

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

6 July 2011

AUTHOR/S: Executive Director (Operational Services)/
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S/0905/11 - HARDWICK

**Timber decked section to existing pub garden area (retrospective) - Blue Lion,
74, Main Street, Hardwick
for The Blue Lion**

Recommendation: Delegated Refusal

Date for Determination: 08 July 2011

**This application has been reported to the Planning Committee for
determination at the request of the Local Member**

Members will visit the site on 6th July 2011

Site and Proposal

1. The site is located within the designated Hardwick village framework, and is within the Hardwick Conservation Area. The building forms the Blue Lion public house, and is a grade II Listed Building. The public house sits central to its plot, and has numerous additions to the rear and a conservatory to the south elevation. Directly to the south is the neighbouring property of 84 Main Street, the shared boundary to which is a fence approximately 1.2m in height.
2. The retrospective application, received on 3rd May 2011, seeks planning permission for an area of decking that has been erected to the south of the building. The decking is raised above ground level and accessed from the front of the site by three steps. The area is enclosed facing the building by post and rail fencing. At the time of the officer's site visit, 11 tables were located on the decking, with the capacity for 39 seated customers. A Design and Access Statement and a Heritage Statement accompany the application.
3. Members should be aware that Listed Building Consent is not required for the works as the decking is not physically attached to the Listed Building.

Planning History

4. The site has been subject to a number of planning and listed building applications. However, none of these are considered relevant to the determination of this application.

Policies

5. **Local Development Framework Development Control Policies DPD (LDF DCP)** adopted July 2007: **DP/2** Design of New Development, **DP/3** Development Criteria, **CH/3** Listed Buildings, **CH/4** Development Within the Curtilage or Setting of a Listed Building, **CH/5** Conservation Areas, and **NE/15** Noise Pollution.
6. **District Design Guide SPD** adopted March 2010, **Development Affecting Conservation Areas SPD** adopted January 2009, and **Listed Buildings SPD** adopted July 2009.
7. **Circular 11/95 – The Use of Conditions in Planning Permissions:** Advises that conditions should be necessary, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other respects.

Consultations

8. **Hardwick Parish Council** requested an extension of time to submit their comments. Members will be updated on these comments.
9. **The Council's Historic Buildings Officer** recommends refusal of the proposal. The inappropriate location, materials and quality causes harm to the Listed Building and affects the significance of the heritage asset. Relevant enforcement action is also encouraged.
10. **Cllr Stewart** has declared an interest as he lives directly opposite the site. The works are considered an improvement as the previous management allowed standards to deteriorate. There is little impact upon the Listed Building. The surroundings of the Listed Building are already considered compromised by the extensions, and the handrail is similar to fencing at the pub. Privacy to 84 Main Street is appreciated but could be mitigated through one-way glass to the window, raising the boundary fence or planting along the boundary.

Representations

11. The occupiers of **84 Main Street** object to the proposal. There are serious concerns regarding overlooking from the decking area to the dining room of the main dwelling. The noise from outside patrons means the dining room window is unable to be opened. The noise level to bedroom windows has also increased. Other concerns are that the security of their dwelling is considered at risk, it is not considered in keeping with the Conservation Area and the Listed Building, night time lighting is unacceptable, parking levels are not adequate, and diners would be located adjacent to the bins of 84 Main Street. The commercial success of the pub is not considered to overcome this. They also state that the decking is visible from the highway, and the handrail does not compare with the front boundary.

Planning Comments

12. The key issues for consideration are the impact upon the setting of the Heritage Assets, the impact upon the amenity of the occupiers of the adjacent property, and the viability of the public house.

Impact upon the Setting of the Heritage Assets

13. The decking is located to the south side of the public house and creates an L-shaped form of development. It has a width of approximately 9m by the Listed Building stretching 19.5m away. The comments from the Council's Historic Buildings Officer are noted with regard to the setting of the Blue Lion. There is little justification for the decking, given the ample space to the front and rear of the building. The quality of the work is considered poor. The timber is unfinished and its appearance is visually intrusive and results in harm through competition with the Listed Building. The site is also located within the Hardwick Conservation Area. Given the above concerns it is not considered to either preserve or enhance the setting of this Conservation Area.

Impact upon the Amenity of Occupiers of the Adjacent Property

14. No. 84 Main Street is a two storey dwelling located to the south of the public house. It has a facing dining room at ground floor level, and this window is the only opening that serves this area. The decking area comes almost up to the fence along the shared boundary, which has a height of approximately 1.2m. Users of the decking therefore have the potential to look over the fencing into the dining room window. Given the formal layout and proximity to the shared boundary, noise disturbance would also increase to the occupiers of 84 Main Street. The proposal therefore has a serious impact upon the amenity of the occupiers of the neighbouring dwelling. The occupier of the neighbouring property states that the land previously sloped from the boundary and therefore no person would ever have been so close to the fence, and they would be set at lower level. The applicant has disputed this and states the land was previously higher. No evidence of either of these matters has been provided. However, the decking does formally create an area for the gathering of people, and it is this that is causing the harm.
15. Cllr Stewart has recognised the privacy concern in his letter, and has suggested some mitigation measures in an attempt to solve the issue. The first seeks one-way glass to be fitted to the window. The main issue with this suggestion is the practicality of implementation. 84 Main Road is outside the application area and therefore no planning condition could be used to secure the glazing. It is also reliant upon the occupiers of 84 Main Road allowing such work to their window. They have stated that light levels would undoubtedly reduce as a result. The occupiers of 84 Main Road also note they are not able to open the window due to the disturbance caused, and the type of glazing would not alter this.
16. The second suggestion is an increase in height to the fence. This would again affect the outlook from the dining room window, which currently looks towards the Listed Building. The fence is only approximately 1.5m from the window and the outlook would be compromised as a result. Whilst no evidence has been provided, it is believed the fence is owned by the occupiers of 84 Main Road, and therefore they would again need to be happy with such works. If the public house owns the fence, then separate planning permission would

also be required for the works. As with the one-way glazing, this option does not prevent noise disturbance. The third option suggests planting along the boundary. Whilst this could again prevent overlooking, it would not prevent noise disturbance from the window.

17. The occupiers of 84 Main Road also raise further concerns relating to security, lighting and parking. The decking is not considered to increase any potential security concerns to 84 Main Street. No new lighting appears to have been added as a result of the decking, and therefore there is no new impact. With regard to parking provision, the decking is unlikely to attract a significant number of people of the site in itself to require the provision of further parking at the site.

Viability of the Public House

18. The applicant has noted that rural public houses are struggling in general given the economic climate, with closures at a rate of 5 per day reported. Use of the decking area is considered necessary to encourage trade by making more effective use of the garden area. Whilst this is noted, no detailed financial justification has been provided on this subject to suggest the public house would become unviable if the decking were removed.

Conclusion

19. The benefit to the public house from the work is not considered to outweigh the harm to the occupiers of the neighbouring properties or the setting of the heritage assets.

Decision/Recommendation

20. Refuse, for the following reasons

1. The timber decking area measures appropriately 9m in width located directly adjacent to the grade II listed Blue Lion public house and within the Hardwick Conservation Area. It then extends to form an L-shape, with the decking stretching 24.5m along the south boundary of the site. There are also views of the decking and enclosure fencing from Main Street. As a result of the location, materials used, the quality of the finish, the visual impact of the development and the lack of justification for the works, the development is considered to cause serious harm to the setting of the Listed Building, and neither preserves nor enhances the setting of the Conservation Area. The proposal is therefore contrary to Policy CH/3 of the Local Development Framework Development Control Policies (LDF DCP) 2007, which states applications for planning permission will be determined in accordance with legislative provisions and national policy; Policy CH/4 of the LDF DCP 2007, which states planning permission will not be granted for development which would adversely affect the curtilage or wider setting of a Listed Building; Policy CH/5 of the LDF DCP 2007, which states planning applications for development proposals in Conservation Areas will be determined in accordance with legislative provisions and national policy; and guidance within paragraphs HE7, HE9, and HE10 of Planning Policy Statement 5: Planning and the Historic Environment.

2. The decking is located close to the shared boundary, consisting of a fence approximately 1.2m in height, with 84 Main Street to the south. There is a side window serving a dining room in this neighbouring property. Users of the decking would be located as close as 2m from this window, and given the raised height, would have the opportunity to view straight into the dining room, causing a serious loss of amenity to the occupiers of 84 Main Street through overlooking. The gathering of numerous people on the decking also creates a noise disturbance to occupiers of 84 Main Road, to the detriment of living conditions in this dwelling. No mitigation measures are considered appropriate to prevent both of these harmful impacts without giving rise to further harm to the occupiers of 84 Main Street. The proposal is therefore contrary to Policy DP/3 of the LDF DCP 2007 which states planning permission will not be granted where the proposed development would have an unacceptable adverse impact on residential amenity; and Policy NE/15 of the LDF DCP 2007 which states planning permission will not be granted for development which has an unacceptable adverse impact on the indoor and outdoor acoustic environment of existing development.

Should Members resolve to refuse the application, it is recommended that an enforcement notice be served with a compliance period of 1 month. The steps required would be to remove the decking and all the materials from the land and to return the land to its condition immediately before the works took place.

Background Papers: the following background papers were used in the preparation of this report:

- **Local Development Framework Development Control Policies 2007.**
- **District Design Guide SPD** adopted March 2010, **Development Affecting Conservation Areas SPD** adopted January 2009, and **Listed Buildings SPD** adopted July 2009.
- **Circular 11/95 – The Use of Conditions in Planning Permissions.**
- **Planning File ref: S/0905/11**

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