

PLANNING COMMITTEE- 8 OCTOBER 2019

Application No:	14/00152/LBC	
Proposal:	Demolish disintegrated Milestone at Saracens Head Hotel and replace with replica	
Location:	Milestone, Saracens Head Hotel, Market Place, Southwell	
Applicant:	Southwell Civic Society - Mr Michael Struggles	
Agent:	None	
Registered:	10.02.2014	Target Date: 07.04.2014
Website Link:	https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=N03T7ZLB04Q00	

Introduction

This application was deferred by the Planning Committee in May 2014. Members agreed with the Planning Officer recommendation that they were minded to approve the application subject to referral to the Secretary of State. However, Members decided that this should be subject to the signing of a Section 106 legal agreement ensuring that the replica milestone was erected within a timely manner from the original milestone being removed.

This updated report will first explain the progress made on this application since the May 2014 Planning Committee. The report will then summarise changes to planning policy before summarising consultation and third party responses received since the May Planning Committee. An updated assessment of the proposal in the overall planning balance will then be made.

For the avoidance of doubt the original Committee report has been re-provided below. Any amendments to this report are in bold. There were no late items from the previous Committee relating to this application. Any amendments to recommended conditions also in bold for clarity.

Progress / Current Situation

Southwell Civic Society is the applicant for this application. However, Westgate Brewery in Suffolk is the owner of the land. As such, Westgate Brewery is required to sign any Section 106 legal agreement relating to this site before it can be sealed. In reality, Westgate Brewery has very little interest in this application. Over the last five years the applicant, the Council's Planning Officers and the Council's Solicitors have made numerous attempts to obtain the signature of the brewery but this is not forthcoming.

As such, this application is being referred back to Planning Committee with no signed Section 106 legal agreement. Members are required to decide whether to refuse the application or

whether to confirm that they are minded to support the application, subject to the amended conditions in the Recommendation section of this report and subject to referral to the Secretary of State.

The Site

This is mostly unchanged from the original Committee Report below. From comparing my committee photographs from 2014 and 2019, these do appear to show some further disintegration of the stone to the top, bottom and sides. This is not necessarily a large amount but is noticeable when comparing the two photographs.

Relevant Planning History and Departure/Public Advertisement Procedure

These matters are unchanged from the original Committee Report below.

The Proposal

The proposal is unchanged from the original Committee Report. However, Southwell Civic Society (the applicant) have submitted a written statement outlining that;-

“In order to satisfy the concerns of the Planning Committee that the stone would be removed and then not replaced, the Trustees of the Southwell Civic Society are prepared to make a binding declaration that they would not remove the old milestone until the new one is ready for installation. Alternatively the trustees are willing to construct and carve the new stone so that it is available for inspection prior to planning permission being confirmed.”

Relevant Planning Policies

National Planning Policy has been updated since the May 2014 Planning Committee. This is discussed in more detail in the assessment part of this updated report.

The Courts have accepted that Section 54A of the Town and Country Planning Act 1990 does not apply to decisions on applications for Listed Building Consents, since in those cases there is no statutory requirement to have regard to the provisions of the development plan. However, Local Planning Authorities are required to be mindful of their duty under the legal framework in determining such matters, i.e. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and take into account the following other material considerations:

- National Planning Policy Framework 2019
- Planning Practice Guidance
- Historic England’s Good Practice Advice Note 2 and 3 – Managing Significance in Decision Taking in the Historic Environment and The Setting of Heritage Assets
- Historic England Advice Note 2 – Making Changes to Heritage Assets

Consultations since May 2014 Planning Committee

Historic England;-

“Thank you for your letter of 29 January 2019 providing us with an opportunity to provide further advice following the publication of new policy and guidance subsequent to our letter of

20 March 2014. We offer the following advice to assist your authority in determining the application.

In relation to the publication of the revised National Planning Policy Framework (NPPF) on 24 July 2018 we have now had an opportunity to review the NPPF to see whether it affected our advice.

The references that were made in our advice were to the relevant paragraphs of the 2012 NPPF. Having reviewed the 2018 NPPF, we note that these paragraphs references have changed, but the content of those paragraphs, in so far as relevant to our advice, remain the same. For example, in paragraph 132 of the 2012 NPPF reference to “any harm or loss should require clear and convincing justification” is now in paragraph 194. Paragraph 195 of the revised NPPF states that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and**
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and**
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and**
- the harm or loss is outweighed by the benefit of bringing the site back into use.**

This mirrors the provision in paragraph 133 of the 2012 NPPF.

We would also note that in the Government response to the consultation on the NPPF that with regards the historic environment “The Government recognises the importance of the historic environment and has no intention to reduce, whether through the Framework or otherwise, the important protections that exist for it.”

We do not consider the revisions to the NPPF or new guidance, including the NPPF Planning Practice Guidance, affect the advice given in our letter of 20 March 2014 which remains the same.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.”

Comments of the Business Manager - Planning Development

These comments are largely unaltered from the original Committee Report below.

The key issues to assess are the significance of the loss of the listed structure and the acceptability of the replacement structure.

For clarity, since the application was last reported to the Planning Committee, English Heritage has changed their name to Historic England. However, this is the same organisation commenting.

Also for clarity, the 2019 Historic England comments refer to the 2018 NPPF. Since, their comments the NPPF has been updated again. However, the chapter relating to Conserving and Enhancing the Natural Environment is unchanged between the 2018 version of the NPPF which Historic England refers to and the up to date 2019 NPPF.

The comments of Historic England are included in full at the start of this report. To summarise their comments are relatively unchanged and they still object to the proposal. They note that the paragraphs references have changed between the 2012 and 2018 NPPF (now 2019 NPPF), but the content of those paragraphs, in so far as relevant to their advice, remain the same. They also note that in the Government response to the consultation on the NPPF that with regards the historic environment *“The Government recognises the importance of the historic environment and has no intention to reduce, whether through the Framework or otherwise, the important protections that exist for it.”*

They conclude that;-

“We do not consider the revisions to the NPPF or new guidance, including the NPPF Planning Practice Guidance, affect the advice given in our letter of 20 March 2014 which remains the same.”

The comments of Historic England have been noted but my position remains unchanged from the previous Planning Committee report. That is that in this case, my balanced judgement is contrary to the views of Historic England and I consider considered that the proposed removal of the listed structure does comply with the tests set out in the NPPF. The reasons for this are set out in full in the original Committee Report below.

At the previous Planning Committee meeting, Members agreed with the Business Manager’s assessment and were minded to approve the application subject to referral to the Secretary of State. However, Members decided that this should be subject to the signing of a Section 106 legal agreement ensuring that the replica milestone was erected within a timely manner from the original milestone being removed.

As explained earlier in this report Southwell Civic Society is the applicant for this application. However, Westgate Brewery in Suffolk is the owner of the land. As such, Westgate Brewery is required to sign any Section 106 legal agreement relating to this site before it can be sealed. However, numerous attempts to obtain the signature of the brewery but this is not forthcoming.

As such, this application is being referred back to Planning Committee with no signed Section 106 legal agreement. Members are required to decide whether to refuse the application or whether to confirm that they are minded to support the application, subject to the amended conditions in the Recommendation section of this report and subject to referral to the Secretary of State.

In response to this application being presented back to the Planning Committee, Southwell Civic Trust has stated that;-

“In order to satisfy the concerns of the Planning Committee that the stone would be removed and then not replaced, the Trustess of the Southwell Civic Society are prepared to make a

binding declaration that they would not remove the old milestone until the new one is ready for installation.”

However, this option is not practical. Without the signature of the landowner, any declaration could not be legally binding or enforceable. This option has been pursued by the Council since the 2014 Planning Committee meeting but with no success.

Southwell Civic Trust has also stated that;-

“Alternatively the trustees are willing to construct and carve the new stone so that it is available for inspection prior to planning permission being confirmed.”

I consider that this suggested option is the most practical method of ensuring that the replacement milestone is erected at the site in a timely manner, following the removal of the original milestone. Whilst it is not legally binding, it would be most unusual for the Civic Society to go to the trouble and expense of having a replacement milestone constructed and then not actually erect it at the site.

As such, I have added the following condition (in bold for clarity) to the recommendation sheet at the end of this report;-

“Prior to the existing milestone being removed, the replica milestone must be fully constructed and carved in accordance with the approved plans and be made available for inspection by the LPA. The existing milestone must not be removed until such inspection has taken place by the LPA and it has been agreed in writing that the replica stone has been constructed and carved in accordance with the approved plans.

Reason: To ensure that the listed milestone is satisfactorily replaced in a timely manner.”

A further condition has been added (in bold for clarity) to the recommendation sheet at the end of this report;-

“The replacement milestone hereby approved must be erected within 1 month of the existing milestone being removed.

Reason: To ensure that the listed milestone is satisfactorily replaced.”

This condition was missed out in error from the original Committee Report in 2014. The main body of the text of the report stated that such a condition should be included but this was missed off the recommendation sheet itself.

I consider that the inclusion of these conditions (conditions 9 and 10 of the recommendation sheet) provide a good level of assurance that the replacement milestone would be erected in a timely manner, following the removal of the original milestone.

Change to Recommendation

Two additional conditions added as explained earlier in the report.

The Site

The site is located within the Urban Boundary of Southwell, within the Southwell District Centre and also within Southwell Conservation Area. The site consists of a milestone attached to the Saracens Head Hotel. The milestone itself is a Grade II listed structure. The Saracens Head, which the milestone is attached to is Grade II* listed.

The milestone is a rectangular slab and dates to the late 18th Century. The milestone used to show inscriptions of mileage to London, Mansfield, Newark and Nottingham. At the time of amendment to the listing, the inscription was partly illegible (1992). However, the milestone has now seriously decayed. This is believed to have been caused by a number of factors including an unsuccessful attempt to treat the stone, traffic fumes and road salts and general wear and tear. The stone has lost all of its inscriptions and is now crumbling away.

Relevant Planning History

93/51596/LBC – Listed building consent was granted for temporary removal of exterior milestone for conservation treatment.

The Proposal

The proposal seeks listed building consent to demolish the disintegrated remaining milestone and replace with an identical stone. The replacement will be an exact replica of the original stone, apart from a small date mark to show that the stone is a replica, and will be located in the same location.

Departure/Public Advertisement Procedure

10 neighbours have been notified by letter. A site notice has been displayed at the site and a notice published in the local press.

Relevant Planning Policies

The Development Plan

The Courts have accepted that Section 54A of the Town and Country Planning Act 1990 does not apply to decisions on applications for Listed Building Consents, since in those cases there is no statutory requirement to have regard to the provisions of the development plan. However, Local Planning Authorities are required to be mindful of other material planning considerations in determining such matters.

Other Material Planning Considerations

The National Planning Policy Framework and National Planning Guidance. These documents state the Government's objectives for the historic environment and the rationale for its conservation. They recognise the unique place the historic environment holds in England's cultural heritage and the multiple ways it supports and contributes to the economy, society, and daily life. Tests are identified to ensure that any damage or loss against the historic environment is permitted only where it is properly justified.

Consultations

Town Council: Support

Conservation Officer:- I am in agreement with this proposal to replace the badly weathered milestone. The stone is so very badly eroded now that I am confident it is beyond any form of repair nor could the stone itself be reasonably saved. There is virtually no legible carving left on the tablet. The remains of the stone could readily be removed and a new one set in its place. There is already a clear niche made for the stone within the render of the Saracen's Head and a replacement stone would require the least alteration to the highly listed public house. I have also seen a very fine scale drawing of the original appearance of the stone so am content that its original form can be replicated. I think this is a lovely feature within Southwell and it is a listed building in its own right. I am fully supportive of this scheme. I agree with the Ancient Monuments Society and would prefer to see a very discrete date mark on the replica stone. (The scheme has now been amended to include this.)

The Nottingham Building Preservation Trust:- Support

Ancient Monuments Society:- No objection to the application, but wonder if a small mason's mark / date could be added somewhere on the stone to make it clear that it is a replica. (The scheme has now been amended to include this.)

Southwell and District Local History Society:- Support

English Heritage;- Object. They accept that the milestone is now fragmented and too friable to remove, reverse, recarve or repair. Whilst accepting the worn condition, they believe that the stone retains special historic interest and has an integral association with the Grade II* listed Saracen's Head. The total loss of the listed structure without meeting the tests set out within paragraphs 128-133 of the NPPF is not supported. They believe that a replica stone should be placed close to the existing stone and would not object to the careful removal of a small area of plinth to the Saracen's Head if this is considered to be the most appropriate option. Alternatively, a small wall plaque could be located on the wall close to the existing stone describing the milestone and recognising its significance.

Neighbours/Interested Parties: One letter has been received by a neighbouring occupier stating that it's a shame for the town to lose the stone which denoted the mileage to London. It seems to have already gone.

Comments of the Business Manager, Development

The key issues to assess are the significance of the loss of the listed structure and the acceptability of the replacement structure.

The milestone itself is Grade II listed and its removal therefore constitutes the demolition of a listed structure.

Paragraph 133 of the NPPF is relevant and states *"where a proposed development will lead to ... total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the ... loss is necessary to achieve substantial public benefits that outweigh that ... loss, or all of the following apply:*

- *the nature of the heritage asset prevents all reasonable uses of the site; and*
- *no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- *conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*

- *the harm or loss is outweighed by the benefit of bringing the site back into use.*”

Prior to dealing with the NPPF tests the views of English Heritage, the statutory consultee for heritage matters and thus a significant material consideration must be understood. English Heritage continues to object to the proposed removal of the stone. They consider that the stone retains special historic interest and has an integral association with the Grade II* listed Saracen's Head. They consider that the stone should remain with either a replica stone placed adjacent to the existing stone or a small plaque located close by describing the old milestone and recognising its significance.

The English Heritage suggestions were put to the applicant, Southwell Civic Society, for their consideration. However, the Civic Society did not want to amend the scheme in accordance with English Heritage comments. This was primarily because they considered the existing stone to no longer be of historical interest due to its extreme deteriorated condition. If left in place, they considered that stone would deteriorate completely within the next few years and the town would then be left with a Grade II* listed building with a gap to its front where the milestone used to be. They did not want to attach the replica stone adjacent to the existing stone nor did they want to attach a plaque close by. They considered that the building already has enough additions to its front elevation and that any further additions would involve further works to the Grade II* listed building. They were concerned that once the stone had deteriorated completely the building would be left with a replica stone or plaque adjacent to a gap in the building.

Returning to the NPPF tests my views are as follows. With regards to the first test, the nature of the heritage asset prevents it being of reasonable use. The milestone was originally used as an early navigation aid. The inscription showing distances from the site to various towns has now completely disappeared and the stone can therefore no longer be used for this purpose. In reality, it is unlikely that the stone would have actually been used for this purpose in modern times. However, it is considered that the majority of the stone's historic interest lay in its inscription. Now that this has completely disappeared, its previous use is no longer apparent.

The second and third tests are linked and relate to the conservation of the listed structure. Repairing the stone would have been preferable to replacing it. However, it has been agreed by all parties, including the Council's Conservation Officer and English Heritage, that the condition of the stone means that it is beyond being repaired, reversed or re-carved. Indeed such options have been explored by Southwell Civic Trust. It is considered within a few years that the stone will have disintegrated completely, leaving an empty gap on the main Grade II* Listed Building.

It is considered on balance that the loss of this stone is outweighed by the benefit of a replacement stone being erected in its place. The existing stone is considered to already have lost some of its historic interest, which lay in its inscription. In a few years, it is considered that the stone will be lost in any case through further deterioration. English Heritage has advised that if this does happen, then the owners can apply for the stone to be de-listed then. However, for the reasons contained in this report, I see no harm in its removal now, especially when the Civic Society are prepared to replace it with a suitable alternative and that its interpretation can be retained for future generations as part of this solution.

I have taken on board the advice from English Heritage. However, I have also taken on board the advice from the Council's Conservation officers as well as other heritage bodies such as the Ancient Monuments Society and local heritage groups. In this case, my balanced judgement is contrary to the views of English Heritage. For this reason it is considered that the proposed removal of the listed structure does comply with the tests set out in the NPPF.

The proposed replacement stone is considered to be acceptable. Indeed, English Heritage has not objected to the replica itself, rather the demolition of the existing stone required to site it as proposed. When the stone was still in a good condition and the inscriptions were still legible, a member of the Civic Society made an accurate record of the stone and produced a full-scale drawing which has been submitted as part of this application to show what the replica will look like. I am therefore content that its original form can be replicated. The Civic Society has commissioned a stonemason who states that he can source the Mansfield White Sandstone which the original stone was carved from. In any case, a condition should be attached to the grant of any consent requiring a sample of the material to be submitted to and agreed in writing by the Local Planning Authority prior to development commencing. Conditions should also be attached requiring precise details of the method of inscription as well as precise details of fixings. This is to ensure that the detailed finish of the replacement stone is acceptable as well as to ensure that it's fitting to the Grade II* listed building is acceptable. A discrete date mark will be added to the stone to show that it is a replica. Precise details of this should also be controlled by way of a condition.

Paragraph 136 of the NPPF states that local planning authorities should not permit loss of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred. A condition should therefore be attached requiring the replacement stone to be erected within 1 month of the existing stone being removed.

If the Local Planning Authority is minded to recommend approval of the application then then application will have to be referred to the Secretary of State who may decide to call the application in for their determination. This is because the application proposes the total loss of a listed structure and because the Local Planning Authority would be going against the advice of English Heritage.

For the reasons stated in this report, it is considered that the loss of the listed milestone and erection of the replacement milestone is acceptable.

RECOMMENDATION

That Members confirm that they are minded to approve the application subject to referral to the Secretary of State, and subject to the following conditions:

Conditions

01

The works hereby permitted shall begin within a period of three years from the date of this consent.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

The development hereby permitted shall not be carried except in complete accordance with the following approved plans;-

Site location plan

Block plan, showing location of existing and proposed milestone

Drawing showing details of previous stone before deterioration and details of proposed stone, received by the Local Planning Authority 30th January 2014.

unless otherwise agree in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03

No development shall be commenced until samples of the materials identified below have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Stone

Reason: In the interests of visual amenity, in order to preserve or enhance the character and appearance of the conservation area, in order to safeguard the special architectural or historical appearance of the listed building to which the stone is attached.

04

No development shall be commenced until details of a programme of historic building recording has been submitted to and approved in writing by the local planning authority. Recording shall thereafter be carried out prior to the commencement of development in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: To ensure and safeguard the recording and inspection of matters of archaeological and historical importance associated with the building.

05

No development shall be commenced until details of the proposed method of demolition of the existing milestone has been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard the special architectural and historic interest of the building.

06

No development shall be commenced until details of the proposed fixings have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard the special architectural and historic interest of the building.

07

No development shall be commenced until details of the method of inscription of the replacement stone have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that the precise details of the development are acceptable, in the interests of visual amenity, in order to preserve or enhance the character and appearance of the conservation area, in order to safeguard the special architectural or historical appearance of the listed building to which the stone is attached.

08

No development shall be carried out until details of the proposed date mark for the replica stone have been submitted to and approved in writing by the Local Planning Authority. Thereafter development shall be carried out in accordance with the approved details.

Reason: To ensure that the precise details of the development are acceptable, in the interests of visual amenity, in order to preserve or enhance the character and appearance of the conservation area, in order to safeguard the special architectural or historical appearance of the listed building to which the stone is attached.

09

Prior to the existing milestone being removed, the replica milestone must be fully constructed and carved in accordance with the approved plans and be made available for inspection by the local planning authority. The existing milestone must not be removed until such inspection has taken place by the local planning authority and it has been agreed in writing that the replica stone has been constructed and carved in accordance with the approved plans.

Reason: To ensure that the listed milestone is satisfactorily replaced in a timely manner.

10

The replacement milestone hereby approved must be erected within 1 month of the existing milestone being removed.

Reason: To ensure that the listed milestone is satisfactorily replaced.

BACKGROUND PAPERS

Application case file.

For further information, please contact Claire Turton on 01636 655893

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Lisa Hughes

Business Manager – Planning Development

Committee Plan - 14/00152/LBC

