



**Report Reference Number:** 2019/0602/COU

**To:** Planning Committee  
**Date:** 6 November 2019  
**Author:** Gareth Stent (Principal Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/0602/COU	PARISH:	Hensall Parish Council
APPLICANT:	KBJ Models	VALID DATE:	19th June 2019
		EXPIRY DATE:	14th August 2019
PROPOSAL:	Proposed change of use of public house to retail shop and tea room		
LOCATION:	Railway Tavern Station Road Hensall Selby North Yorkshire DN14 0QJ		
RECOMMENDATION:	GRANT		

**APPENDIX 1 TO THIS REPORT IS NOT FOR PUBLICATION.**

**Appendix 1 contains exempt information under paragraph 3 of schedule 12A to the Local Government Act 1972 as amended.**

This application has been brought before Planning Committee as more than 10 letters of objection have been received contrary to officer recommendations to approve the application.

**1. INTRODUCTION AND BACKGROUND**

**Site and Context**

- 1.1 The application site is the Railway Tavern public house, Station Road, Hensall. The premises are situated south of the main settlement and south of the railway line with residential dwellings to the south and west and Station Road to the east. To the east and opposite is small recreational open space area with open countryside beyond.

- 1.2 The Railway Tavern a traditional looking rural public house tavern that sits on the road side. The building has a narrow span, simple design features, with two more modern flat roof extensions to the rear (west elevation). The building has a slate roof and a white rendered finish. The premises have a loosely surfaced car park to the south adjacent to Park House, which is a modern detached dwelling.

### **The Proposal**

- 1.3 The proposal is for the change of use of the ground floor of the public house (A4) to a part retail shop (A1) and part tea room (A3). The upstairs will remain unaffected as this is the living accommodation for the occupiers of the building. There are also minor alterations to the north elevation and a new shop frontage proposed.
- 1.4 The internal configuration is currently a bar, lounge and dining area, with kitchen and toilets. The proposals plans to change the bar area to a tea room with 26 seats and change the former lounge and dining area to a retail shop and packaging room in the southern section of the building. An inter connecting door will allow passage through both premises. Upstairs is a lounge, kitchen and 2 bedrooms, which are to remain unchanged.
- 1.5 The change of use application is necessary as no permitted change exists for A4 uses to change into any other use, except mixed A3 /A4 uses where food is permitted.

### **Relevant Planning History**

- 1.6 The majority of the history relates various alterations and extensions to the public house, except for 1980 permission to use part of the premises as a B&B.

CO/1977/18259 - Alterations & Extensions, Approved 20-JUL-77

CO/1975/18238- Internal Alterations & Front Porch, Approved 25-JUN-75

CO/1980/18260 - Erection Of Retaining Walls, Decision: PER, Officer: Decision Date: 22-MAY-80

CO/1977/18258, - Erection Of A Double Garage, Decision Date: 16-MAY-77

CO/1980/18261 - Use Of Part Of Premises For Bed & Breakfast & Extension To Car Park, Approved - 07-JUL-80.

## **2. CONSULTATION AND PUBLICITY**

- 2.1 **Parish Council** – No response received.
- 2.2 **NYCC Highways Canal Rd** - There are no Local Highway Authority objections to the proposed development subject to a condition requiring the provision of cycle stands prior to the use becoming operational.
- 2.3 **Pland Use Planning Yorkshire Water Services Ltd** – No response.
- 2.4 **Danvm Drainage Commissioners Shire Group Of IDBs** – No objections.
- 2.5 **Environmental Health** - No objections.

2.6 **Conservation Officer** – No formal response, however suggested the shop frontage be simplified to reduce the impact of the proposed external changes.

2.7 **Network Rail** – no response received.

## 2.8 **Neighbour Summary**

The proposal was publicised by a site notice, press notice and direct neighbour notification of residents to the west and south. A total of 38 letters of objection were received and 32 letters of support.

It was brought to the Council's attention that several letters of support were from addresses in Bristol, London, Cleethorpes more locally from Knottingley. Several of the email addresses submitted all have the same email address. Some letters of support were from Hensall residents.

Members will therefore have regard to the origin of the persons commenting on the application in reaching their decision. All letters can be viewed online via the council's public access pages.

Cllr Mike Jordan – made a representation on and was concerned that the proposal wouldn't work and would eventually lead to housing.

**Objections: A total of 38 objections were received.**

Online petition created by a local resident - 233 signatures against at 7.10.19

### *Principal of the development*

- The pub is part of village life and historically it has always been popular.
- Concern has been expressed that the current landlord has made the pub less inviting by reduced opening hours, removing the TV, pool tables, dart board, poor heating, turning hot water off in the toilets etc
- This is the only pub in the village and can be successful again.
- The people supporting the change of use seem to be people that have only moved here recently and use it as a commuting village.
- No need for a further tea shop as many exist in the local area.
- The village needs a traditional pub a place where locals can meet, socialise and discuss. Its closure would be detrimental to the local community.
- There may be a compromise with the current plans, to split the premises so the eating area could be a team room and the main bar area could remain a licensed premises. This would mean that the village still retains its pub.
- A café whilst still a meeting place wouldn't attract the same numbers of people.
- Residents are willing to make this a community pub by investing their own money.
- Over recent years the all the local sports teams and clubs have left the premises.

### *Future Use*

- Residents are concerned that once the licence is taken away that there will be an ulterior motive i.e. that the actual building will be demolished and it will then be sold for development.

### *Concerns over the letters of support*

- Many of the "support" letters are from the same email address and most don't live local to the village.

### **Support: A total of 32 letters were received.**

(Including 1 from the owner of the pub).

### *Principal of the use.*

- Many of the objectors do not use the pub and are living in the nostalgic past. If they did it would remain open.
- The change of use will bring a new dimension to the village, new business and create some new jobs, meeting place and be an asset to the village. There is another pub in the village that is not very well supported by the villagers.
- The owners are looking to retire so the pub will either be sold or boarded up which will have a negative impact on the village.
- The village would really benefit from a variety of social environments. The station itself is a beautiful example of its time and the tearoom could potentially draw more business to the village.
- The tea room would provide a different type of social environment for the less able.

## **3 SITE CONSTRAINTS**

### **Constraints**

- 3.1 The site lies within the settlement limits of Hensall, in flood zone 1 and has the potential to affect the setting of a Listed Building. The site is not within a Conservation Area.

## **4 POLICY CONSIDERATIONS**

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.

- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options would take place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

*“213. ....existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”*

### **Selby District Core Strategy Local Plan**

- 4.6 The relevant Core Strategy Policies are:
- Policy SP1: Presumption in Favour of Sustainable Development
  - Policy SP2: Spatial Development Strategy
  - Policy SP13 : Scale and Distribution of Economic Growth
  - Policy SP14 : Town centre and local services
  - Policy SP15: Sustainable Development and Climate Change
  - Policy SP18: Protecting and Enhancing the Environment
  - Policy SP19: Design Quality

### **Selby District Local Plan**

- 4.7 **The relevant Selby District Local Plan Policies are:**

- Policy ENV1: Control of Development
- Policy T1: Development in relation to the Highway Network
- Policy T2: Access to Roads
- Policy S3: Retailing

### **Other Policies and guidance**

- 4.8 NPPF 2019

Section 8 - Promoting healthy and safe communities.  
Section 12 - Achieving well-designed places  
Section 16 - Conserving and enhancing the Historic Environment

## **5.0 APPRAISAL**

### **5.1 The main issues to be taken into account when assessing this application are:**

1. Principle of the development
2. The loss of the public house & the creation of a shop & café.
3. Impact on the character and appearance of the area
4. Impact on residential amenity
5. Impact on the setting of the nearby Listed Building.

### **Principal**

- 5.2 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken.
- 5.3 Policy SP 2 of the Core Strategy sets out the long term spatial direction for the District and provides guidance for the proposed general distribution of the future development across the district. The settlement hierarchy is ranked on the Principle Town of Selby, Local Service Centres, Designated Service Villages and smaller villages. The Core strategy identifies Hensall as a 'secondary village'.
- 5.4 The site lies within the development limits of the settlement and is therefore acceptable in principle for development. Policy SP 13 criteria C of the Core Strategy states in rural areas, sustainable development which brings sustainable economic growth through local employment opportunities or expansion of business and enterprises will be supported including for example 1) the reuse of existing buildings and states in D) that in all cases development should be sustainable and appropriate in scale and type to its location, not harm the character of the area, and seek a good standard of amenity.
- 5.5 Also the NPPF promotes 'the retention and development of local services and community facilities in rural areas, including public houses. At the same time it supports sustainable growth and expansion of all types of business and enterprises in rural area.'
- 5.6 Local Plan Policy S3 deals with proposals for local shops and other small scale A2, A3 type uses. Policy S3 A) supports the creation of local shops cafes and restaurants outside defined shopping centers providing they are within defined development limits, serve a local function, the scale would be appropriate to the locality, has satisfactory parking and access and the proposal would not have a significant effect on residential amenity or the character and appearance of the area.
- 5.7 Part B) of Policy S3 deals with the loss of existing facilities and states the loss of shops or a public house will not be permitted unless it can be demonstrated that there is alternative provision for a similar type of use within reasonable walking distance; or it can be shown that the business is no longer viable for retail purposes

within its existing use class, and that it has remained unsold or unlet for a substantial period of time, despite genuine and sustained attempts to market it on reasonable terms.

- 5.8 Core Strategy Policy SP14 equally supports local shops and services by resisting the loss of existing facilities and promoting the establishment of new facilities to serve the day to day needs of the community and planned growth of communities.
- 5.9 This application is unusual in that leads to the loss of a public house (Policy S3 B) but by default the creation of a retail and café facility (Policy S3 A). The application therefore needs to be considered against both policies S3B and S3A.

### **Loss of the public house**

#### Alternative provision

- 5.10 Policy S3 B) states the loss of the Public house will not be permitted unless it can be demonstrated that there is alternative provision for a similar type of use within reasonable walking distance. This is because village pubs can often act as community facility and be a significant asset to the community in terms of meeting places, venues for community meetings and impact on the social well-being of the village.
- 5.11 To prevent facilities such as pubs being lost in small villages, the 2011 Localism Act introduced legislation whereby communities have the option of purchasing the facility known as the 'Community Right to Bid' or Asset of Community Value (ACV). Assets of Community Value enable certain community groups to express an interest in and potentially buy an asset that enhances the social wellbeing and interests of the local community. Officers can confirm that the Railway Tavern is not listed as an Asset of Community Value nor have any nominations been received to register it.
- 5.12 In terms of alternative provision this has to be a similar use within reasonable walking distance. Whilst the Railway Tavern is the only last remaining pub in the village, Hensall also has 'La Anchor' which is a bar/restaurant pizzeria. This is 1km to the north of the site and sits within the main village. A 1 km walk is considered as a reasonable walking distance and the bar/restaurant is inevitably closer to the main nucleus of residents that reside in the main part of the village. The bar/restaurant is also considered a similar use.
- 5.13 Equally the proposed A3 tea room use is a 'similar' use to that of a public house in that it will provide a meeting point for the community, albeit the space within the building is reduced by the A1 unit proposed. Therefore it is considered that alternative provision exists within a reasonable walking distance and therefore the loss of the pub meets the requirements of Policy S3 B) 1).

#### Viability of the current business

- 5.14 Policy S3 Part B) 2) requires as assessment of the viability of the business where applicants have to demonstrate the business is no longer viable for retail purposes within its existing use class.
- 5.15 The current landlord has owned the pub for around 11 years and over recent years states sales and activity has diminished. This has resulted in more sporadic opening hours (currently open Friday, Saturday and Sunday), and changes to the way the

pub has been run, simply because customers are not coming through the door. The owner states it is pointless keeping the doors open at times as the premises have to be heated, have lighting and this adds to the day to day running costs. This has been significantly commented on in the third party representations

- 5.16 The owners state they are having to subsidise the pub on a regular basis due to lack of trade. The owner has provided the council with evidence of its turnover in 2019 and monthly costs.
- 5.17 Having assessed this confidential information, officers are satisfied that the business as a public house is no longer viable. There also significant renovations and remedial work required for the building, like damp proofing and roof repairs which are set to cost over £5000 and all of which would be at cost to the business and all identified in the surveys by the applicant prior to purchasing the premises.

#### Marketing of the Public House

- 5.18 The second test of the Policy S3 B 2) is for the applicant to demonstrate that the premises have remained unsold for a substantial period and genuine attempts to sell the property have been made. The owners of the pub have provided details of the marketing. The owner's state they decided to put the word out in the village that the pub was going on the market with a view to anyone interested, community buy-out etc. in early 2018. There were no takers, so they contacted Ernest Wilson property agents and the first advert went in the Yorkshire Post on 21st June, 2018 at a sale price of £300,000. The property has continued to be advertised to date. The premises were also advertised in the Metro, Sheffield Star and on the web through Right Move at a cost of £2946 to date (as of 18<sup>th</sup> Sept 2019).
- 5.19 The owners accepted an offer of £227,500 from the current applicants of this planning application so considerably lower than the asking price. Officers are satisfied that the pub has been is unviable as a current business and the 16 month marketing campaign is a substantial period to meet the requirements of Policy S3 B) 2).
- 5.20 Officers are therefore satisfied that the proposal meets both the requirement of Local Plan Policy S3B, in that alternative provision exists in the village within a reasonable walking distance (S3B 1) and the current business is unviable and reasonable attempts have been made to sell the property (S3B 2).

#### **Creation of the shop and café**

- 5.21 The proposed use shop café use is acceptable in principle, being small scale and within the development limits of the village. The café is intended to serve a local function and appropriate to the locality. A small shop and tea room is also the type of use readily seen in small rural villages and will have no detrimental impact on the character of the area. The remaining considerations of Policy S3 A) i.e. the impacts on highway safety, parking and residential amenity are discussed below:

#### **Design and Impact on Character and Form**

- 5.22 Selby District Local Plan Policy ENV1(1) requires development to take account of the effect upon the character of the area, with ENV1(4) requiring the standard of layout, design and materials to respect the site and its surroundings.

- 5.23 Policy SP19 requires that “Proposals for all new development will be expected to contribute to enhancing community cohesion by achieving high quality design and have regard to the local character, identity and context of its surroundings including historic townscapes, settlement patterns and the open countryside. Both residential and non-residential development should meet the following key requirements:
- a) Make the best, most efficient use of land without compromising local distinctiveness, character and form.
  - b) Positively contribute to an area’s identity and heritage in terms of scale, density and layout;
- 5.24 Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF which places great emphasis on good design.
- 5.25 The proposal includes 2 external changes. The first being the swapping of a window for a door, on the rear single storey extension. This has no material impact on the character of the building or wider area.
- 5.26 The second change involves adding a new shop frontage centered around the existing most southern doorway. This was amended on three occasions following discussions with officers, as the originally proposed shop frontage was too ornate and unbalanced the frontage. The revised design maintains the southern doorway and has a single shop window either side of the doorway. The fascia was reduced in scale and the pilasters removed from previous designs, making it much simpler in form and proportionate in scale. The revised design is not considered to have any significant impact on the character and appearance of the building.
- 5.27 In addition no objections were raised in the third party responses with regards to character or the appearance of the frontage. Officers did however suggest a more balanced frontage with two shop fronts i.e. one for the tea room and one for the shop to make the tea room use more inviting, however this was not considered possible by the applicants due to the structural openings within the building. This element may be reconsidered by the applicant in the future and would require a further planning permission.

### **Listed Building**

- 5.28 When making a decision on all listed building consent applications or any decision on a planning application for development that affects a listed building or its setting, a local planning authority must 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.
- 5.29 The Conservation Officer was consulted on the application primarily because of the proximity of the Listed Former Station House to the northern side of the railway crossing. The proposed use and alterations to the building are not regarded to have any impact on the setting of this Listed Building due to the distances involved and therefore is compliant with Section 16 of the NPPF and sections 16 and 66 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 (1) which seeks to safeguard heritage assets.

## Highways

- 5.30 Policies ENV1 (2), T1 and T2 of the Local Plan require development to ensure that there is no detrimental impact on the existing highway network or parking arrangements.
- 5.31 The premises have space for 6 off street car parking spaces in the roughly surfaced car park to the rear of the public house. This is to remain unaltered and will provide ample space for the tea room and retail premises proposed. The access has good visibility and the proposal raised no objections from the NYCC Highways Officer.
- 5.32 The proposal does show provision for 5 galvanised wall mounted cycle stands and a condition has been included in order that these are installed prior to the use becoming operational. The scheme is considered to be acceptable in highways terms and to accord with Policies ENV1 (2), T1 and T2 of the Local Plan and SP19 of the Core Strategy

## Residential Amenity – including noise, odor and the use

- 5.33 Policies ENV1(1) of the Local Plan requires development to take account of the effect upon the amenity of adjoining occupiers and should be given significant weight. Significant weight should be attached to these policies as they are broadly consistent with the aims of the NPPF to protect residential amenity.
- 5.34 Policy "SP19 - Design Quality" of the Core Strategy outlines that proposals "for all new development will be expected to contribute to enhancing community cohesion by achieving high quality design and have regards to the local character, identity and context of its surroundings including historic townscapes, settlement patterns and the open countryside".
- 5.35 In addition, Policy ENV2 states development which would give rise to or would be affected by unacceptable levels of noise nuisance, contamination or other environmental pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated as an integral element in the scheme.
- 5.36 The pub due to its age will not have had opening hours controlled via a planning permission, however these will be the subject of a separate license. Notwithstanding this, the proposed opening hours of the premises are Mon-Fri 0900 -18:00hrs, Saturdays 09:00 -19:00 and Sundays and bank holidays 10:00 -19:00.
- 5.37 Therefore in comparison to a public house, the proposed use will open much earlier than a traditional 11 am opening of a pub, however will equally close much earlier i.e. 19:00hrs on an evening at weekends and 18:00 through the week. The hours are not unreasonable and are appropriate for this type of use.
- 5.38 The proposal is for an A1 use i.e. the shop and the latter part a tea room A3. The tea room has 6 covers and could seat around 26 people. The new owner plans to use the pubs existing kitchen facilities (used to make Sunday lunches) for any cooking required, however these will require relocation. The applicant has confirmed that they do not intend on using deep fat fryers and no objections have been raised by the Environmental Health Officer. A condition is suggested that in the event of food being fried on the premises, then extraction details will need to be submitted.

## **6.0 CONCLUSION**

- 6.1 In considering the loss of a Public House Policy S3 B) requires it to be demonstrated that alternative provision for a similar type of use is within reasonable walking distance or that it can be shown that the business is no longer viable for retail purposes within the existing use class and that it has remain unsold for a substantial period of time, despite genuine and sustained attempts to market it on reasonable terms have been made.
- 6.2 It is considered that alternative similar provision exists in the village in the form of 'La Anchor,' which is a bar/restaurant pizzeria and within reasonable walking distance of the main population of the village. The proposed tea room use is also similar and can equally serve the local community. Secondly the application has demonstrated that the current business is unviable through the running costs versus turnover details received and that genuine attempts have been made to sell the property for a substantial period through the detailed marketing details received since first advertised in June 2018 (16 months).
- 6.3 The proposed use is small scale, appropriate to its setting and will serve a local need. The use has adequate parking and will not create harm to highway safety, or have a significant adverse effect on residential amenity or the character and appearance of the area. National and Local Policies encourage new enterprises in rural villages that support the community.
- 6.4 The proposed external changes are not considered to cause harm to the character and appearance of the street scene or setting of the nearby Listed Building. On this basis the proposal is recommended for approval subject to condition.

## **7.0 RECOMMENDATION**

01. This application is recommended to be GRANTED subject to the following conditions:

The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason:

In order to comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

02. The development hereby permitted shall not be carried out otherwise in complete accordance with the approved plans and specifications.

CBMJ19PE.1 Proposed Elevations Rev C  
CBMJ19 PP.1 Proposed Ground Floor Plans Rev A  
CBMJ19BP.1 Block Plan Rev A  
CBMJ19 LP.1 Location Plan

Reason;

To ensure that no departure is made from the details approved and that the whole of the development is carried out, in order to ensure the development accords with Policy ENV1.

03. A wall mounted cycle parking stands as shown on the submitted details (CBMJ18BP.1 Rev A) shall be installed prior to the use hereby approved becoming operational and shall remain in place for the lifetime of the use. The cycle parking area shall not be used for any purpose other than the parking of cycles.

Reason:

To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

04. No cooking or frying (other than warming up of food), shall take place until a scheme for the removal of cooking odours, including details of the position, design, height and materials of any extractor, has been submitted to and be approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full before cooking first commences, and shall thereafter be retained. Any equipment shall be operated and maintained in accordance with the manufacturer's instructions.

Reason:

To safeguard the amenity of the locality, having had regard to Policy ENV1 of the Selby District Local Plan.

05. The uses hereby approved shall not be open for customers between the hours of :

Monday to Friday 09:00 -18:00

Saturday 09:00 -19:00

Sundays and Bank Holidays. 10:00 - 19:00

Reason:

In the interests of residential amenity, having had regard to Policy ENV1 of the Selby District Local Plan.

## **8 Legal Issues**

### **8.1 Planning Acts**

This application has been determined in accordance with the relevant planning acts.

### **8.2 Human Rights Act 1998**

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

### **8.3 Equality Act 2010**

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

## **9 Financial Issues**

Financial issues are not material to the determination of this application.

## **10 Background Documents**

Planning Application file reference 2019/0602/COU and associated documents.

**Appendices:**

**Appendix 1** – CONFIDENTIAL - Details of the 2019 takings relating to paragraph 5.16 of the Committee Report

**Contact Officer:**

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