

Development Control Committee 3 February 2021

Planning Application DC/20/1870/FUL – Maid's Head, 9 Kingsway, Mildenhall

Date registered:	9 November 2020	Expiry date:	4 January 2021 EOT 12 February 2021
Case officer:	Connor Vince	Recommendation:	Refuse application
Parish:	Mildenhall	Ward:	Mildenhall Kingsway and Market
Proposal:	Planning application - Conversion of existing storage barn to one dwelling with associated access and parking		
Site:	Maids Head, 9 Kingsway, Mildenhall		
Applicant:	Mr Ron Pammenter		

Synopsis:

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and associated matters.

Recommendation:

It is recommended that the committee determine the attached application and associated matters.

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Background:

This application is presented to Development Control Committee following consideration at Delegation Panel on 29 December 2020.

It was presented to the Delegation Panel due to the support from Mildenhall Town Council. The application is recommended for REFUSAL.

Proposal:

1. Planning permission is sought for the conversion of an existing storage barn fronting Kingsway to be converted to one dwelling. The building is presently used for storage in association with the Maid's Head public house. The application incorporates parking provision and internal alterations for the conversion, with an internal floor area of 40 square metres across two floors.

Application supporting material:

In support of this planning application, the following has been provided:

- Location plan
- Existing floor plans and elevations
- Proposed floor plans and elevations
- Land contamination questionnaire
- Land contamination report
- Design & access statement

Site details:

2. The storage barn is situated on the south-eastern edge of the site, adjacent to Kingsway to the south. The car park serving the Maid's Head public house surrounds the site, with an open beer garden north of the aforementioned car park. Access to both the proposed dwelling and the Maid's Head Public House is served via the same access from Kingsway.
3. The storage barn has previously been used as a beer keg store and miscellaneous articles store in association with the Maid's Head Public House. The site is situated within the Mildenhall settlement boundary and conservation area and fronts Kingsway to the south. Residential dwellings are found to the immediate south and east of the site.

Planning history:

4. None relevant

Consultations:

5. **Mildenhall Town Council** – Support
6. **Conservation Officer** – On the basis the proposed works will not involve alteration to the elevation as seen from the public highway the works will not adversely affect the character or appearance of the conservation area. I therefore have no objections.

7. **Public Health & Housing** - Public Health and Housing do not object to the application.
8. **Waste Team** – No objection
9. **Environment Team** - Based on the submitted information for the above site, this Service is satisfied that the risk from contaminated land is low. No objections subject to condition requiring the provision of electric vehicle charging points.
10. **SCC Highways** – No objections subject to three conditions requiring:
 1. Parking/Manoeuvring areas retained
 2. Details for the provision of cycle storage
 3. Retention of areas provided for refuse/recycling bins

Representations:

11. No comments received.

Policy:

12. On 1 April 2019 Forest Heath District Council and St Edmundsbury Borough Council were replaced by a single authority, West Suffolk Council. The development plans for the previous local planning authorities were carried forward to the new Council by regulation. The development plans remain in place for the new West Suffolk Council and, with the exception of the Joint Development Management Policies Document (which had been adopted by both councils), set out policies for defined geographical areas within the new authority. It is therefore necessary to determine this application with reference to policies set out in the plans produced by the now dissolved Forest Heath District Council.
13. The following policies of the Joint Development Management Policies Document and the Forest Heath Core Strategy 2010 have been taken into account in the consideration of this application:

Site Allocations Local Plan 2019 (former Forest Heath area) SA1 - Settlement boundaries

Core Strategy Policy CS1 Spatial Strategy

Core Strategy Policy CS2 - Natural Environment

Core Strategy Policy CS5 Design Quality and Local Distinctiveness

Policy DM1 Presumption in Favour of Sustainable Development

Policy DM2 Creating Places Development Principles and Local Distinctiveness

Policy DM7 Sustainable Design and Construction

Policy DM10 Impact of Development on Sites of Biodiversity and Geodiversity Importance

Policy DM11 Protected Species

Policy DM12 Mitigation, Enhancement, Management and Monitoring of Biodiversity

Policy DM17 Conservation Areas

Policy DM22 Residential Design

Policy DM46 Parking Standards

Other planning policy:

14.National Planning Policy Framework (NPPF)

15.The NPPF was revised in February 2019 and is a material consideration in decision making from the day of its publication. Paragraph 213 is clear however, that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to them according to their degree of consistency with the Framework; the closer the policies in the plan to the policies in the Framework; the greater weight that may be given. The policies set out within the Joint Development Management Policies have been assessed in detail and are considered sufficiently aligned with the provision of the 2019 NPPF that full weight can be attached to them in the decision making process.

Officer comment:

16.The issues to be considered in the determination of the application are:

- Principle of Development
- Design, Form and Scale
- Amenity Impacts
- Heritage Impacts
- Highways Impacts
- Other Matters

17.The site is situated within the settlement boundary for Mildenhall, as well as the Mildenhall Conservation Area. Firstly, the principle of development given the local context will be discussed.

Principle of Development

18.The obligation set out in section 38(6) of the Planning & Compulsory Purchase Act 2004 requires decision makers to determine planning applications in accordance with the Development Plan unless material considerations indicate otherwise. The Framework does not displace this statutory duty and in fact seeks to re-enforce it. However, the policies in the Framework are themselves material considerations which need to be brought into account when determining planning applications. NPPF policies may support a decision in line with the Development Plan or they may provide reasons which 'indicate otherwise'.

19. Policy CS1 of the Forest Heath Core Strategy provides that within the defined Housing Settlement Boundaries, planning permission for new residential development will typically be granted where it is not contrary to other planning policies.
20. The application site lies within the defined settlement of Mildenhall which is classified within Policy CS1 of the FHDC Core Strategy Document as a market town. Within the confines of policy CS1 and SA1, the Spatial Strategy for the District focuses growth in the towns and key service centres where employment, housing, services and facilities can be provided in close proximity to each other.
21. The conversion of the storage barn to dwelling is therefore considered appropriate in this location being surrounded by existing residential properties and owing to the fact that the application site is located within the defined settlement boundary. It is therefore considered a sustainable re-use of land and subject to material planning considerations, there is nothing which would prevent the broad principle of residential development being acceptable.
22. Accordingly, there is nothing to preclude consideration of this site for residential development subject to the impacts of the proposal otherwise being satisfactory and in accordance with up to date planning policies.

Design, Form and Scale

23. With the principle of the development established as being a proposal that the Local Planning Authority are able to support, consideration must be given to the design, form and scale of the proposed development in relation to other relevant Joint Development Management Policies. DM2 and DM22 in particular seeks to ensure that proposal for all new development should not result in any adverse impacts on the local character of the area and any adverse impacts to residential amenity.
24. Policy DM2 states that proposals for all development should recognise and address the key features and the character of the areas within which they are to be based. Policy DM22 further states that all residential development proposals should maintain or create a sense of place and/or character by basing design on an analysis of existing buildings and landscape and by utilising the characteristics of the locality to create buildings and spaces that have a strong sense of place and distinctiveness.
25. The majority of the changes to the storage barn are internal, with fenestration changes in the form of two additional windows to the rear (northern) elevation being incorporated into the design. The rear elevation will form the entrance to the dwelling, with the front (southern) elevation fronting Kingsway incorporating no fenestration changes as part of the proposal. An additional floor is proposed inside the storage barn to accommodate a bedroom and bathroom on the upper floor, with an open-plan living room and kitchen on the ground floor. No changes are proposed on the rear. The internal floor area for the proposed dwelling equals 40 square metres, which is 3 metres above the minimum threshold as detailed within national space standards, albeit members are reminded that these are only advisory in the absence of a local policy that prescribes them.

26. The proposal includes a modest fenced garden area and parking space to the rear, neither of which will be readily visible and both of which are located within the context of the existing car parking area. The changes to the building are modest, and only on the rearwards facing elevation, and it is concluded that the overall impacts upon the character and appearance of the area would be satisfactory, subject to conditional control in relation to the details of any fenced enclosure to the garden area. The proposal therefore satisfies the provisions of DM2 and DM22 in relation to the impact upon character and appearance.

Amenity Impacts

27. Policy DM2 of the Joint Development Management Policies Document is clear in that proposals for all development should not, taking mitigation measures into account, adversely impact the amenities of adjacent areas by reason of noise, smell, vibration, overlooking, overshadowing, loss of light, volume or type of vehicular activity generated. This extends to residential amenity and also seeks to limit the harm suffered by developments from existing uses, providing at criterion h that development should not be sited 'where its users would be significantly and adversely affected by noise...or other forms of pollution from existing sources'. The NPPF also sets out that proposals should not harm existing levels of amenity.
28. Paragraph 127 of the NPPF further states that planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
29. The proposed dwelling will incorporate a shared access with the Maid's Head Public House, with a small private amenity space which will be screened by a fence, but located intimately within the existing public house car park and otherwise closely related to both the vehicular access and outside 'beer garden' area associated with the pub. The existing 5-metre wide access serves the Maids Head Public House and has parking for up to 20 vehicles and a 'garden area' for patrons to use when using the Maids Head facilities. The Maid's Head Public House does not have access to the beer cellar from the front, meaning it is likely that the public house will be serviced by vehicles using the Kingsway access and from the rear car park, in close association with this proposed dwelling. All service vehicles would, it is anticipated, utilise this access, creating adverse and materially harmful amenity impacts via vehicular traffic and associated noises arising from servicing activities in such close proximity.
30. Whilst no specific details are available regarding the fence that is proposed to surround the amenity area, and whilst this might offer some modest screening effect, it is officers' view that the continued shared use of this access by patrons of the Maid's Head pub, accompanied by the use of the public garden space to the immediate north of the proposed dwelling, plus the servicing effects noted above, would engender adverse noise and general amenity impacts on the future occupants of the dwelling, therefore contrary to the provisions of Policies DM2 and DM22. Vehicles will be using this parking area for turning and manoeuvring and for entering and leaving of the premises. Given the function of the Maid's Head, patrons will

also be congregating at, plus arriving at and leaving, the Public House at unsociable hours. Furthermore, there remains the potential for the slamming of car doors, headlights shining, revving engines, for example, which are all cumulative effects late in the evening and which are also anticipated to have some adverse impacts. This harm is compounded by the private amenity space provided for the converted dwelling being within the former car park and close to the access and beer garden, with associated activities which will all continue to arise from the lawful public house use if planning permission is granted.

31. Whilst there are other dwellings within close proximity to the Maid's Head, none share such an intimate relationship as this proposed dwelling. These dwellings at 11 and 13 Kingsway, for example, are 3 metres and 13 metres in separation distance respectively from the site boundary, would not engender such adverse impacts associated with residential amenity as would be anticipated in this case due to the screening provided by a high wall on the eastern boundary of the Maid's Head site, and also due to the fact that they are not so intimately associated with and related to the existing access, car park and beer garden as this proposed property is.
32. No objections have been raised to the proposal from Public Health and Housing. However, providing a market dwelling within such close proximity to the Maid's Head Public House may also affect the future viability of the pub moving forward if restrictions are placed on it due to its proximity to a residential dwelling, and in this regard the provisions of the NPPF are relevant
33. Paragraph 182 advises that decisions should ensure that new development can be integrated effectively with existing businesses and community facilities such as pubs. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant should be required to provide suitable mitigation before the development has been completed. In this regard officers are concerned not only that the fence proposed is inadequate mitigation for the effects but that, more fundamentally, the very close relationship between the public house use, including its access, car park and outside garden area, means that effective mitigation from noise effects simply would not be possible, leading to concerns that the proposal is not integrated effectively with existing business, contrary to the provisions of paragraph 182 of the NPPF.
34. The proposal is therefore considered to conflict with the provisions of policies DM2 and DM2, plus those provisions of the NPPF which seek to protect the amenities of residential occupiers, and to paragraph 182 of the NPPF.

Heritage Impacts

35. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to have special regard to the desirability of preserving or enhancing the character or appearance of a conservation area.

36. Policy DM17 further states that proposals for development within, adjacent to or visible from a Conservation Area should preserve or enhance the character or appearance of the Conservation Area or its setting, and views into, through, and out of the area.
37. The majority of the proposed works are internal, with fenestration changes occurring to the rear (northern) elevation, which will not be visible from the street scene, namely Kingsway to the south. The proposed fencing is also discretely sited, and details of which could be satisfactorily controlled through the imposition of a condition.
38. In conclusion, and on the basis that the proposed works are modest and generally incidental alterations that will not materially alter the form or overall appearance of the building, it is considered that the proposal will not adversely affect the character or appearance of the conservation area. The proposal therefore complies with the provisions of Policy DM17.

Highway Impacts

39. At paragraph 110, the 2019 NPPF provides that applications for planning permission should, where it is possible to do so, enable safe use of public highways for all stakeholders. The extent to which this is required will of course be dependent upon and commensurate to the scale of development proposed.
40. The Suffolk Parking Standards require a 1-bedroom dwelling to deliver at least one parking space for potential occupants. As indicated on the submitted site plan, one parking space is provided, therefore complying with the provisions of the Suffolk Parking Standards. No conflict is anticipated to arise between the use of the car park and the provision of the dwelling that would otherwise have safety implications for vehicular or pedestrian safety.

Other Matters

41. As required by the National Planning Policy Framework (2019) at paragraphs 8c, 170 and 175 the LPA have a duty to consider the conservation of biodiversity and to ensure that valued landscapes or sites of biodiversity are protected when determining planning applications. Section 40 of the Natural Environment and Rural Communities Act 2006 further places a duty to conserve biodiversity on public authorities in England. At a local level, this is exhibited through policies CS2, DM11 and DM12.
42. Policy DM11 states that development will not be permitted unless suitable satisfactory measures are in place to reduce the disturbance to protected species and either maintain the population on site or provide alternative suitable accommodation.
43. Policy DM12 seeks to ensure that, where there are impacts to biodiversity, development appropriately avoids, mitigates or compensates for those impacts. The policy requires that all development proposals promote ecological growth and enhancement.

44. The storage barn has traditionally been used in association with the main building of the Maid's Head Public House. The building is in good condition externally and, given its location within the settlement boundary for Mildenhall, is not within close proximity to any water bodies or woodlands. No adverse impacts on biodiversity are therefore considered to arise, in compliance with the provisions of policies CS2, DM11 and DM12.

Planning Balance:

45. In conclusion, the proposed conversion of the storage barn will undoubtedly provide economic benefits for the applicant by way of providing a dwelling within what is principally a sustainable location, reusing what is currently a disused building. Furthermore, it is acknowledged there are no objections to the proposal from statutory consultees, with support from the Town Council. However, it is considered that due to the proximity of the dwelling to the retained public house and associated car park and beer garden, including the likely use of such at unsocial hours, plus use of the access from Kingsway, as well as the adverse impacts attributed to noise and the aforementioned use of the access and parking area for the servicing of the public house, there will be significant and material adverse effects upon the amenities of the occupants of this modest dwelling and garden. The proposal is therefore considered to conflict with the provisions of policies DM2 and DM22 and is therefore recommended for refusal. The further provision of a market dwelling in this location, within such close proximity to the Maid's Head also has the potential to adversely affect the future operation of the public house, if noise complaints are subsequently received, contrary to the provisions of paragraph 182 of the NPPF.

Recommendation:

46. It is recommended that planning permission be **REFUSED** for the following reason:

1. Policy DM2 of the Joint Development Management Policies Document is clear that proposals for all development should not, taking mitigation measures into account, adversely impact the amenities of adjacent areas. This includes effects upon residential amenity and also seeks to limit the harm suffered by developments from existing uses, providing as criterion h that development should not be sited 'where its users would be significantly and adversely affected by noise...or other forms of pollution from existing sources'. The NPPF also sets out that proposals should ensure a high standard of amenity for existing and future users.

The proposed dwelling will incorporate a shared access with the Maid's Head Public House, with a small private amenity space which will be screened by a fence, but located intimately within the existing public house car park and otherwise closely related to both the vehicular access and outside 'beer garden' area associated with the pub. All service vehicles would, it is anticipated, utilise this access, creating adverse and materially harmful amenity impacts via vehicular traffic and associated noises arising from servicing activities in such close proximity.

It is considered that the continued shared use of this access via patrons of the Maid's Head pub, accompanied by the use of the public garden space

to the immediate north of the proposed dwelling would engender significant adverse noise and general amenity impacts on the future occupants of the dwelling, therefore proving contrary to the provisions of Policies DM2 and DM22. Given the function of the Maid's Head, patrons will also be congregating at, plus arriving at and leaving, the Public House at unsociable hours. Furthermore, there remains the potential for the slamming of car doors, headlights shining, revving engines, for example, which are all cumulative effects late in the evening and which are also anticipated to have some adverse impacts. Providing a market dwelling within such close proximity to the Maid's Head Public House may also affect the future viability of the pub moving forward.

The proposal is therefore considered to conflict with the provisions of policies DM2 and DM22, those provisions of the NPPF which seek to protect the amenities of residential occupiers, plus paragraph 182 of the NPPF which seeks to ensure that new development can be integrated effectively with existing business.

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/20/1870/FUL](https://www.cityoflondon.gov.uk/consultations/DC/20/1870/FUL)