, LP25, LP26, LP29 and LP31 of the Central Lincolnshire Local Plan, as well as the requirements of Sections 7 and 12 and the social and environmental sustainability principles referred to in the National Planning Policy Framework.

Report by Planning Manager