

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

7 March 2012

AUTHOR/S: Executive Director (Operational Services)/
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S/2082/11 - HARDWICK

**Reduced timber decked section to existing pub garden area (retrospective) -
The Blue Lion Public House, 74, Main Street
for Mr Luke Edwards**

Recommendation: Refusal

Date for Determination: 23 December 2011

This application has been reported to the Planning Committee for determination at the request of the Development Control Manager following support from the Local Member

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 18th October 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. An area of the decking currently in situ that runs parallel with the shared boundary does NOT form part of this application, and this will be removed in the near future. 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. Planning application S/0905/11 was refused by Members at Planning Committee on 6th July 2011 on grounds of the impact upon the amenity of the occupier of the adjacent property, and the harm caused to the setting of the Conservation Area and Listed Building. The application was dismissed at appeal, with the Planning Inspector agreeing with the Council's decision on both grounds.
5. An Enforcement Notice has been served on the applicants for the removal of the decking. At appeal, the Planning Inspector increased the time for

compliance with the removal of the decking from one month to two months from the date of the decision, that being the 24th January 2012.

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

Policies

7. **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.
8. **District Design Guide SPD** adopted March 2010, **Development Affecting Conservation Areas SPD** adopted January 2009, and **Listed Buildings SPD** adopted July 2009.
9. **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

10. **Hardwick Parish Council** recommends approval of the scheme subject to the installation of adequate screening from the adjacent property at the expense of the applicant.
11. The Council's **Conservation Officer** is supportive of the mitigation measures taken to improve the setting of the Listed Building. Conditions regarding the detailing of the decking are proposed.
12. The Council's **Environmental Health Officer** notes that if the scheme were approved, noise complaints could result in statutory action being taken against the licensed premises. Other land on the site should be considered.
13. The Council's **Trees Officer** notes the mix of evergreen and deciduous planting will provide some screening throughout the year. Hornbeam is a medium sized tree which unless maintained as a formal hedge will potentially cause problems to the neighbour, as would beech. There are concerns regarding the establishment of the planting given the limited space and poor rooting environment. Any planting would need good ground preparation and continual watering. It is unlikely the planting will have a direct impact upon the neighbouring property in terms of damage to foundation, but there is potential for the screening to be implicated in further damage that would lead to its ultimate removal.

Representations

14. The occupiers of **84 Main Road** object to the scheme on grounds of the continued loss of amenity through overlooking and noise pollution, the suitability of trees proposed along the shared boundary, the impact upon the

setting of the Conservation Area and the Listed Building, and the poor standards of construction. They are already experiencing root damage to their patio and drainage pipes from trees in the vicinity. The removal of the decking should not reduce trade giving the patio area that could accommodate members of the public.

15. The occupier of **8 Sadler Close** notes the scheme would make the eye sore more visible from the road than before. Noise has not been addressed, and the decking would remain with a poor quality finish. Planting would only help marginally with noise pollution. A sound proof fence is suggested.
16. The occupier of **6 Sadler Close** supports the application, and notes it does not encroach on the adjacent dwelling. The decking is important for the viability of the public house, and adds to the ambience of the public house.
17. **Councillor Stewart** recommends that with neighbourly goodwill and compromise, the application be approved in the overall best interests of the village, with appropriate and effective conditions. The relationship with the neighbouring property is improved and there is scope for screening.

Planning Comments

18. 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

19. In dismissing the appeal against the refusal of planning application S/0905/11, the Inspector stated “the structure ... contrasts with the quality and permanence of the Listed Building and is consequently incongruous with it. In addition, the scale of the decking surface is large in comparison with the existing patio and is unduly prominent in the setting of the Listed Building”. He concludes “the decking does not preserve or enhance the setting of the Listed Building”, and it “diminishes the contribution made to it (the Hardwick Conservation Area)”.
20. The changes to the scheme remove the eastern area of decking that runs parallel with the shared boundary with 84 Main Road and runs adjacent the existing conservatory to the public house. The comments from the Conservation Officer are noted, and the scheme is considered to be more appropriate, subject to more appropriate detailing. Conditions can ensure that alterations to the detailing can be achieved. As a result, subject to these conditions, the proposal is considered to overcome the previous reason for refusal.

Impact upon the Amenity of the Occupiers of the Adjacent Property

21. 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 currently comes almost up to the fence along the shared boundary, which has a height of approximately 1.2m. In dismissing application S/0905/11, the Inspector stated the activity and levels of the site “enable clear views into that window”, and “given the number of people likely to use the decking this represents significant loss of

privacy through overlooking". Additionally, the Inspector noted "the noise emanating from customers using it has caused disturbance to the dwelling's occupants and would continue to do so".

22. The application has removed an area of the decking that would be located directly outside of the dining room window at 84 Main Road. This would be an improvement to the occupiers of 84 Main Road. However, the decking would remain 1.5m from the closest point of the window. Whilst it is now at an angle, the proximity of the window would mean it would continue to be overlooked by users of the decking. Occupiers of 84 Main Road would also continue to suffer from noise disturbance. The measures taken in the application are not considered to overcome the previous reason for refusal.
23. The applicant has provided details of proposed planting along the shared boundary. This shows three Christmas Berry, three Beech, three Highclere Holly and three Hornbeam plants to be located behind a retaining wall along the shared boundary with 84 Main Road. Whilst this would serve to provide some screening, such species are likely to grow very tall and require large root systems. A maintenance plan would therefore be necessary to control the size of the individual species given the potential for large trees to grow. The Council's Trees Officer has noted potential problems with the establishment of species given the limited space and poor rooting environment. Even if a suitable planting scheme can be agreed, it would potentially block the outlook from the dining room window, and more importantly would not provide a suitable acoustic barrier to prevent noise disturbance to users of this room.

Viability of the Public House

24. 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

25. The benefit to the public house from the work is not considered to outweigh the harm to the occupiers of the neighbouring property, and this view is strengthened by the comments from the Planning Inspector when dismissing application S/0905/11. The changes from the previous scheme are considered to overcome the previous objection regarding the setting of the Conservation Area and Listed Building, subject to appropriate conditions where necessary.
26. The Enforcement Notice remains valid, and the Inspector allowed an additional month to the time frame for the removal of the decking, which now expires on 24th March 2011.

Recommendation

27. Refuse plans SCDC 1-5 date stamped 18th October for the following reason:

1. 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. This is despite the proposed removal of a section of the decking. 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. The proposed boundary planting is considered inappropriate given the species proposed and the potential difficulties for plants to establish given the limited space and poor rooting environment, and would not create a barrier to prevent unacceptable noise disturbance.

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.

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, **Landscaping in New Developments SPD** adopted March 2010, and **Listed Buildings SPD** adopted July 2009.
- **Circular 11/95 – The Use of Conditions in Planning Permissions.**
- **Planning File ref: S/2082/11 and S/0905/11**

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