

MID SUFFOLK DISTRICT COUNCIL  
DEVELOPMENT CONTROL COMMITTEE - 02 December 2015

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<b>AGENDA ITEM NO</b>	<b>2.</b>
<b>APPLICATION NO</b>	3349/15
<b>PROPOSAL</b>	Change of use of existing public house to residential dwelling including removal of part of existing car park, revised application following refusal of application 1799/15
<b>SITE LOCATION</b>	The Cross Keys Inn, Main Road, Henley, IP6 0QP
<b>SITE AREA (Ha)</b>	0.43
<b>APPLICANT</b>	Mr Hammond
<b>RECEIVED</b>	September 16, 2015
<b>EXPIRY DATE</b>	December 4, 2015

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**REASONS FOR REFERENCE TO COMMITTEE**

The application is referred to committee for the following reason:

- (1) The Head of Economy considers the application to be of a controversial nature having regard to the planning reasoning expressed by the Parish Council, the extent and planning substance of comments received from third parties, the location, scale and nature of the application and its recent planning history.

**PRE-APPLICATION ADVICE**

1. The application was previously refused planning permission contrary on 16<sup>th</sup> July 2015 following committee on 15<sup>th</sup> July 2015. Since the previous refusal the applicant has undertaken further marketing of the site. No detailed pre-application advice has been sought since the previous application.

**SITE AND SURROUNDINGS**

2. The Cross Keys public house is located on the south-eastern side of a rural crossroads approximately 1 kilometre north of the village of Henley.

There is a car park to the south of the building, and a dwelling a short distance beyond that. Diagonally opposite the public house is a farmhouse and associated buildings; otherwise the site lies in generally open countryside.

**HISTORY**

3. The planning history relevant to the application site is:

1799/15	Change of use of existing public house to residential dwelling including removal of part of existing car park	Refused 16/07/2015
3579/14	Change of use of existing public house to residential dwelling including removal of part of existing car park	Withdrawn 22/01/2015
3626/13	Demolition of outbuilding and extension of car park. Alteration works to existing public house and erection of new dwelling for use in conjunction with the public house.	Refused 27/05/2014
1103/07	Erection of a single 3-bedroom dwelling with associated parking on part of the existing car park	Withdrawn 08/06/2007
473/75	Retention of 75' high experimental radio mast and timber hunt until 30 June 1976.	18/08/1975

### PROPOSAL

4. It is proposed to change the use of an existing public house and restaurant (Use Class A3/A4) to a single residential dwelling (Use Class C3).

### POLICY

5. **Planning Policy Guidance**

See Appendix below.

### CONSULTATIONS

6. **Henley Parish Council**

'The parish council decided unanimously to oppose the application on the following grounds:

The Parish Council does not accept the argument that the Cross Keys pub business was failing and required closure; does not believe that the terms on which the pub is being offered for sale (an asking price of £295,000 plus 50% of any uplift in value over 20 years if change of use is allowed) are fair and reasonable; is aware of very considerable support in the Henley area for the continuing existing of the Cross Keys as a pub.'

#### **MSDC Communities**

No comment at time of writing although an application for the site to be listed as an Asset of Community Value has been received and is being processed. An update will be made available at the meeting.

#### **Suffolk County Council - Highways**

No objection subject to conditions

#### **MSDC - Heritage**

'The change of use will have negligible impact on the buildings historic interest. Alterations proposed have no material impact on the buildings external character.'

**Historic England**

No objection

**LOCAL AND THIRD PARTY REPRESENTATIONS**

7. This is a summary of the representations received.

8 letters of objection and a petition with 106 respondents from a variety of properties within the Ipswich area have been received. The material considerations raised in these are summarised as:

- Infrequent opening hours and overpriced food quality
- Advertised selling price too high
- Central point for the Henley community for generations
- Too many village pubs being closed down
- Popular local pub that serves the community
- It is the last bastion of amenity in the village of Henley
- Current use not promoted enough
- Investment required but the pub has potential
- Loss of a community asset

4 letters of support have been received. The material considerations raised in these are summarised as:

- Not enough local support
- The pub was not used enough to make the business viable
- Location is too isolated to be a successful business
- Change of use preferable to being left vacant

**ASSESSMENT**

8. The conversion of the public house to a dwelling would result in the provision of a new dwelling in the countryside and the loss of a local facility. The proposed conversion does not include any structural changes to the building so the consideration of the application is based on the use of the property and associated land only.

The application is considered in relation to the following key issues:

- Summary of policy position
- Principle of development
- Loss of local facility
- Provision of new dwelling
- Highway and Access Issues

**Summary of policy position**

The Local Plan 1998 (Saved Policies)

The application site lies approx. 1km north of the village of Henley. As such, it is located in the countryside. There are no policies within the Local Plan that specifically relate to the conversion of public houses to dwellings. However, Policy E6 – Retention of individual industrial and commercial sites seeks to protect existing employment generating uses (eg. A4) unless there is significant public benefit of its conversion to non-employment generating uses (eg. C3):

Core Strategy (2008) and Core Strategy Focussed Review (2012)

Core Strategy Policy CS2 sets out categories of development that may be acceptable in the rural area, dependent on any proposals being in accordance with other Core Strategy Policies. This includes the possible conversion of rural buildings, the reuse and adaptation of buildings for appropriate purposes, community services and facilities to meet a proven local need and employment generating proposals.

Policy CS5 provides that *"All development will maintain and enhance the environment, including the historic environment, and retain the local distinctiveness of the area"*.

The Core Strategy Focused Review (CSFR) was adopted by Full Council on 20 December 2012 and should be read as a supplement to Mid Suffolk's adopted Core Strategy (2008). This document updates some of the policies of the 2008 Core Strategy. The document does introduce new policy considerations, including Policy FC 1 - Presumption in favour of sustainable development that refers to the National Planning Policy Framework (NPPF) objectives and Policy FC 1.1 - Mid Suffolk approach to delivering Sustainable Development that provides *"development proposals will be required to demonstrate the principles of sustainable development and will be assessed against the presumption in favour of sustainable development as interpreted and applied locally to the Mid Suffolk context through the policies and proposals of the Mid Suffolk new style Local Plan. Proposals for development must conserve and enhance the local character of the different parts of the district. They should demonstrate how the proposal addresses the context and key issues of the district and contributes to meeting the objectives and the policies of the Mid Suffolk Core Strategy and other relevant documents."*

NPPF

The Council acknowledges that it is unable to demonstrate a five-year supply of deliverable housing land, as required by paragraph 47 of the Framework. Accordingly, in accordance with paragraph 49 of the Framework, the proposal should be considered in the context of the presumption in favour of sustainable development. For the purposes of decision taking, that means granting planning permission unless the adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework, taken as a whole.

The NPPF also states in Section 3 'Supporting a prosperous rural economy', Paragraph 28 that:

*'To promote a strong rural economy, local and neighbourhood plans should:*

...

- *Promote the retention and development of local services and community facilities in villages, such as shops, meeting places,*

*sports venues, cultural buildings, public houses and places of worship.'*

Whilst there is the presumption in favour of sustainable development and a lack of a 5 year land supply, the minimal gain to the housing provision should be weighed carefully against the potential loss of a community asset.

#### SPD

Supplementary Planning Guidance – Retention of Shops, Post Offices and Public Houses in Villages (Adopted February 2004) sets out the Council's position with specific regard to the conversion of pubs to dwellings. This states that there will be '...support for the retention of facilities, where they can be shown to be viable...'. Paragraph 5.4 of SPD goes on to state:

*'The change of use of a village public house to an alternative use will not be permitted unless:*

- *At least one other public house exists within the settlement boundary or within easy walking distance to it; and*
- *It can be demonstrated by the applicant that all reasonable efforts have been made to sell or let (without restrictive covenant) the property as a public house, and that it is not economically viable; and*
- *There is no evidence of significant support from the community for the retention of the public house*

*If permission is granted for change of use, preference will be given to the premises remaining in some form of community or employment use; as long as there are no significant traffic, amenity, environmental or conservation problems as a result.*

*The council will require applicants to provide information on the following matters to enable full evaluation of their proposals'*

In relation to the first point from the SPD set out above, the submitted Design and Access states that Henley Village Hall is within the settlement boundary and provides a good range of services, including alcohol sales. Easy walking distance is defined in the SPD as being 200-300m from the settlement boundary. For reference, the application site is approx. 700m from the settlement boundary. There is not a footpath or street lighting and the highway has an unrestricted speed limit.

Whilst the last dedicated public house in the immediate vicinity of Henley, the Village Hall is licenced for alcohol sales and is within the settlement boundary, unlike the pub subject of this application.

In respect of the second criteria it should also be noted that there is no definition of "reasonable" and so assessment of the extent of efforts made to sell or let the property is highly subjective. However, the adopted planning guidance provides further details within the document detailed below:-

*- The property is required to have been advertised for sale for a minimum of 12 months. Information should include selling agent's literature, valuations and offers that have been received on the property.*

Information has been provided setting out the marketing that has been undertaken, commencing in October 2014 until present. An update provided on 4<sup>th</sup> November stating that there have been no new offers received.

- Information on the annual accounts/turn over of the premises for the most recent trading year should be submitted to the Local Planning Authority. These should take the form as if submitted to HM Inland Revenue and not just a single line 'the losses were...£\*\*\*'

The profit and loss accounts for the period that the public house was in operation have been submitted. This covers the period of November 2013 to August 2014. No further details are available.

- Evidence needs to be submitted on the opening hours of the premises, and attempts at diversification to sell/provide a wider product range/let rooms.

No details of the opening hours of the pub have been provided. However, third party representation makes reference to sporadic opening hours. Planning Officers have discussed alternative uses at the site. The submitted design and access statement provides an assessment of these alternatives. Further detail is provided below.

- Whether an application for financial assistance by an application to the Local Authority for rate relief has been made.

This is unknown, however reviewing this Council's criteria for rate relief it is unlikely that this business would qualify or at least it would be for a short temporary period only.

- Whether an application to the Local Authority to accommodate multiple use of the premises has been made.

An application was submitted and subsequently refused for the erection of a single dwelling in the rear garden of the site. It was proposed that this would allow additional accommodation for staff and support the ongoing viability of the business. No other applications for alternative uses have been submitted.

Finally there is the third criterion that refers to support and the community. It states:-

- *There is no evidence of significant support from the community for the retention of the public house*

A problem with this criterion is the failure to define "community" and so again this is a subjective term. For example how many letters represent a community? Is approximately 8 letters, a petition with more than 100 respondents from a range of properties in the wider Ipswich area and a parish council objection enough to represent a community given the size of the village/parish? Should you consider the comments from the wider area or just local customers that could be expected to use the public house?

The policy guidance provides some further detail on this point to help judge this criteria as reproduced below:-

There must be a significant expression of public support and evidence

illustrated, this should include:

- Considerable support in the form of letters expressing local concern is strong evidence of support;
- The expressed concern of the Parish Council, which should be based on consultation with the public to be valid.

Third party representation has been received, as summarised above, including a petition with 106 respondents from a range of properties in the parish of Henley and Ipswich area objecting to the proposed conversion.

The pub has been registered as an Asset of Community Value. The inclusion on the list of assets is currently undergoing review. No offers were made during the moratorium period. The registering of the pub as an ACV is currently being reviewed.

Henley Parish Council voted unanimously to object to the application.

#### General Permitted Development Order (2015)

It should be noted that updated Permitted development rights were issued in April 2015. Part 3, Class A of the GPDO sets out criteria where the conversion of a public house (A4) to a shop (A1) or financial and professional services (A2) could be acceptable.

A change of use under this regulation is dependent upon the site not being subject of an application to be registered as an asset of community value or having already been listed as being an asset of community value.

- **Principle of development**

Taking the above policies into account, the principle of the proposed conversion would be acceptable only if the applicant can reasonably demonstrate that the existing business is not viable, reasonable efforts have been made to sell the pub in its current form, alternatives are available and there is no significant local support for the current use.

- **Alternative facilities**

There are no other pub/restaurants within the village of Henley. However, it is noted that Henley Village Hall is located within the settlement boundary and provides a range of facilities for the local community, including licensed alcohol sales, albeit based on limited opening times and run by volunteers.

There are alternative pubs and restaurants within a relatively short driving distance from Henley including The Swan at Westerfield, The Fountain at Tuddenham and The Sorrell Horse at Barham, for example.

Although this is the last pub in the immediate vicinity of Henley, the site is not within a reasonable walking distance of the village as there is not a footpath to the site, no street lighting and there are a variety of other pubs within short driving distance of the site. Users inevitably rely upon the private car.

The pub outside is outside of the settlement boundary. There are a range of other pubs and restaurants in driving distance of Henley. Henley Village Hall provides an alternative within the settlement boundary itself, albeit on a limited basis. Based on this it is considered that the Cross Keys is not the only reasonable alternative for drinking, dining and community social events in the

vicinity of Henley.

- **Marketing of existing business**

The applicant's submission sets out the marketing undertaken in an attempt to sell the pub with its current use, albeit with an overage relating to any potential residential development within the site.

Marketing commenced based on a sales price of £350,000 in October 2014 with advertisement via Fleurets Leisure Property Specialist. Marketing included an advertisement on the estate agents website, in regional and national media, the local press and regular advertisement in trade publications.

Whilst interest was noted, there were no viewings of the property. However, two offers circa £230,000 were received last year but were discounted by the applicant as they were significantly below the asking price.

The asking price of the property was subsequently reduced from £350,000 to £295,000 in February 2015 following concerns raised by the Planning Officer that the asking price as set out in the previous application ref. 3579/14 appeared high. Further marketing was undertaken based on the reduced price of £295,000 from February 2015 to present. No new offers were reported.

Valuation of the pub has been provided from local estate agents to substantiate the asking price of £295,000. For information, the pub was purchased by the applicant in September 2013 for £190,000 and was subsequently refurbished with a stated investment of £73,657.

In relation to the points set out in the SPD, the applicant has provided information for the marketing of the property since October 2014, 13 months before this application is considered by Committee.

- **Viability of established use**

Information submitted demonstrates the significant investment made in the initial start-up of the pub in new equipment. This can be taken as a demonstration of the intention of the owner to operate the business under its established use.

Due to the limited period in which the pub was in operation under the current owner, the accounts available are limited to the period of November 2013 to August 2014. The submitted Design and Access Statement states that the business is not financially viable with net profits for the period of 20<sup>th</sup> November 2013 to 31<sup>st</sup> August 2014 being below forecasts.

Diversification of the business to support the existing use has been discussed with the applicant prior to the application to convert the pub to a dwelling. Previous submissions included the erection of a new dwelling in the rear garden of the site to allow additional staff accommodation. An application for this was refused at committee under application reference 3626/14.

Alternative uses of holiday accommodation and extension of the existing building were discussed with the applicant prior to submission of this application. The applicant has given consideration to these options but discounted them as set out in the submitted Design and Access Statement. The reasons for discounting are based on the financial investment required to establish holiday accommodation. Extension of the existing building is not considered practical



due to the layout of the existing building and site boundaries.

- **Community Support**

8 letters of representation and a petition with over 100 signatures have been received objecting to the application. 4 letters of support have been received.

The listing as an Asset of Community Value is currently being reviewed. An update is not available at the time of writing. However, members shall be updated as soon as possible.

The SPD states that 'considerable support in the form of letters expressing local concern is strong evidence of support'.

The extent of community support is inevitably difficult to objectively gauge but over 100 letters is considered to be a significant level of interest in this application. This should be taken into account and the ACV is capable of being considered as a material consideration. This does not correlate with the evidence put forward by the applicant that the business is not viable. It is acknowledged that an offer of £230,000 was made to purchase the pub with its current use excluding the overage clause in early 2015 but no further offers have been made since the asking price was reduced to £295,000.

- **Provision of a new dwelling**

The proposed conversion would re-use an existing building in the countryside. The provision of one new dwelling in the rural area would be of marginal benefit to the Council's provision of a five year land supply. The sustainability of the proposed use as a dwelling is considered in relation to the existing use as a pub. Neither the existing or proposed use benefits from a footpath link to the nearest settlement.

Taking the above points into account it is considered that the proposed use as a dwelling is likely to be less dependent upon the private motor vehicle than the use of the site as a pub. Whilst policy would usually restrict a new dwelling in the countryside, the proposed change of use is unlikely to result in any significant change in the character and appearance of the area.

On that basis, it is considered that the change of use to a dwelling would have a net gain in the sustainable use of the site whilst providing a marginal benefit to the Council's five year land supply.

- **Design and Layout**

The application seeks permission for the change of use of the building only. No structural changes are proposed as part of this application and, therefore, there are no changes to the design and layout of the site.

- **Highway and Access Issues**

There are no objections from a highways safety perspective based on the use of the existing access.

- **Consultee and Representatives Comment**

No objections to the proposed change of use have been received from statutory consultees. Third party representation is summarised above and available within the committee agenda.

- **CONCLUSION**

The proposed development would result in the loss of the last public house within the vicinity of Henley. However, the public house has been shown to have had limited financial success under current management. The property has been marketed for the required period as set out in the relevant SPD. The pub was relatively recently purchased by the applicant and underwent a marketing campaign as part of the previous sale. It is considered that the marketing undertaken prior to this application is reasonable.

Significant numbers of representations have been received IN objection to the loss of the pub. However, this has not been substantiated by sales or offers to purchase the pub with its established use. The rural location and poor linkage to the nearest settlement is likely to have had a bearing on the attractiveness of the building for business investment.

The provision of community facilities are of significant importance in the consideration of applications in relation to the NPPF and with particular reference to the SPD.

The site that is subject of this application is not well linked to an existing settlement and has undergone ample marketing without investment based on its current use. Although not a traditional pub, there are services provided within the village through the Village Hall and there are a wide range of alternative facilities within a short drive of Henley.

Taking the location and marketing into account and the provision of one new dwelling, it is considered that, in this instance, the conversion of the pub to a single dwelling is acceptable.

### **RECOMMENDATION**

**That Full Planning Permission be granted subject to the following conditions:**

- 1. 3 year time limit**
- 2. Compliance with submitted plans**
- 3. Details of boundary treatment**
- 4. Highways condition – no means of enclosure over 0.6m in height**

Philip Isbell  
Corporate Manager - Development Management

Mark Pickrell  
Senior Planning Officer

### **APPENDIX A - PLANNING POLICIES**

#### **1. Mid Suffolk Core Strategy Development Plan Document and the Core Strategy Focused Review**

**Cor1** - CS1 Settlement Hierarchy

**Cor2** - CS2 Development in the Countryside & Countryside Villages

**Cor5** - CS5 Mid Suffolks Environment

**CSFR-FC1** - PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT

**CSFR-FC1.1** - MID SUFFOLK APPROACH TO DELIVERING SUSTAINABLE

DEVELOPMENT

Cor6 - CS6 Services and Infrastructure

2. Mid Suffolk Local Plan

E6 - RETENTION OF INDIVIDUAL INDUSTRIAL AND COMMERCIAL SITES

GP1 - DESIGN AND LAYOUT OF DEVELOPMENT

HB13 - PROTECTING ANCIENT MONUMENTS

H9 - CONVERSION OF RURAL BUILDINGS TO DWELLINGS

H7 - RESTRICTING HOUSING DEVELOPMENT

H13 - DESIGN AND LAYOUT OF HOUSING DEVELOPMENT

T10 - HIGHWAY CONSIDERATIONS IN DEVELOPMENT

3. Planning Policy Statements, Circulars & Other policy

SPGP - PUBLIC HOUSES

NPPF - National Planning Policy Framework

**APPENDIX B - NEIGHBOUR REPRESENTATIONS**

Letter(s) of representation(s) have been received from a total of **13** interested party(ies).

The following people **objected** to the application

[REDACTED]

The following people **supported** the application:

[REDACTED]

The following people **commented** on the application: