



# Appeal Decision

Site visit made on 27 September 2022

**by K Stephens BSc (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 7<sup>th</sup> October 2022.**

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**Appeal Ref: APP/H1840/W/22/3299769**

**The Bridge, Plough Road, Tibberton WR9 7NQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Hawthorn Community Pub Co against the decision of Wychavon District Council.
  - The application Ref 21/02830/FUL, dated 2 December 2021, was refused by notice dated 2 February 2022.
  - The development proposed is the erection of fabric tent over part of existing external drinking area.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. I have removed the word 'retrospective' from the description above as it is not an act of development. Notwithstanding the development is already in situ, I have dealt with the appeal on its planning merits.

## Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area having regard to the effect on the setting of The Canal Conservation Area and the Grade II listed canal bridge, and on the non-heritage designated asset (The Bridge public house).

## Reasons

4. The appeal site comprises The Bridge public house and its grounds, including garden and outside seating areas to the north and south of the building. The site is located towards the northern end of the village of Tibberton. It occupies an open and prominent location in the village on the corner of Plough Road and Foredraught Lane.
5. The site is located about 40 metres south of the Worcester and Birmingham Canal, whose waterway forms the Canal Conservation Area (the 'CA'). There is also a Grade II listed brick bridge (referred to as Tibberton Bridge No.25 on the official listing description) that crosses the canal and carries the road leading in/out of the village. The CA and listed bridge are both designated heritage assets to which the National Planning Policy Framework (the Framework) states that great weight should be given to their conservation. I have a statutory duty to have special regard to the desirability of preserving the setting of listed buildings and the setting of the CA.

6. The proposal involves the erection of a geodesic fabric canopy or tent (hereafter referred to as the 'tent') that has been erected over an existing outside, raised decked drinking/seating area on the southern side of the pub facing Foredraught Lane, but immediately adjacent to the pavement along Plough Lane. The fabric is held up taught by a number of angled poles arranged inside and out of the structure, and secured to the ground by a number of black guy ropes. Guy ropes are also secured on metal fixings attached to the side of the building. The tent is open sided but the fabric comes closer to the ground at the shortest sides, creating more enclosure.
7. The fabric is a light grey colour which is not unduly prominent against the cream painted building. However the shape and form of the tent, with its multi-peaked roof that crosses in front of the windows on the pub elevation, is clearly visible when approaching and passing the property. Furthermore, as one walks along the pavement on Plough Lane the tent and its poles and guy ropes are very visible, almost touchable. The fabric, visible support structure and guy ropes give the tent a make-shift appearance not appropriate for permanent use on a period property in such a prominent location, especially considering the size of the tent and expanse of fabric. Furthermore, the material is not traditional or long-lasting and is likely to deteriorate with age and use. As such, the tent and its means of support are a visually incongruous and discordant feature in relation to the surrounding area.
8. The submitted CA Character Appraisal<sup>1</sup> only covers a 5 mile length of the canal from the River Severn northeast wards to the boundary of Worcester City at the A449. Hence the section of canal passing near the appeal site is not included, but it forms part of the remaining 25 miles of canal to Birmingham, passing through countryside, villages and cities. Nonetheless the Character Appraisal describes the canal and its evolution. The canal and listed bridge are functionally linked, and the significance of the two heritage assets is derived principally from their architectural and historic interest reflecting the development of the canal network built in the early-mid 19<sup>th</sup> century to link Birmingham's canal navigations to the River Severn. It was used to primarily supply coal to the south-west midlands and played a role in the economic and social growth and development of the City of Worcester.
9. The canal sits in a cutting and the canal towpath runs along the appeal site's northern boundary. Steps lead from the towpath up the embankment to the pub car park and its northern outside seating area. The appeal development cannot be seen from here. When approaching the appeal property through the village from the south, the canal is not visible. Hence the setting of the canal at this point is confined to the water and towpaths and the countryside beyond. Travelling south to enter the village the canal is more level with the road before the road bends and goes up and over the listed bridge. The other more northerly buildings of the village come into view first and are more prominent than the appeal building. The appeal property is therefore seen in the wider context of a collection of buildings on the edge of the village and makes a limited contribution to the setting of the CA.
10. Whilst the bridge is more visible than the canal itself, views of it in relation to the appeal building are limited. When approaching from the north and crossing the bridge only the northern elevation of the pub is visible, but so are other

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<sup>1</sup> The Canal Conservation Area Character Appraisal and Management Proposals – Worcester City Council adopted September 2011

village buildings. The appeal development cannot be seen. It is only when alongside the building and facing towards the canal that part of the bridge is seen in the same view as the appeal building, along with other village buildings. The appeal building therefore makes only a limited contribution to the setting of the listed bridge.

11. From my observations, I am satisfied that the appeal development would not harm the setting of the listed bridge, the setting of the CA and would not harm the significance of either heritage asset.
12. According to the Council The Bridge public house is a non-designated heritage asset (NDHA) because of its age and appearance on one of the first maps of the area, and likely association with the canal. There is limited evidence before me regarding this and I have not been presented with any list of NHDAs to confirm its designation. Even if the building was a NDHA, I am satisfied that its significance would not be harmed by the proposal.
13. The effects the Covid-19 pandemic has had on the hospitality trade is well documented, and the provision of more covered outdoor seating/drinking areas has increased. I am sympathetic to the general economic difficulties of the business, a community pub, and can appreciate that the tent has created greater flexibility to help with the ongoing viability of the business, especially in inclement weather or during the winter months. I am also aware of representations in support of the proposal from local residents and customers, but these do not diminish the harm I have identified.
14. However, the premises is not without outside seating/drinking areas and these can be used without the tent covering. It has not been demonstrated that this is the only means or method of providing the outside seating area with a covering, or that this is the only design of tent that could be used.
15. The appellant refers to new permitted development rights<sup>2</sup> for a moveable structure to be provided in the curtilage of a pub or restaurant, subject to other limitations. A permitted development scheme does not require consideration of its planning merits, unlike a planning application. There is no dispute between the parties that the appeal scheme is too tall to benefit from permitted development. The permitted development fallback scheme would therefore need to be smaller to comply and would be potentially less harmful than the appeal scheme before me. Consequently, the fallback scheme cannot be afforded significant weight. I note the appellant refers to *Nolan*<sup>3</sup> case. This related to an enforcement case and addressed whether the requirements of the enforcement notice went beyond what was reasonably required because of what could be erected under permitted development. That is a different test and is not the same scenario before me, which is a planning application. It is open to the appellant to exercise his permitted development rights and erect a structure over the outside seating area that falls within the specified permitted development parameters.
16. The previously approved outline application<sup>4</sup> for the erection of a dwelling in part of the pub's rear (southern) garden does not represent a 'fallback' position because the permission has lapsed and cannot be lawfully implemented. Even if

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<sup>2</sup> Under Schedule 2, Part 2, Class G of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

<sup>3</sup> *Nolan v SOS & Bury Metropolitan Council* 19/1/98

<sup>4</sup> LPA ref W/16/02547/OU granted 31 January 2017

a dwelling was granted in the future, just because it might help screen the rear of the pub from some vantage points does not overcome the harm caused from the poor design and make-shift appearance that would still be visible.

17. Drawing all the above points together, the design and construction the tent is not in keeping with the traditional character of the property, and is unsuitable for permanent retention on a building prominently located within the village. The development is an unsympathetic addition that detracts from the character and appearance of the property and the area. The absence of harm to the setting of heritage assets carries neutral weight in my consideration of the proposal.
18. Accordingly the proposal would conflict with Policy SWDP 21 of the South Worcestershire Development Plan<sup>5</sup>. This seeks to ensure that development is of a high design quality, including materials, and appropriate to context.

### **Conclusion**

19. For the reasons given above I conclude that the appeal should be dismissed.

*K Stephens*  
INSPECTOR

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<sup>5</sup> Adopted February 2016