

SITE PLAN ATTACHED

05. THE BULL CHURCH STREET BLACKMORE ESSEX CM4 0RN

CHANGE OF USE FROM PUBLIC HOUSE ON GROUND FLOOR AND LIVING ACCOMMODATION ON UPPER FLOOR TO RESIDENTIAL USE WITH WHOLE BUILDING TO BE USED AS A SINGLE DWELLING

APPLICATION NO: 15/00314/FUL

WARD	Tipps Cross	8/13 WEEK DATE	23.04.2015
PARISH	Blackmore, Hook End And Wyatts Green	POLICIES	NPPF NPPG LT11 CP1 C14 C15 C16 C17 T2
CASE OFFICER	Mrs Charlotte White	01277 312536	
Drawing no(s) relevant to this decision:	MARKETING REPORT ; MARKETING PARTICULARS ; PLANNING STATEMENT ; LSH VIABILITY ASSESSMENT ; P001 /A; P002 /A; P010 /A; P011 /A; P020 /A; P021 /A; PINDERS VIABILITY ASSESSMENT ; REGIONAL INTERIORS QUOTE ;		

1. Proposals

Planning permission is sought to change the use of the public house to a residential use. The public house is to be used as a single dwellinghouse. The information submitted with the application indicates that the area to the rear of the dwelling will be the amenity area for the residential property, with the car park area reduced to provide a larger grassed area/garden. No internal alterations are proposed as part of this proposal.

The application has been submitted with a planning statement and two viability assessments have been submitted.

This application is presented to Committee due to the level of neighbour interest in this development.

2. Policy Context

The National Planning Policy Framework (NPPF) came into effect on 27 March 2012 and is now a material consideration in planning decisions. The weight to be given to it will be a matter for the decision makers planning judgement in each particular case. This Framework replaces all the national planning guidance documents as stated in the NPPF, including Planning Policy Guidance Notes and Planning Policy Statements.

The National Planning Practice Guidance (NPPG) is a material planning consideration.

Local Plan Policies

LT11 - Retention of existing local community facilities

CP1 - General development criteria

C14 - Development affecting Conservation Areas

C15 - Listed Buildings - demolition, alterations or extensions

C16 - Development within the vicinity of a Listed Building

C17 - Change of use of a Listed Building

T2 - New development and Highway Considerations

3. Relevant History

- 13/00250/FUL: Erection of two dwellings and car barn, alterations to listed building "The Bull" Public House. -Application Refused
- 13/00251/LBC: Alterations to listed building The Bull Public House -Application Permitted
- 13/00818/LBC: Removal of existing steps and construction of timber steps - Application Permitted

4. Neighbour Responses

13 neighbour letters were sent out, a site notice displayed and the application advertised in the press. To date 3 letters of support have been received and 38 letters of objection have been received and one letter which raises concerns, but concludes that if kept as a single family dwelling, would not object to the change of use was received. These letters make the following summarised comments:

Letters of support

The letters of support received refer to the viability of the pub and that the last tenants were unable to earn a viable living, its deterioration and that it needs to be occupied. Reference is made to the other 2 pubs in the village.

Letters of Objection

Material and non-material planning considerations have been cited in the objection letters received:

The material concerns raised include harm to the Listed Building, including comments that unauthorised works have been undertaken and the first floor has been converted into two flats and it is stated that the pub is part of Blackmore's history; operating as a pub in the 1600/1700s and new fences will destroy the ambience of the area. There are concerns regarding parking, that the proposal does not benefit the community and results in the community losing an amenity and a local meeting place.

It is stated that the pub is viable, that the owner removed the bar and fixtures. Reference is made to the Leather Bottle which is currently for sale at £699,995 with a turnover of £375,000. The marketing price of The Bull was too high and good offers were rejected; a group of local residents would be interested in buying The Bull but £850,000 is excessive. Comment has been received that the re-opening of the pub would be good for the community and it is stated that the Bull previously attracted visitors from afar, with the beer garden an attraction. Punch Taverns had high rent and inexperienced staff in the Bull and reduced its food offer and had financial problems in the end. Concern is raised about some inaccuracies in the information submitted, including the cost of refurbishing the pub.

It is stated that the closure of the Bull has resulted in the loss of revenue to the village and it is stated that there is demand for historic pubs and other examples of pubs that have enjoyed a revival.

Non-material comments received include that more housing is not needed, that this proposal will set a precedent and will result in the loss of other pubs in Blackmore, that a petition for the previous application attracted 1000 signatures. The desire to have a sign installed to inform people The Bull is closed is not a material consideration. Profits as a result of a development are not a material consideration.

Other comments include concerns about the Council's advertising of the application and that the Council should consider a compulsory purchase order.

A letter of objection has been received from Cllr Keeble which makes the following comments:

- Purchased for £425,000 - never attempted to run it as a pub/restaurant.
- Upstairs meeting room converted into a flat.
- Original bar has been removed and oak beams sanded.
- Building has been left to deteriorate.
- There have been at least 2 serious offers in the region of £650,000 for the business.

- Will not only lose a valuable business which offers local employment and a community hub, but also the chance for people to enjoy the ambience of the interior of this Grade II Listed Building.
- It is not just another public house that is no longer viable; with its reputation it is a project that could be very profitable.

Following receipt of these letters, the Agent has subsequently provided the following comments to rebut the responses:

- There was an offer of £525,000 for The Bull which was not turned down but it was made when the property was already under offer from another party for £750,000, so the lower offer was kept as a fallback offer. However, the lower offer was not increased, and the bidder failed to view the property and didn't supply any financial details to check whether he was able to proceed with a purchase of the property.
- The Agent stood to gain financially from a sale and as such the Agent would have nothing to gain from not selling the property.
- The property was marketed and a buyer could not be secured.
- The applicant has invested more than £185,000 restoring the property including renovating the first floor, re-wiring and plumbing, restoring the timber beams, replacing a flat roof, replacing insulation, re-pointing the chimney and replacing an outside staircase. The lease has also been altered at incurring legal fees.
- Given the purchase price, investment, uplift in market value and an offer of £750,000 being received the £525,000 offer was not considered favourably.
- The Agent recommended the property was marketed for £825,000.
- No accounts were made available to Punch Taverns.
- The bar was removed to enable plumbing to be upgraded and is on site. Due to neglect, damage by the illegal party in 2010, damp and water ingress the bar is damaged beyond repair. Furthermore a smaller bar would be needed to run a modern pub.
- If a brewer paid for a refurbishment, the pub would not be a free house and would be less attractive to a landlord. A similar arrangement was previously in place which is perhaps one reason why the pub failed and a brewery may not risk £350,000 to this business.

5. Consultation Responses

- **Historic Buildings And Conservation Officer:**
Significance

The Bull Inn is a Grade II listed building (List entry No: 1280959) located on Church Street, Blackmore; a historic thoroughfare which meanders from The Green to the Grade I listed church of St Laurence. The listed building has a beer garden at the rear and ancillary structures within the curtilage. Its use as a public house is intrinsic to its significance as a listed building. The buildings evolution is evident in the periods of architecture it expresses.

Located within Character Zone 2 of the Blackmore Conservation Area, The Bull Inn contributes positively to the Character and Appearance of the Heritage Asset; with special architectural and historical interest and cultural and social significance; this significance is reinforced through its use as a Historic Public House within the core of the Conservation Area.

'The Conservation Area layout is fundamentally the medieval village, held together by a surviving core of historic buildings' p. 14 CAAMP).

The Bull Inn is within the immediate context of a cluster of listed buildings, including Swan House to the north, Little Jordan to the south and Church Street Cottage to the west, collectively these buildings have group value.

Listing text: '2 houses, now combined to form a public house. C15 and early C16, extended in C20. Timber-framed, plastered with much exposed framing, roofed with handmade and machine-made red clay tiles. The N house comprises a long-jetty main range of 2 bays, c1500, and a jettied cross-wing of 2 bays to right, C15, extended to the rear by one bay in the C17, with an internal stack in the rear bay. A short gabled wing has been added to rear of the main range, with a C19 external stack at the end and a single-storey lean-to extension added to rear of both parts. C20 single-storey extensions to left and rear. The S house, abutting on the first, comprises an early C16 long-jetty range of 3 bays with a stack in the middle bay, with C20 single-storey extensions to rear right, along Bull Alley' (Historic England 2015).

Proposal

Change of use from public house on ground floor and living accommodation on upper floor to residential use of whole building.

Discussion

This application contains proposals for the Change the Use of The Bull Inn to residential accommodation. As an early C15th century building there is a substantial amount of historical record for this timber framed building. No Heritage Assessment accompanies this application.

The ground floor of the listed building comprises the main bar area, snug and kitchen/storage areas. The first floor historically utilised as a banqueting room has recently been converted to a residential accommodation by the current owner, this has not been subject to Planning or Listed Building Consent to the best of knowledge.

The submitted plans within this application represent the existing layout of the listed building with annotation reflecting the proposed internal use for each space. The existing beer garden and associated outbuildings have not been identified to have any intervention, with the exception of a reduction in parking provision. The Planning Statement (PS p. 5) states the beer garden would be used as 'amenity space for the property' the actual level of intervention which would be required both internally and externally for the Change of use to be implemented would require Listed Building Consent, no detailed information in this respect has been included within these proposals.

In the first instance, it must be considered that the listed building has evolved and furthermore has established its significance predominantly as a Public House in the core of the medieval settlement. It is regarded as a highly significant building in terms of its current use within the community and well as for its special interest and historic fabric. The bar is referred to in the listing text alongside the later C20th addition of the cellar (see appendices).

In a recent appeal decision (APP/H1515/A/14/2216001) the Planning Inspector supported this social significance; an extract of the decision stated:

'I have had regard to the availability of other public house within Blackmore Village. Although there are alternatives within walking distance of the appeal site, each public house has a different character, and neither of the other two pubs have as large a beer garden. In addition, from the considerable number of representations seeking to retain the existing community use, it is evident that the Bull Inn is highly valued, and the beer garden is a particular key feature which draws customers from a much wider catchment to the village itself'

My internal inspection of the listed building as part of the assessment of this application does not find the building to be at risk - there is a lack of cyclical maintenance apparent and whilst this is not assisting the buildings' long term conservation a program of repairs should be implemented. The building has in essence been 'mothballed' at the ground floor by the current owners (please also refer to 'other matters' in the later section).

I do not advise this current use should be changed; the special character and significance of the listed building would be harmed by such proposals, the building is not at a level where the present use cannot be continued - in terms of the long term Conservation of the Heritage Asset and with regard to the protection of its significance this Change of use proposed should be strongly resisted.

In respect of the impact of these proposals upon the Character and Appearance of the Blackmore Conservation Area I find these would neither preserve or enhance the Heritage Asset. As stated above and reinforced at the recently dismissed appeal, this listed building with rear beer garden in its present use contributes strongly to the Character and Appearance of the Conservation Area, such change is of fundamental concern and would be harmful.

Other Matters

I now draw your attention to other matters which are contained within the submitted documentation by the applicant. I advise these contain discrepancies which I wish to address.

The grade II listed building as first listed in 1952 and subsequently inspected by the designation team from Historic England in 1994. The listing text states the C15 building was originally two houses converted into a Public House - not 'several cottages' as stated by the applicant (PS p. 4).

It should be noted the accompanying Planning Statement (p.4) refers to the building as follows 'The ground floor is currently in a poor state of repair, having being stripped out by the previous owners.' Both myself and the Senior Historic Buildings Advisor from ECC visited the building in 2013 with a representative from the Planning Enforcement Team; we were informed by the current owner the ground floor area including the bar, had been ripped out due to a burst pipe which had damaged the bar. All chattels for the function of the listed building as a public house had been removed also. This is contrary to the information submitted. In addition an inspection of the first floor was undertaken, we were informed by the owner timbers had been subject to a sandblasting as part of the internal works to change the function room to a residential unit. The Local Authority were not, as I understand, notified that any urgent works were undertaken to the listed building due to flood damage nor were the works to convert the first floor accommodation subject to Listed Building Consent.

Since the dismissed appeal there have been discussions and a scheme proposed under pre-application with a prospective purchaser who had regard for continuing the use as a Public House - such proposals were supported by the Local Planning Authority including Conservation.

As the viability report is a consideration in the determination of this application there is clearly ambiguity and inconsistencies within the Planning Statement and Viability Assessment which I do not accept.

Conclusion:

In respect of the listed building I advise the current use of The Bull Inn is intrinsic to its special interest and integral to its significance. In respect of the impact of these proposals upon the Conservation Area I advise these will neither preserve nor enhance the Heritage Asset.

Recommendation:

For the above reasons I object to this application which is harmful to statutory designated heritage assets.

- **Highway Authority:**

Although visibility from the existing access to The Bull Public House car park onto Church Street is not ideal, from a highway and transportation perspective the impact of the proposed change of use from public house to residential is acceptable to the Highway Authority subject to the following conditions being attached to any approval, given the previous use of the access, the characteristics and layout of Church Street, the area to be available for parking within the site which complies with Brentwood Borough Council's adopted parking standards for the proposed residential development. Conditions to include: construction method statement, vehicle parking standards, cycle parking requirement, travel pack and an informative.

- **Parish Council:**

The Parish Council Strongly Objects to this Application for the following reasons. The PC have considered the application and are concerned about the accuracy of a number of points within the LCJ Planning Consultancy Report as follows:

The applicant appears to have made no effort to run the Bull as a Pub/Restaurant since first buying it as a licensed premises. Therefore cannot argue that it is not a viable business. This isn't a case of trying to run it as a business, failing, and then applying for a change of use.

It is our understanding that the bar was removed when in ownership by the applicant (not as the application implies) thus making the running of a pub more difficult and costly to effect. It should also be noted that the present owner made alterations to the listed building without permission from the conservation department which required the investigation of enforcement officers. The applicant has had The Bull up for sale for some time but at an inflated price of circa £850,000 for a licensed premises, thus making the running of it as a business far less achievable or attractive. It was bought for £425,000 being a realistic price for a business enterprise at the time - half of what is being asked now. It is interesting to note that the Leather Bottle public house in Blackmore has just gone on the market for £700,000 and it is a thriving busy Pub and restaurant with bars, kitchen and an existing wide clientele.

We have been made aware of at least three offers to buy the premises (Mr Greg Hall and Mr George Hand being two) and run it as a licensed business. Despite the offers being substantially in excess of the applicant's purchase price it appears from feedback, that little interest was placed on these potential buyers by both the Agents and the Applicant. One failed to get a viewing appointment to see inside the premises and both experienced phone calls unanswered, viewings refused (see Mr Hand's letter attached) even though they were both keen to purchase it as a licensed business. This has led to questions as to if The Bull was actually on the market at all? Queries as to whether the applicant was purely waiting to make a change of use application warranting the inflated price for a private dwelling, if successful?

The Bull, Blackmore is a brand - known and visited by those not just in the village but from all the surrounding areas. A premises of outstanding historical interest and hugely important within the village of Blackmore positioned as it is in the heart of the Conservation Area. It has much to offer the visitor and would not just be relying on the locals for trade as the application suggests. It is very feasible that given the strength of the brand and with a little professional marketing, (web site, Facebook, Twitter etc) that external custom could be quickly driven up again.

The Planning Officer will, or has, received many letters from our parishioners on this subject but we feel one particular letter from Mr George Hand of Trimast Associates, particularly sums up the situation of the Bull very well and we have attached it as a separate document. He is involved in the pub industry and points out that the industry is doing rather well at present and that some other similar pubs in Coxtie Green and Pilgrims Hatch are 'enjoying a good level of custom'.

We would strongly suggest that the Council rejects this change of use application as we feel The Bull has not been given a fair try as a viable business concern.

We have also attached our notes and objections sent in on the last planning application by The Bull owner to build two dwellings in the garden. Much of the content of those objection notes apply for this application as well and will hopefully give the Planning Officer some background to this application.

It has also been brought to our attention that the petition organised by local resident Judi Wood against the proposed building at The Bull on the last planning application also included within its wording the opposition to any change of use. We would ask that you take into account that petition in connection with our objection to this application.

- **Historic England:**

Thank you for your letter of 31 March 2015 notifying Historic England of the application for planning permission relating to the above site. On the basis of the information provided, we do not consider that it is necessary for this application to be notified to Historic England under the relevant statutory provisions, details of which are enclosed.

6. Summary of Issues

The site is located within a residential area and is within the Blackmore Conservation Area. The Bull is a Grade II Listed Building and there are a number of Listed Buildings within very close proximity to the application site. The building has previously been used as a public house but that use ceased some time ago. It is apparent that the first floor is being used for separate residential accommodation, although no access to the first floor was possible during the site visit undertaken.

It is considered that the main issues which require consideration as part of the determination of the application are the impact of the loss of the existing use of the premises as a pub, the impact of the proposal on heritage assets, residential amenity and living conditions considerations and highway safety/parking issues:

Recent planning history

Planning permission was recently refused for the erection of 2 dwellings and alterations to the public house (ref. 13/00250/FUL) for two reasons:

1. The introduction of the two dwelling houses and car barn into the setting of the listed building and on the edge of The Green, would adversely affect the character and appearance of the Conservation Area and the setting of the listed building, contrary to the NPPF (section 12 in particular) and Policies CP1 (criteria i, iii and viii), C14 and C16, and is recommended for refusal on this basis below.
2. It has not been demonstrated that the loss of the existing public house's beer cellar combined with the loss of a significant area of the existing beer garden, would not result in the existing building becoming unviable as a public house/community facility, contrary to the NPPF (paragraph 70) and Policy LT11.

An appeal was lodged against this refusal, which was dismissed, the Inspector concluding that the new housing would unacceptable harm the character and appearance of the Blackmore Conservation Area and by reason of their siting; the proposed dwellings would fail to preserve the setting of the Listed Building.

In terms of the second reason for refusal, the Inspector commented that the removal of the storage area was likely to prejudice the successful operation of the public house use, as storage is essential. The attractiveness of the beer garden for customers would also be significantly reduced. Paragraph 19 of this appeal decision states:

I have had regard to the availability of other public houses within Blackmore village. Although there are alternatives within walking distance of the appeal site, each public house has a different character, and neither of the other two pubs have as large a beer garden. In addition, from the considerable number of representations seeking to retain the existing community use, it is evident that that public house use of the Bull Inn is highly valued, and the beer garden in particular is a key feature which draws customers from a much wider catchment than the village itself. Accordingly the proposal would be likely to have an adverse impact on the attractiveness of the pub to customers from Blackmore and beyond.

Loss of the premises as a public house:

Local Plan Policy LT11 states that the change of use or redevelopment of local services, including public houses will not be permitted unless it can be clearly demonstrated that the use is not viable and that there is no interest from an alternative similar community use. The preamble to this policy comments that facilities such as pubs often provide essential local services. The provision of such facilities within smaller rural settlements help to create sustainable communities, reduce the need for journeys by car, promote social inclusion and enhance social interaction leading to safer, friendlier and more cohesive communities. Every effort shall therefore be made to retain such uses, and any proposed re-use will be critically assessed. Although adopted some time before the NPPF, the objectives of this policy are considered to be broadly consistent with the Framework and may therefore be given weight.

The NPPF states that to deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should, amongst other things, guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs (paragraph 70).

No recent trading figures are available for the former pub use. A letter has been received from the solicitor that acted on behalf of the current owner when purchasing The Bull which confirms that the seller would not provide even basic information about the property as it has not been in occupation, so no sales records, trading accounts or business files were passed to the applicant.

The application was originally submitted with one viability assessment from Lambert Smith Hampton. This viability assessment was undertaken by a specialist advisor in respect of pubs and other licensed premises. This report comments that it was expected that the customer base would have been generally restricted to residents of the surrounding residential area and that the business would have found it difficult to draw passing trade; with two more prominent public houses on the main road. There are many attractive country pubs in the surrounding area. The business was owned by Punch Taverns and in the years leading up to its disposal to the current owners it was operated under a succession of short term tenancy agreements. Much of the trade inventory had been removed by previous occupants and damage caused by a rave party whilst the premises were vacant prior to the current owners completing their purchase. The business would have offered food and drink sales but the number of internal covers and customer space is quite small being restricted by internal walls and chimney breasts.

The Lambert Smith Hampton viability report comments that the village is very well served by licensed premises; with The Leather Bottle, The Prince Albert and the Blackmore Sports and Social Club. There is also the Blackmore Tea Rooms and there are numerous pubs within the wider surrounding area, many of which are large food led pubs that occupy prominent roadside locations and represent direct competition for The Bull. The report comments that the public house would have to be repaired, refurnished and redecorated, with the replacement of all trade furnishings, fittings and equipment to include upgrades required to the commercial kitchen and estimates that a spend in the region of £300,000 would be needed to refit the premises and provide new inventory as well as to attend to outstanding maintenance and repairs. If available to let free of all trading ties, the expected rent would not be in excess of 25,000 per annum which is unlikely to provide an adequate return on the capital expenditure. This would help to explain why Punch Taverns decided to dispose of the premises rather than invest in attracting a new tenant.

The Lambert Smith Hampton viability study comments that the property was widely exposed to the market principally through agents Fenn Wright; being marketed between April 2012 to September 2013; marketed by both residential and commercial division's and advertised as a public house with residential accommodation. The property was initially marketed at £850,000 although subsequently reduced. It was marketed in the Essex Chronicle and a number of website; Fenn Wright, Primelocation, Rightmove and Zoopla. The property attracted 7 viewings and the feedback generally related to the amount of work required to the ground floor and the inability to use the property fully as a residential home. A sale was agreed on 1st October 2013 at £750,000 but was withdrawn following feedback from the local authority and an inability to secure the required finance.

The Lambeth Smith Hampton Viability Report therefore concludes that given the size and style of the building, the only suitable use is residential. The Bull is incapable of operating as a viable public house. The recent marketing of the property has confirmed that there is no demand for the property from other public house operators because it cannot be operated profitably as a pub. It is highly unlikely that the property will ever be capable of operating as a public house again in the future. It would be extremely risky to invest in reinstating the business which would have to rebuild trade from scratch. Blackmore is a small village and customer demand is already likely to be spread quite thinly between the 3 premises which remain open as licensed trading outlets.

Officers requested a second viability assessment given the lack of trading figures and to obtain a second opinion on the viability of the public house. The Agent subsequently commissioned a second viability assessment from Pinders. This viability assessment was undertaken by an experienced Chartered Surveyor and Business Valuer with experience in the valuation of freehold and leasehold businesses, including public houses and restaurants.

The Pinders viability report comments that Blackmore is a rural village that benefits from a reasonable range of local amenities for its size including a sports and social club, pubs, tea rooms and a primary school. The premises are not particularly prominent or visible to passing trade along The Green. Considerable investment would be required to reinstate the former use of the public house and whilst the kitchen remains well equipped it is suspected that such items would require an overhaul or complete replacement should a new business be established from the premises. Pinders comment that whilst not being provided with any accounting or trading information, based on the arrangements of the accommodation and the size and arrangement of the kitchen, this would have probably have been a typical village public house with a reasonable proportion of trade being generated from food sales. On this basis, Pinders comments that custom was likely to have been drawn from a combination of local residents and those visiting the area from further afield. (This is different to the Lambert Smith Hampton report which suggests that the customer base would have been generally restricted to residents of the surrounding residential area).

The Pinders viability report comments that the quotation from Regional Interiors Limited for the works to the ground floor of £350,500 exclusive of VAT and not including the cost of fixtures and fittings such as furniture, catering equipment, etc would appear to be towards the top end of the range expected, even allowing for the fact that The Bull is a Listed Building. Pinders consider a figure in the region of £250,000 would be more realistic with a further allowance of £50,000 for the refitting of the premises to a good standard. This brings the total allowance for upgrading and the refitting of the trading areas to £300,000 (this figure is based upon experience and discussions). Pinders expect a gross profit margin of 65 percent to be achieved on wet sales and a gross profit margin of 60 percent in respect of food

sales. It would be necessary to re-launch the business with an aggressive marketing campaign. The wage cost is estimated to be around £50,000; around 22.2 percent of the assessed turnover. Competition to The Bull is assessed as being relatively strong. There would be approximately 45 covers provided.

Pinders estimate that the overall turnover would be £225,000. The Leather Bottle has a turnover of around £330,000 exclusive of VAT. Approximately 50% of income will be generated from wet sales and 50% from food sales. There would be an overall gross profit in the region of £140,000 (around 62.2 percent). Operational costs, excluding wages would total some £40,000 (around 17.8 percent of the turnover). Repairs, maintenance and renewals would be £7,000 and heat and light would cost £6,000. The resulting net trading profit would therefore be £50,000 which equates to 22.2 percent of the turnover. However, further deductions are needed, including the opportunity cost/capital cost of owning and fitting out the premises; the estimated cost of fitting out and refurbishment would be in the region of £300,000 and the estimated value of the property is £500,000; a total investment of £800,000 with a 5% interest rate would result in £40,000 in annual interest costs. Deducting this interest payment from the trading profit would result in a net position of £10,000; which equates to £5,000 per proprietor which does not even equate to a minimum wage for a full time job.

The Pinders Report therefore concluded that even allowing for a relatively positive level of turnover and operational profitability, the overall viability of the business is marginal. In real terms the proprietor's remuneration would equate to an hourly rate considerably below the current national minimum wage. Having regard to the extent of the works involved and the fact that the business has been closed for over 5 years, it is likely to take at least 2 years before realistic levels of trade and profitability are likely to be established. Pinders comment that whilst it is envisaged that the business could achieve slightly higher levels of turnover based on Pinders experience than that suggested by Lambert Smith Hampton, the overall opinion expressed are broadly similar and the contents of the Lambert Smith Hampton report are fair and balanced. Having regard to all factors, the Pinders report strongly questions whether it would be possible to re-establish and sustain a viable business from the subject premises.

As such, it is considered that it has been clearly demonstrated that the re-use of the premises as a public house/restaurant is not viable. Sufficient marketing has been undertaken and has failed to obtain a buyer. Whilst concerns have been raised as to the marketing price and whilst the viability assessments suggest a value of £500,000, it is worth noting that within the appeal decision at The Woolpack (ref. APP/H1515/A/11/2159066), for the change of use of the bar/bistro to a residential dwelling, where the property was advertised for sale for more than the seller had paid (and it was therefore claimed by some parties for above market value), the Inspector concluded that the asking price would not have necessarily deterred any serious bidders from making offers.

It is therefore considered that it has been clearly demonstrated that the use of The Bull as a public house is not viable and that there is no interest from an alternative similar community use, in accordance with Policy LT11 of the Local Plan. The NPPF states that planning decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. The Bull is clearly a valued community facility, however, it has been demonstrated that it is not viable to be used as a public house, with the Lambeth Smith Hampton viability assessment clearly stating that the only suitable alternative use is residential and as such its loss as a community building as a result of this development is not unnecessary and it is also noted that village will be continue to be served by 2 other public houses; The Leather Bottle and the Prince Albert and so the loss of this pub would not materially reduce the community's ability to meet its day to day needs. The village retains two public houses and other social facilities and the loss of The Bull as a community facility is unfortunate but would not therefore result in significant or demonstrable harm to the community in this regard.

No objection is therefore raised on this basis in terms of Policy LT11 of the Local Plan and Paragraph 70 of the NPPF.

Design and impact of the proposal on heritage assets

S66(1) of the Planning and Listed Building and Conservation Areas Act 1990 makes it clear that a Local Planning Authority (LPA) should have special regard to the desirability of preserving the Listed Building and its setting or any features of special architectural or historic interest which it possess. S72(1) of this act states that special attention should be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

Chapter 12 of the NPPF aims to conserve and enhance the historic environment, with paragraph 132 stating that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation...Significance can be harmed or lost through alterations or destruction of the heritage asset or development within its setting.

Chapter 7 of the NPPF states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

The Historic Buildings Consultant (HBC) concludes that the proposal would be harmful to the Listed Building and the Conservation Area. As such, in accordance with National Policy it is necessary to determine whether this harm identified would be substantial or less than substantial harm.

The NPPG states that what matters in assessing if a proposal causes substantial harm is the impact on the significance of the heritage asset. Significance derives not only from a heritage asset's physical presence, but also from its setting. In general terms substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a Listed Building constitutes substantial harm an important consideration would be whether the adverse impact seriously affects a key element of its special architectural historic interest

This proposal seeks to change the use of the public house to a residential use. No schedule of works for external or internal alterations have been submitted and therefore it is not possible to determine what level of intervention or effect on the historic fabric or integrity of the building there will be. In terms of the setting, the proposal seeks to reduce the car park area and increase the grassed area. As submitted, the Listed Building would be maintained and there would be no physical alterations to the appearance of the Listed Building within the Conservation Area. Given the scale of the changes proposed and given the NPPG advises that substantial harm is a high test, it is considered that the change of use per se, would result in less than substantial harm to both heritage assets; the Listed Building and the Conservation Area.

Paragraph 134 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

The NPPG states that public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress. Public benefits should flow from the proposed development. They should be of a nature and scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits. Public benefits may include heritage benefits such as sustaining or enhancing the significance of a heritage asset and the contribution of its setting, reducing or removing risks to a heritage asset and securing the optimum viable use of a heritage asset in support of its long term conservation.

In terms of optimum viable use, the NPPG states that if there is only one viable use for a heritage asset, that use is the optimum viable use. If there is a range of alternative viable uses, the optimum use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes. The optimum viable use may not necessarily be the most profitable one.

The viability assessments submitted both conclude that the use of the premises as a public house is not financially viable, with the Lambert Smith Hampton report concluding that the only suitable use for the premises is residential. As set out above, the NPPG states that public benefits may include reducing risks to heritage assets, securing its optimum viable use and supporting its long term conservation. In this instance, should this proposal be refused, given that it has been demonstrated that the public house is not financially viable, it is highly likely that the Listed Building will remain vacant and in its medium to longer term future maintenance will become uncertain. This proposed use will support the long term conservation of the Listed Building and given the findings of the viability reports it is considered that a residential use would constitute the optimum viable use for this Listed Building. The long term conservation of the Listed Building will preserve the character of the Conservation Area.

As such, in this instance it is considered that public benefits of the proposal would outweigh the less than substantial harm to the heritage assets; the Listed Building and the Conservation Area.

The HBC highlights some discrepancies in the submission, including that the current owner informed her and her colleagues that the ground floor bar was removed due to a burst pipe. The submitted information indicates that the ground floor area was stripped out by the previous owners and was then a venue for an illegal rave party. Neighbours and the Parish Council have similarly commented that the owner removed the bar, fixtures and furnishings and suggest that the premises have been deliberately run-down. In response to the neighbour comments, the Agent subsequently commented that the bar was removed to enable the plumbing to be upgraded but due to neglect, damage by the illegal party in 2010 and water ingress the bar is damaged beyond repair.

In this regard, the NPPF states at Paragraph 130 that where there is evidence of deliberate neglect of or damage to a heritage asset the deteriorated state of the heritage asset should not be taken into account in any decision. The NPPG reiterates this and states that disrepair and damage and their impact on viability can be a material consideration in deciding an application. However, in this instance there is no actual evidence that deliberate neglect or damage has been undertaken by the current owner. There is ambiguity and conflicting accounts with regard to how the ground floor came to be in its current state, but the HBC confirms that the building is not at risk although there has been a lack of maintenance. And given the findings of the viability reports, even if the bar was still in situ, given the level of upgrading generally required, it is considered that the use of the premises as a public house would still be unviable.

Conclusion

As such, it is considered that the proposed use would secure the long term conservation of the Listed Building and it is considered that the proposed residential use would constitute the optimum viable use of the Listed Building and therefore it is concluded that the public benefits of the proposal would outweigh the less than substantial harm identified to the designated heritage assets; the Grade II Listed Building and the Conservation Area. Subject to conditions, no objection is therefore raised to the proposal in terms of Chapters 7 or 12 of the NPPF and Policies C14, C15, C16, C17, CP1(viii), CP1(i) and CP1(iii) of the Local Plan.

Residential Amenity

This proposal does not seek to provide any internal or external alterations; however, it is apparent that should this permission be granted, subsequent planning applications may need to be submitted in this regard. However, this proposal does not seek to alter or extend the existing building and as such this proposal would not result in any undue dominance or overbearing impact to adjoining residents over and above that of the existing building. In terms of overlooking, although no new windows are proposed, the use of the building is changing and therefore this needs to be considered. At first floor level it is proposed to change two reception rooms to bedrooms and a kitchen to a dressing room. Such a change of use of these rooms would not result in any greater harm in terms of overlooking and loss of privacy than the existing use. At ground floor level, the bar server and trading areas will be converted to a dining room, living area and snug. The toilets will be retained and a store will be converted to a study. The pub kitchen will be converted to a kitchen/diner and the existing wash up area will become a larder. Given the proposed uses, the existing nature of the site and the existing tight urban grain in the proximity of the site, it is not considered that the proposal would result in undue overlooking or loss of privacy.

No objection is therefore raised on this basis in terms of bullet point 4 of paragraph 17 of the NPPF and Policy CP1(ii) of the Local Plan.

Living Conditions

The proposal does not seek to make any internal or external alterations at this stage. The layout of the proposed dwelling is not ideal for example, the plans indicate that the existing pub toilets will be retained at ground floor level. However, all habitable rooms are provided with windows and there would be a large garden area and parking provided for the occupiers of the site. It is also recognised that it is not unusual to have slightly unusual layouts in Listed Buildings given their age and the difficulty of altering such buildings. As such, in this instance, it is considered that the proposal would provide adequate living conditions for any future occupiers.

Highway safety/parking considerations

The Highway Authority has comments that although visibility from the existing access to The Bull Public House car park onto Church Street is not ideal, from a highway and transportation perspective the impact of the proposed change of use from public house to residential is acceptable to the Highway Authority subject to conditions, given the previous use of the access, the characteristics and layout of Church Street and the area to be available for parking. The conditions recommended by the Highway Authority are considered reasonable and necessary (with the exception of the requirement of a construction method statement, which is not necessary given the limited changes hereby proposed) and as such, subject to these conditions no objection is raised to the proposal in terms of highway safety considerations.

Other Matters

In terms of landscaping, it is proposed to remove part of the existing tarmac car park area and replace it with an additional grassed area, which is positive. No other changes are proposed to the landscaping. Given the nature of the proposal and the existing rear garden area no conditions are necessary in this regard in this instance.

The majority of the neighbour comments received have been considered above. In terms of the letters of support received; the decline of the pub and its viability, the state of the building and the other facilities in the area have all been considered above.

The majority of the neighbour concerns and objections raised have also already been considered above including the impact on the Listed Building, Conservation Area and the heritage of the area, the viability of the pub, parking considerations, residential amenity, the current state of disrepair of the building, the marketing price of the premises, the loss of a community pub and lack of accounts and the pub industry.

Comments that more residential housing is not needed is incorrect; the Council does not currently have a 5 year housing supply and there is a need for additional housing in the Borough. Neighbours have commented that there are errors in the reports and the viability report is subjective opinion. However, a second viability assessment has now been undertaken, which provides a second opinion on factors such as the refurbishment costs and also concluded that the premises is unviable.

Concerns are raised that this proposal will set a precedent for the other pubs, however, each planning application must be considered on its own merits. There are no plans for the Council to compulsorily purchase the public house and any profit made from a development is not a material planning consideration. The advertisement of the application by the planning department was correct with neighbour letters sent out, a site notice was displayed and the application was advertised in the press. There are neighbour concerns about fences being erected; however, this proposal does not include any such proposals and given that any such fences would be within the curtilage of a Listed Building, would require permission.

The HBC refers to pre-applications undertaken with a prospective purchaser which were supported by the planning authority and conservation officer. However, it is apparent no sale was finalised. Comments from neighbours and the HBC that unauthorised works have been undertaken to the Listed Building, including the conversion of the upper storey to flats and concerns about the state of disrepair of the building are being investigated by the Enforcement team. The HBC queries that actual level of intervention required to change the use of this Listed Building to a residential property, however, the majority of subsequent changes should planning permission be granted for this proposal would require Listed Building Consent and/or planning permission.

Conclusion

It has been clearly demonstrated that the use of the premises as a public house is not viable. Whilst the proposal would harm the designated heritage assets, this harm would be less than substantial and the public benefits of the proposal would outweigh this less than substantial harm identified. The proposal would not adversely impact the residential amenity of adjoining residents and would not result in any harm to the highway safety. As such the proposal is recommended for approval, subject to conditions.

7. Recommendation

The Application be APPROVED subject to the following conditions:-

1 TIM01 Standard Time - Full

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 DRA01A Development in accordance with drawings

The development hereby permitted shall not be carried out except in complete accordance with the approved drawing(s) listed above and specifications.

Reason: To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt.

3 U11257

Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

4 U11258

The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.

5 U11259

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, (to include six one day travel vouchers for use with the relevant local public transport operator)

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport

Informative(s)

1 INF04

The permitted development must be carried out in accordance with the approved drawings and specification. If you wish to amend your proposal you will need formal permission from the Council. The method of obtaining permission depends on the nature of the amendment and you are advised to refer to the Council's web site or take professional advice before making your application.

2 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: LT11, CP1, C14, C15, C16, C17, T2 the National Planning Policy Framework 2012 and NPPG 2014.

3 U02615

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the application (as originally submitted) and negotiating, with the applicant to obtain further information to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

4 U02617

All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to: SMO3 - Essex Highways, Childerditch Highways Depot, Hall Drive, Brentwood. CM13 3HD.

BACKGROUND DOCUMENTS

DECIDED: