

Planning and EP Committee

Application Ref: 22/00176/FUL

Proposal: Retention of two marquees

Site: The Golden Pheasant, 1 Main Road, Etton, Peterborough
Applicant: Mr Stuart Johnson

Agent: N/A
Site visit: 25.02.2022

Referred by: Sylvia Bland
Reason: High level of public interest

Case officer: Karen Ip
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Recommendation: **GRANT** subject to relevant conditions

1 Description of the site and surroundings and Summary of the proposal

Site and Surroundings

The site is set within the Etton Conservation Area on its southern periphery. The character of the site is primarily rural with an abundance of open agricultural land surrounding. Adjacent to the site to the north is a cluster of agricultural buildings which were originally associated with the listed building when it was simply a dwelling with a farm attached.

The Mid-19th Century Grade II Listed Public House is set back from the highway with access taken from a short driveway which opens into a large gravel parking area. The site is predominantly demarcated by post and rail fencing, with an historical stone boundary wall along its rear. A number of large established trees add to the setting of the site.

Proposal

The proposal is for the retention of two marquees linked by a short covered walkway. The application seeks the retention of the marquees to be used for events and in addition, in use Fridays and Saturdays 6-11pm and Sundays and bank holidays 12-4pm.

The two marquees are split into the 'bar marquee' and the 'main marquee'. The bar marquee measures 6m in width, 6m in depth and 3.9m in height. The main marquee measures 12m in width, 12m in depth and 5.1m in height. The bar marquee is served by a small BBQ area along its western flanks and an outside standing area to its south.

2 Planning History

Reference	Proposal	Decision	Date
00/00550/FUL	Siting of temporary marquee and its associated use for private functions (retrospective)	Permitted	12/03/2001
01/01395/FUL	Renewal of planning permission 00/00550/FUL for retention of marquee	Permitted	08/03/2002
02/01390/WCPP	Variation of condition 1 of permission 01/1395/FUL to retain marquee between 1st October and 31st March	Withdrawn by Applicant	19/12/2002
03/01357/FUL	Renewal of planning permission 01/01395/FUL for retention of marquee	Permitted	22/01/2004
05/01816/WCPP	Variation of condition 1 of planning permission 03/01357/FUL to allow the erection of a marquee on site from 1st April each year until 5th January the following year	Permitted	09/03/2006
08/00026/WCPP	Variation of condition 1 of planning ref: 05/01816/WCPP to permit the retention and use of the Marquees until 30 October 2011	Permitted	09/07/2008
11/00422/WCPP	Variation of condition 1 of planning permission 08/00026/WCPP dated 10/07/2008 to permit the retention and use of the marquee until 30 October 2014	Permitted	09/05/2011
15/00095/FUL	Retention of 2 marquees	Permitted	01/05/2015
18/01456/FUL	Retention of two marquees	Permitted	01/11/2018
21/01767/FUL	Retention of two marquees	Refused	08/01/2022

3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

Planning (Listed Building and Conservation Areas) Act 1990

Section 66 - General duty as respects listed buildings in exercise of planning functions

The Local Planning Authority has a statutory duty 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.

Section 72 - General duty as respects conservation areas in exercise of planning functions.

The Local Planning Authority has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area or its setting, or any features of special architectural or historic interest which it possesses.

National Planning Policy Framework (2021)

Chapter 16 - Conserving and enhancing the historic environment

Chapter 6 – Building a strong competitive economy

Chapter 9 – Promoting sustainable transport

Peterborough Local Plan 2016 to 2036 (2019)

LP13 - Transport

LP16 - Urban Design and the Public Realm

LP17 - Amenity Provision

LP19 - The Historic Environment

4 Consultations/Representations

PCC Tree Officer (22.02.22)

No objection, on arboricultural grounds.

PCC Conservation Officer (08.03.22)

Objection - Failure to comply with NPPF paragraph 194, Detrimental impact upon the setting of Listed Buildings, Detrimental impact upon the character of a Conservation Area.

Etton Parish Council (10.03.22)

The Parish Council recommends approval for this application. The Golden Pheasant offers an amenity facility for the village and space for parish to conduct meetings as well as employment for local people. We do not believe the marquees have a detrimental effect on character of the conservation area or fabric of the listed building. From our observations, the marquee do not generate additional traffic and there is sufficient onsite parking. Highly recommended by central government that additional covered area is provided and maintained following covid epidemic.

PCC Pollution Team (18.02.22)

No objection subject to conditions associated with noise restrictions, no more than 12 events per year and hours between 10:00 - 24:00 except on New Years Eve where music should cease at 01:00.

PCC Peterborough Highways Services (11.03.22)

No objections - the LHA are satisfied that the site has adequate off-road parking and turning facilities to safely accommodate the day-to-day activities of the public house. For large functions and events, the LHA recommends to condition the use of Marshalls etc., to direct vehicular visitors away from the site and to suitable parking locations i.e., the fields and yards belonging to local farmers as stated in the D & A statement.

Local Residents/Interested Parties

Initial consultations: 9

Total number of responses: 3

Total number of objections: 2

Total number in support: 1

2 letters of objection and 1 letter of support has been received from local residents.

Letter of support:

- As a regular customer of this excellent venue, I believe it's important to clarify that parking is not an issue. The objector provided two photographs of illegal parking but both are believed to be his parking. They are certainly not connected with the venue.

Letters of Objection:

- The applicant refers to the marquee as a community facility within the submitted Design & Access statement, however it's a part of the privately run public house which profits from the events.
- The marquee's lapsed consent clearly states that save for 3 events in any rolling 12-month

period, the marquee shall be used for private functions only.

- The public house decided to open the marquee as 'J&K Soul Lounge' with music playing Friday evening, all day Saturday and from 11am till 6pm on a Sunday, which was opened to the public. This was advertised on the pub's Facebook page with posts promoting it to the public.
- A noise complaint was made 16th Sep 2020, EHO did investigate the noise levels, and this was addressed at the time, however the noise emitted can still be heard from the closest properties and around the village; detracting from the character of the village.
- As per the EHO response there has been 6 noise complaints in 2020. However there have been numerous breaches which were not reported.
- We have suffered from excessive noise disturbance on and off since the marquees were first erected, evidenced by numerous letters and calls to the authorities, the first of these being a phone call to the Environmental Health department on 5th February 1996.
- C10 requires the public house's grassed paddock to be made available for parking. There has been a number of occasions where the pub has not opened the paddock, generally when there has been rain, which has resulted in Main Road being used as the overflow car park, (often overnight) which has made access to the village difficult, creating issues for buses and residents driving through the village. This issue is now compounded by the construction of a crazy golf course in said paddock limiting extra available parking space for events. A planning consent for the crazy golf should have taken into account that event parking would be subsequently restricted.
- The use of the phrase 'community facility' is misleading, it is a private business which profits from the use of the marquee.
- The applicant has failed to provide any substantive evidence of the economic viability of the marquees, their contribution to the community or associated public benefit to weigh against the harm to the listed building. Only a list of general maintenance costs has been provided by the applicant. It therefore cannot be established that there is a public benefit arising from the marquees that out weights the harm to the setting of the listed building.
- The marquee is highly visible from the approaches to the village including the B1143 and Main Road entering the village from the south, the A15 during winter months and Maxey Road between Helpston & Maxey - contrary to The Etton Conservation Character Area Appraisal & Management Plan (June 2015).
- The marquee detracts from and (as advised by PCC Conservation Officer in previous objection) has a significant impact upon the immediate setting of the Golden Pheasant, the positive unlisted buildings and the surrounding conservation area.
- No evidence of this provided that the onsite parking provision is adequate and any temporary offsite parking arrangements are not sufficiently evidenced.
- Neither of the two reasons for refusal on decision 21/01767/FUL have been addressed within this application, meaning the proposals remain in conflict with Local and National Policy. Contrary to Local Plan (2019) Policy LP19, LP13 and NPPF (2021) paras 197, 199, 202.

5 Assessment of the planning issues

The main considerations are:

- **Design and impact to the character and appearance of the site and impact upon designated heritage assets**
- **Neighbour amenity**
- **Highway Safety**

Background information

The application relates to the retention of 2 marquees which have been on the application site since temporary permission was first granted in 2001. Since then, temporary consent has been permitted every 3 years to date, with conditions relating to noise, hours, frequency of operation and parking.

The marquee was replaced with a new marquee in June 2018 to be more weather proof with more secure fixtures. Additional improvements were made involving electrical works, emergency lights

and fire extinguishers, along with hardwood flooring and plumbing and fittings for the bar and the adjacent beer cellar.

On inspection of the site, Officers can confirm that the marquee is secured with concrete footings with internal plastered walls and doorways, electricity and plumbing. The marquee acts as a permanent structure, rather than a traditional removable marquee.

The most recent previous application Ref 21/01767/FUL was refused due to insufficient information relating to the impact that the marquees have upon the viability of the public house and upkeep of the Listed Building and lack of information relating to parking.

Additional information has been submitted to support the current application and Officers are proposing that the applicants are granted permission on a permanent basis rather than continued temporary basis.

The Crazy Golf course that has been built on site will not form part of this assessment and will be treated as a separate planning matter. This application is purely for the retention of the marquees.

a) Design and impact to the character and appearance of the site and impact upon heritage assets

As detailed in section 1 above, the application site comprises a Listed Building and its curtilage, and is located within the Etton Conservation Area. Section 66(1) requires that special regard be paid to the desirability of preserving or enhancing the importance of listed buildings. In addition, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) requires that special regard be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. This is further reinforced through the National Planning Policy Framework (2019) which states that great weight should be given to the conservation of heritage assets together with Local Plan policy LP 19.

Significance is one of the guiding principles in relation to assessing the impact of proposals upon the historic environment, and is defined in the NPPF as 'the value of a heritage asset to this and future generations because of its heritage interest'. Such interest may be archaeological, architectural, artistic or historic, and it may derive not only from a heritage asset's physical presence, but also from its setting. In addition, NPPF paragraph 197 requires planning authorities to take account of the economic viability of heritage assets, including their contribution to their community.

Local Plan Policy LP19, in line with para 201 of the NPPF requires that less than substantial harm to a heritage asset or its setting, should be weighed against any public benefits, including where appropriate, securing its optimal viable use.

The Council's Conservation Officer has been consulted and has objected on a number of grounds including the harm that the marquees cause to the character of the conservation area and the setting of the listed building, limited public benefits and concerns about the level of information submitted in respect of economic viability.

With regards to the impact on the character of the conservation area and setting of the listed building, the Conservation Officer advises that the scale and siting – projecting forward of the principal elevation of the listed building, together with the incongruous design and bright white colour results in the marquees being clearly visible both from within the immediate curtilage of the listed building and the open countryside beyond. He advises that this causes less than substantial harm to the character of the conservation area and setting of the listed building.

Officers agree that the marquees do result in harm to the conservation area, and setting of the listed building and adjacent non designated heritage assets which is within the “less than substantial” category. However officers consider that the level of harm is at the lower end of this category and lower than that suggested by the Conservation Officer. Officers disagree that the

marquee can be clearly seen from the surrounding fields due to the mature trees that are adjacent to the marquees, there is a possibility that the marquees are more visible from a distance during the winter time, but certainly not during the summer months. There is immediate tree coverage to the north and south of the marquee as well as tree line along Main Road where the pub is situated. The closest road is Glington Road which is approximately 575m away. With the marquees only standing at a maximum height of 5.1m, it is not immediately obvious when travelling down Glington Road, which is a 60mph road.

Being largely set to the side of the listed building, and subservient to it, the marquees are largely obscured by it from most angles and they are only partially visible from the south east when seen together with the main façade of the building. Furthermore, the impact can be partially mitigated by new planting to partially screen out the marquees in this view (to be secured by condition)

With regards to economic viability, the Conservation officer's comments are noted. However, Officers consider that the information provided reasonably sets out the case and must be given due weight in the planning balance. There is clearly a cost associated with maintaining the listed building and the applicant's statement states that the operation of the marquee is key to funding the upkeep of the listed building. The applicant's statement says *"The manor house is getting older every year and with the lease we have, we could not look after and repair the manor house without the profits from the larger events as it would be impossible raising the funds just from wet sales of the pub."* The applicant also explains that since their ownership of the site in 2018, the repairs to the listed building so far have approximately totalled £26,300 alone, before giving a breakdown of the works and the associated costs.

Furthermore, it is evident from Parish Council's supporting comments that the marquee does contribute to the community and its sustainability and it is also used by the Parish Councillors themselves for parish related matters. From conversation with the applicant, Officers understand that the marquee is also used as the local polling station for Etton.

The marquees have been in position for at least 20 years, therefore can be considered relatively permanent in terms of their functional relationship to the use of the site as a whole and its viability as a business and community facility, including the need to maintain the fabric of the listed building.

In applying the test of Local Plan Policy LP19 and NPPF para 201, officers consider that the public benefits of securing the optimal viable use of the heritage asset, ensuring its long term future maintenance and the contribution to the economic and social sustainability of the local community, are on balance sufficient to outweigh the limited degree of less than substantial harm.

A condition is recommended to ensure that should the public house cease trading, the marquees shall be permanently removed and the land restored to its former condition unless a subsequent permission for their continued siting has been submitted to and approved in writing by the Local Planning Authority.

In this respect, on balance, the proposal accords with policies LP16, LP17 and LP19 of the Peterborough Local Plan and sections 6 and 16 of the NPPF.

b) Neighbour amenity

It is recognised that the marquees are located in relatively close proximity to residential dwellings and have an impact in terms of noise for some local residents. Previous permissions for the marquees have been subject to a number of conditions relating to limiting noise impact and include:

- Use of the marquees for private functions only, save for 3 public events within a rolling 12 month period;
- Direction of the sound amplification system away from the village and residents;
- A noise limit of 40 dB LAeq, 15 minutes as determined at the nearest noise sensitive premises;

- Use of a noise limiting device; and
- Restriction on hours of use to between 10am and midnight.

The Council has received a number of both enforcement and noise complaints during the period of the previous temporary consent. The Council's Pollution Control Officer has advised that 6no. complaints have been received since August 2020 which is an increase from previous years whereby there had been one complaint in July 2018, two in August 2015, and one in September 2013. The Pollution Control Officer notes that this is likely resulting from the covid-19 pandemic which has meant that public houses have had to operate in a different manner, with more outdoor use. However, Officers note the objections from local residents and information available on the Applicant's own website which show that the marquees have been in use for a regular public 'Soul Night' in breach of the planning conditions imposed.

The Pollution Control Officer has advised that monitoring has been undertaken in relation to these complaints, which identified that the noise limiter and noise limit imposed by condition was being adhered to. However, the noise was audible to nearby residents and could pose disturbance. Accordingly, the Pollution Control Officer has not raised objection in principle to the proposed marquee retention but has requested that more restrictive conditions be applied which further limits the use of the marquees to no more than 12 events with music, and no more than any 2 of those within a rolling 4 week period.

Officers consider that the conditions recommended by the Pollution Control Officer are reasonable and will ensure that residential amenities are adequately protected in accordance with Policy LP17 of the Peterborough Local Plan (2019).

c) Highway Safety

Officers note that previously ref 21/01767/FUL, a parking plan was not provided and due to officers concerns that the installation of the new crazy golf course would have an impact on the number of parking spaces available for use, the application was then therefore refused.

A parking plan has been submitted with this application. The reason that the number of spaces differ from the application form and D&A statement was due to after applicants were informed that spaces should be calculated 2.5m x 5m standard, consequently, the number of calculated spaces was reduced from 113 to 100 approx.

The Local Highways Authority has advised that they have no objections to the proposal as they are satisfied that there is sufficient parking to safely accommodate the day to day operation of the pub. They have advised that a condition should be sought to ensure that adequate parking provided on event occasions where additional parking is needed and these should be facilitated by a parking marshal to ensure that Main Road and the village does not get blocked by parked vehicles.

Officers are satisfied that the number of parking spaces available meets the demand for day to day operations and that a condition shall be imposed to facilitate appropriate additional parking for event occasions.

In this respect, the proposal is in accordance with Policy LP13 of the Peterborough Local Plan and section 9 of the NPPF.

6 Conclusions

Subject to the imposition of the attached conditions, the proposal is acceptable having been assessed in the light of all material considerations, including weighing against relevant policies of the development plan and specifically:

- taking into account section 66(1) and 72(1) Planning (Listed Buildings and Conservation Areas) Act 1990, the identified less than substantial harm to heritage assets is outweighed by the public benefits in accordance with Section 16 NPPF (2019) and in accordance with Policy LP16 and LP19

of the Peterborough Local Plan.

- there would be no adverse impact to neighbour amenity, in accordance with Policy LP17 of the Peterborough Local Plan (2019).

- the proposal would not result in any undue impact to highway safety, in accordance with Policy LP13 of the Peterborough Local Plan.

7 Recommendation

The case officer recommends that Planning Permission is **GRANTED** subject to the following conditions:

C 1 The retention of the marquees hereby permitted in relation to the trading use of the public house only.

Should the public house cease trading, the marquees shall be permanently removed and the land restored to its former condition unless a subsequent permission for their continued siting has been submitted to and approved in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain control over the use of the marquees on a permanent basis due to impact upon the setting of the Listed Building and/or the character or appearance of the Etton Village Conservation Area in accordance with policies LP16 and LP19 of the Peterborough Local Plan (2019).

C 2 The development hereby permitted shall be retained, in accordance with the following approved plans:

- Location Plan - Received 11.02.2022
- Site plan - Received 11.02.2022
- Floor plan (Drawing number 2011-133-PC) - Received 11.02.2022
- Marquee elevations (Drawing number 00041 L(--))03) - Received 11.02.2022
- Parking plan - Received 11.02.2022

Reason: For the avoidance of doubt and in the interest of proper planning.

C 3 Between 01 January and 31 December in any year there shall only be 12 function days with music, and of those 12 no more than 2 function days with music in any rolling four week period. Outside this the marquees shall be used for no other purpose (including any other purpose within Class A4 and Class D2 of the Schedule of the Town and Country Planning (Use Classes) Order 2010 (or any Order revoking and re-enacting that Order, with or without modification), notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015,(or any Order revoking and reenacting that Order, with or without modification)

Reason: In order to protect and safeguard the amenity of the area, in accordance with Policy LP17 of the Peterborough Local Plans (2019)

C 4 The amplification system shall be configured such that the speakers direct sound away from the village of Etton in a south/south-westerly direction and the level of noise emitted from the site should not exceed 40 dB LAeq, 15 minutes as determined at the nearest noise sensitive premises, measurements taken in accordance with Code of Practice on the Environmental Noise Control at Concerts.

Reason: In order to protect and safeguard the amenity of the area, in accordance with Policy LP17 of the Peterborough Local Plans (2019)

- C 5 A noise limiting device shall remain installed and calibrated to comply with noise levels specified in Condition 4, it shall be kept entirely free from obstruction and shall be in use for the duration of functions held in the marquees. The agreed noise level restriction shall not be altered unless by written agreement with the Local Planning Authority. The effectiveness of the noise limiter will be monitored by the operator and shall the set level be found to be too high the noise limiter will be reset accordingly.

The noise limiting device shall be connected to all permanent music equipment and all available AC mains power sockets, within the area around a stage, within a performance area or near to a control desk.

Subsequent to the installation of the noise limiter, the local authority may review and require the adjustment of the settings at any time. The adjustment shall be undertaken within four weeks of the Local Authority advising that the alteration is required.

Reason: In order to protect and safeguard the amenity of the area, in accordance with Policy LP17 of the Peterborough Local Plans (2019)

- C 6 In the event of concern expressed by the Local Authority compliance with the noise level detailed in Condition 4 will be demonstrated by the operator using noise monitoring, undertaken by a suitably competent person, within 4 weeks of concern expressed by the Local Authority, unless no events have taken place within the period, in which case monitoring of the next event shall be undertaken. All measurements will be taken in accordance with the Code of Practice on the Environmental Noise Control at Concerts.

Reason: In order to protect and safeguard the amenity of the area, in accordance with Policy LP17 of the Peterborough Local Plans (2019)

- C 7 The marquees shall not be used for the holding of functions before 10:00 hours and after 24:00 hours on any day, except for New Years Eve where music shall cease at 01.00hrs.

Reason: In order to protect and safeguard the amenity of the area, in accordance with Policy LP17 of the Peterborough Local Plans (2019)

- C 8 Overspill parking facilities shall be arranged when larger functions are taking place. Parking marshals shall be used to direct vehicles away from the site and onto suitable alternative parking locations. No vehicles associated with the events shall be parked on the public highway.

Reason: In the interest of residential and general amenity and highway safety in accordance with policies LP13 and LP17 of the Peterborough Local Plan (2019).

- C 9 Within 3 months of the granting of this permission, a scheme for the soft landscaping of the site shall be submitted to the Local Planning Authority for approval. The scheme shall include details of the following:-

- Planting plans including retained trees, species, numbers, size and density of planting

The soft landscaping shall be carried out as approved within the first available planting season following approval of the details. Any plants which die or are removed within 5 years shall be replaced.

Reason: In the interests of visual amenity of the area and the enhancement of biodiversity, in accordance with Policies LP16, LP28 and LP29 of the Peterborough Local Plan (2019).