

**Parish: Hutton Rudby**  
Ward: Hutton Rudby  
**8**

Committee date: 05 April 2019  
Officer dealing: Mr Sean Rawling  
Target date: 18 March 2019

**19/00150/FUL**

**Retrospective application for change of use of former agricultural land to commercial and the construction of decking area.**

**At The Bay Horse Inn, 1 North Side, Hutton Rudby  
For Dr L Bandeira**

**This application is referred to Planning Committee at the request of a Member of the Council**

## **1.0 SITE, CONTEXT AND PROPOSAL**

- 1.1 The application site is the Bay Horse Public House in Hutton Rudby and is situated at the junction of North Side and East Side. The site is a Grade II Listed Building located within the Hutton Rudby Conservation Area.
- 1.2 The public house front the highway and consists of a two-storey long single bay plan with a single storey flat roof extending to the west. A car parking area is located to the south of the building with an enclosed beer garden to the north.
- 1.3 This application seeks retrospective consent for the change of use of existing agricultural land to the north of existing beer garden and the construction of a decked area to facilitate its use as additional beer garden space.
- 1.4 The application was initially submitted in September 2018 (18/01711/FUL). However, this application did not include the proposed change of use of the land and therefore was withdrawn and subsequently resubmitted correctly.
- 1.5 The decked area is constructed of unpainted timber with timber post fencing and panelling.

## **2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY**

- 2.1 None relevant.

## **3.0 RELEVANT PLANNING POLICIES**

- 3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development  
Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets  
Core Strategy Policy CP17 - Promoting high quality design  
Development Policies DP1 - Protecting amenity  
Development Policies DP32 - General design  
Development Policies DP28- Conservation  
National Planning Policy Framework

## **4.0 CONSULTATIONS**

- 4.1 Parish Council – No response received

- 4.2 Public comments – One comment received objecting to the proposed development due to loss of amenity.
- 4.3 Environmental Health Officer – No objections.

## **5.0 ANALYSIS**

- 5.1 The main issues to consider are: (i) the principle of the development; (ii) the impact upon the character and appearance of the Hutton Rudby Conservation Area; (iii) the impact upon the setting of designated heritage assets; and (iv) the impact of the development upon residential amenity.

### Principle of the development

- 5.2 The application is for the change of use of a small area of land outside development limits and construction of an area of decking. Policy CP4 of the Hambleton Core Strategy sets out the exceptional circumstances in which development will be supported outside development limits. The proposed development is considered to fail to meet any of the exceptional cases and as such is considered to fail to accord with the requirements of Core Policy CP4. It should be noted that the bottom third of the existing beer garden already sits outside development limits. It is considered that the breach is minimal, in that the development proposed extends only 5m over the development limit boundary, the conflict with Core Policy CP4 is considered minimal in this case.

### Impact upon the Hutton Rudby Conservation Area

- 5.3 Policy DP28 of the Hambleton Local Development Framework states that conservation of the historic environment will be ensured by identifying, protecting and enhancing Conservation Areas.
- 5.4 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in exercising an Authority's planning function special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas.
- 5.4 The National Planning Policy Framework at paragraphs 195 and 196 requires an assessment of the potential harm a proposed development would have upon the significance of a designated heritage asset and requires that any harm should be weighed against the public benefits of the proposal, including securing the optimum viable use of the building.
- 5.5 The Hutton Rudby Conservation area is predominantly characterised by the village green and the historic properties that surround it. The proposed development site is located on the fringe of Hutton Rudby on the upper banks of the River Leven. The site does contribute to the wider character of the area in terms of the parkland type green setting of the public footpath which follows the line of the River Leven below the site. As existing, the decking constitutes a break in this character by virtue of the removal of a portion of the hedgerow to facilitate its construction.
- 5.6 In response to concerns raised, the applicant indicated that they agreed to implement a scheme of landscaping which would allow the area to be understood as a continuation of the existing hedgerow, when viewed from public vantage points, below the site.
- 5.7 On this basis, it is considered that a scheme of landscaping would prevent a harmful impact upon the character and appearance of the Conservation Area. An appropriate condition has been suggested to secure this.

### Impact upon the setting of designated heritage assets

- 5.8 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in determining a planning application for development which affects a listed building or its setting, the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 5.9 The National Planning Policy Framework at paras 195 and 196 requires an assessment of the potential harm a proposed development would have upon the significance of a designated heritage asset and requires that harm should be weighed against the public benefits of the proposal, including securing the optimum viable use of the building.
- 5.10 The proposed decked area is immediately visible in the context of three designated heritage assets. These are; (i) The Bay Horse Inn; (ii) Hutton Bridge; and (iii) Church of All Saints.
- 5.11 The historic use of the Bay Horse Inn relates to its use as a public house. The proposed decking area is consistent with Public Houses and assists in securing the optimum viable use of the building. As such, it is considered that the proposed development does not result in a harmful impact upon the setting of the Bay Horse Inn.
- 5.12 Hutton Bridge is understood in conjunction with the River Leven and the scenic public footpath that follows this route. It historically forms a crossing between the Parishes of Rudby and Hutton Rudby. The proposed decking is visible from this area and reads as a break in the otherwise green character which contributes to the scenic setting of the bridge. However, as outlined above, it is considered that should a suitable scheme of landscaping be implemented to the north side of the decking, this would be read as a continuation of the hedgerow and reinstate the green character of the surround area.
- 5.13 The setting of The Church of All Saints is largely confined within the walls and Lytch Gate and the row of mature trees around the perimeter. This, along with its physically low position in the landscape, serves to give the church an insular setting. As such, the proposed decking will not result in an impact upon the setting of the church.
- 5.14 Overall, it is considered that the proposed development will not result in a harmful impact upon the setting of designated heritage assets, subject to the implementation of a suitable scheme of landscaping and a condition has been suggested to secure this.

### Impact upon residential amenity

- 5.15 Policy DP1 requires that all development proposals must adequately protect amenity, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), odours and daylight.
- 5.16 The Bay Horse Inn is located within the centre of Hutton Rudby and is largely surrounded by residential properties. Many of the comments received from neighbours regarding this, and a previous application have cited a loss of amenity due to the use of the decking in conjunction with outdoor events held in the beer garden.
- 5.17 The premises currently hold a premises licence for the provision of recorded music, the sale of alcohol and of late night refreshment. Indoor entertainment is permitted after 23.00hr until 00.00hrs Sundays and 02.00hrs Monday to Saturday. The Live

Music Act 2012 also allows for entertainment to take place up until 23:00 7 days a week externally without the need for a licence.

- 5.18 The decking area increases the available outdoor space and, if the area is to be used increasingly for outdoor music entertainment, then there is the potential for increased noise generation. However, when considering the size of the decking in relation to the size of the beer garden, it is considered that the decking adds little to the available space and as such does not in itself facilitate significant change to the occupancy or use of the beer garden. It is concluded that the proposed development will have no significant additional impact upon neighbouring amenity.
- 5.19 The application has also been considered by the Environmental Health Officer who has confirmed that they have no objections to the proposal. On this basis, it is considered that the proposed decking area will not result in an unacceptably harmful impact upon the residential amenity of the locality.

### Conclusion

- 5.20 The proposed decking area is considered to be acceptable in principle and will not result in a harmful impact upon the character and appearance of the Hutton Rudby Conservation Area or the setting of nearby designated heritage assets. The proposed development is considered to comply with the relevant policies of the Hambleton District Council Local Development Framework and the National Planning Policy Framework.

## **6.0 RECOMMENDATION**

- 6.1 Subject to any outstanding consultations permission is **GRANTED** subject to the following conditions:
1. The permission hereby granted shall not be undertaken other than in accordance with the details received by Hambleton District Council on 24 August 2018.

The reasons are:

1. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policies DP28 and DP32.