

Application Number	2024/0086/LBC
Case Officer	Lorna Elstob
Site	16 High Street Shepton Mallet Somerset BA4 5AN
Date Validated	22 January 2024
Applicant/ Organisation	Mr Khasrow
Application Type	Listed Building Consent
Proposal	To change the use of 16 High Street from a cafe to a hot food takeaway, including the installation of extractor
Division	Shepton Mallet Division
Parish	Shepton Mallet Town Council
Recommendation	Approval
Divisional Cllrs.	Cllr Bente Height Cllr Martin Lovell

What3words:trickles.stopped.speaks

Referral to Ward Member/Chair and Vice Chair:

The application is referred to the Chair and Vice Chair as requested by the Divisional Member due to concerns about damage to the listed building and impact on residential amenity.

The application is referred to the Planning COmmittee as requested by the Vice Chair: "I would like this one heard by us please as the division member has concerns about the residential amenity and the listed building although I note too the parish support"

Description of Site, Proposal and Constraints:

The application relates to 16 High Street in Shepton Mallet. The property is a 3 storey building. The ground floor is retail and the two storeys above have previously been converted to residential properties which are accessed through a separate arrangement.

The building is a Grade II listed building within a conservation area. The building is located within the primary shopping area and is a primary retail frontage.

The proposal is for the installation of a flue and extractor system to the rear of the building.

Planning permission has already been granted for the change of use.

Relevant History:

2023/1160/FUL - Change of use from cafe to a hot food takeaway with installation of an extractor fan. Approved – 08.02.2024

Summary of Ward Councillor comments, Town/Parish Council comments, representations and consultee comments:

Divisional Member: Requested referral to committee due to impact on residential amenity and impact on listed building.

Shepton Mallet Town Council: Members supported this application as it will have a positive impact on the economy of Shepton Mallet.

Local Representations:

9 objections were received – these related to planning matters rather than listed building concerns.

1 support comment was received – this related to planning matters rather than listed building matters.

Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

The statutory Development Plan for Mendip District comprises:

- Mendip District Local Plan Part I: Strategy and Policies (December 2014)
- Mendip District Local Plan Part II: Sites and Policies (December 2021)

The following policies of the Local Plan Part 1 are relevant to the determination of this application:

- Policy DP3 – Heritage Conservation
- Policy DP5 - Biodiversity and Ecological Networks
- Policy DP6 – Bat Conservation

Other possible Relevant Considerations (without limitation):

- Planning Obligations SPD
- National Planning Policy Framework
- National Planning Practice Guidance
- Historic Environment Good Practice Advice in Planning Notes issued by Historic England

Assessment of relevant issues:

Impact on Listed Building:

There is a duty under Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, when considering whether to grant listed building consent for any works, to 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.'

It is also one of the core principles of the NPPF that heritage assets should be conserved in a manner appropriate to their significance. Chapter 16 of the National Planning Policy Framework at paragraph 201 sets out that the Local Planning Authority should identify and assess the particular significance of any heritage asset. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraphs 200 -210 set out the framework for decision making relating to heritage assets and this assessment takes account of the relevant considerations in these paragraphs.

Significance of the Heritage Asset

The site is a Grade II Listed Building. The proposed extraction system will exit the building through the roof of a modern extension. The flue will be attached to the building at various points but it is not considered that there will be any harm to the heritage asset. The Conservation officer has reviewed the details of the proposed attachment of the flue to the listed building and is happy with the proposed details and method.

Conclusions

Having regard to the above therefore, the proposal will have less than substantial harm to the significance of the designated heritage asset. In line with paragraph 202 of the NPPF it is necessary to weigh this against any public benefit. In this instance the harm to the significance of the designated heritage asset is outweighed by the public benefit identified and therefore, having due regard to Section 16 of the Planning (Listed Building

and Conservation Area) Act 1990 and DP3 (Heritage Conservation) of the Mendip District Local Plan 2006-2029 (Part 1 Strategies and Policies - adopted 15th December 2014 consent should be approved.

The related planning permission has already been approved.

Equalities Act

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Recommendation

Approval

Conditions

1. Standard Time Limit - Listed Building Consent (Compliance)

The works hereby approved shall be begun before the expiration of three years from the date of this consent.

Reason: To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

2. Plans List (Compliance)

This decision relates to the following drawings: 2307/01, 2307/02 and 2307/03.

Reason: To define the terms and extent of the permission.

3. Flue Details (Bespoke Trigger)

Notwithstanding the details submitted no installation of the flue shall commence until full details of fixings at a scale of 1:10 or 1:20, have been submitted to and approved in writing by the Local Planning Authority. Thereafter the work shall be carried out only in accordance with the approved details.

Reason: To safeguard features of special architectural and historical interest and

preserve the character and appearance of the listed building in accordance with Development Policy 3 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

Informatives

1. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework by working in a positive, creative and pro-active way.
2. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.
3. Please note that your proposed work may also require Building Regulations approval, which is a separate consent process to the consideration of a planning application. The Council's Building Control team are available to provide Building Regulations advice from pre-application stage to completion of a development and can be contacted on 0300 303 7790. Further details can also be found on their website <https://buildingcontrol.somerset.gov.uk/>