

## REPORT TO THE WESTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	<b>27.10.2010</b>		
<b>Application Number</b>	<b>W/10/01933/FUL</b>		
<b>Site Address</b>	<b>The Beehive 263 Trowbridge Road Bradford On Avon Wiltshire BA15 1UA</b>		
<b>Proposal</b>	<b>Change of use of ground floor of former public house to residential</b>		
<b>Applicant</b>	<b>Meyrick-Carpenter</b>		
<b>Town/Parish Council</b>	<b>Bradford On Avon</b>		
<b>Electoral Division</b>	<b>Bradford On Avon South</b>	<b>Unitary Member:</b>	<b>Malcolm Hewson</b>
<b>Grid Ref</b>	<b>383401 159731</b>		
<b>Type of application</b>	<b>Full Plan</b>		
<b>Case Officer</b>	<b>Mr Kenny Green</b>	01225 770344 Ext 5174 kenny.green@wiltshire.gov.uk	

### Reason for the application being considered by Committee

Councillor Hewson has requested that this item be determined by Committee for the following reason(s):

There is a presumption in favour of retention of the existing use, or of an alternative non-residential use. It is not at all clear that the applicant has adequately demonstrated that the existing use cannot continue or that a suitable other non-residential use cannot be achieved. In addition the proposed change of use will remove a local community and tourist facility in the vicinity of the Kennet and Avon Canal and will be detrimental to the economic well-being of the town contrary to the policies in PPS 4 - Planning for Economic Growth, PPS7 - Sustainable Development in Rural Areas and PPG 2 - Green Belts.

### 1. Purpose of Report

To consider the above application and to recommend that planning permission be granted.

Neighbourhood Responses

28 letters received objecting to the proposal

Parish/Town Council Response

Object to the application for the reasons set out on page 5 of the report

### 2. Main Issues

The main issues to consider are:

Principle of Development (e.g. site marketing, economic viability and alternative uses)  
Vehicular and pedestrian access and parking provision  
Impact on Green Belt  
Impact on Surroundings / Neighbouring Amenities

### **3. Site Description**

The application site relates to a detached two-storey ashlar building which is known as the Beehive Public House. The site is located on the eastern side of the A363 Bradford on Avon - Trowbridge public highway. The adopted West Wiltshire District Plan identifies the site as falling immediately outside the defined Settlement boundary of Bradford on Avon and within the designated Western Wiltshire Green Belt (and open countryside).

The existing building and its associated grounds extend to approximately 1.1 hectares. The premises abut residential properties to the north and south. The Kennet and Avon canal is located further to the south, beyond which is the licensed beef and barge located at the Widbrook marina.

For the avoidance of any doubt, and in order to rebut third party concerns raised about any unauthorised domestic occupation of the property, Members are advised that there is no planning breach taking place at this site. After the case officer's site visit, which included an internal inspection, the ground floor accommodation is not being used for residential purposes. Furthermore, it must be duly noted that there is no hot or cold water upstairs, the toilet block rook is leaking, electricians are in the process of making the premises safe, there is no flooring to the lounge, two bedrooms, landing and bathroom and the central heating system requires a complete overhaul. Repairs not requiring planning permission are however being undertaken as part of a host of general improvement works.

### **4. Relevant Planning History**

74/00660/HIS - Extension to car parking area - Refused 30.09.1974 - Appeal Dismissed - 14.07.1975

80/01434/FUL - Landscaping and minor works to public house garden - Permission 06.01.1981

84/00131/FUL - Alterations to toilet accommodation - Permission 14.03.1984

### **5. Proposal**

Under this application, the applicants seek planning permission to change the use of the ground floor accommodation from a Public House Use (sui generis) which has now ceased trading to a residential use. It should be duly noted that the upper floor accommodation of the public house was previously used for residential use by the previous public house lessees; and the upper floor accommodation would remain unaltered. It should also be stressed that there are no external alterations proposed as part of this application.

The applicants seek permission to convert the former public bar and lounge accommodation which amounts to approximately 82 square metres of floor space and incorporate it into one planning, residential unit.

It is understood that the Beehive Public House last operated as a going concern back in September 2008, when the previous licensees with in excess of 10 years running pubs were forced to end their lease when the business went into liquidation.

Since then, the applicants have undertaken a great deal of research and have confirmed the following:-

## Marketing Exercise

Punch Taverns (the then owners of the premises) marketed the sale of the public house on 19 December 2008 under the headings of Pub, Restaurant, Investment, Development, Commercial, Other. The premises were marketed through the national trade press including the Morning Advertiser and Estates Gazette; James A Baker marketed the premises/site and included it on their own company website in addition to undertaking an extensive mail shot and sited a For Sale Board at the front of the premises. The site was also marketed on the pubs galore website as well as being listed on the beerintheevening.com website.

Despite the above marketing efforts little interest was generated for 6 months. In June 2009, the owners then instructed the estate agent to reduce the price by £35,000 from £295,000 to £260,000. Even with this reduction, no procedural offers were forthcoming and in July 2009, a decision was taken to reduce the asking price by a further £10,000. The estate agents reported that initial interest was shown by a motor retailer and kennel operators, however the interest never led to a formal offer. The estate agents took the premises off the market on 15 January 2010 after the owners accepted the offer made by the applicants.

It is submitted that the costs associated to modernising the premises, the access constraints, the proximity to a hump back bridge and the amount of passing traffic (which would jeopardise safe access), all accounted for the lack of any commercial based interest.

Only limited interest was shown by third parties once they had visited the premises. It is submitted that the reasons no firm offer was forthcoming either by someone interested in continuing the public house use or for alternative uses were due to the expenditure required to bring the interior to modern standards along with the economic feasibility and uncertainty surrounding public houses. The estate agents, James A Baker advised that the property is in a "tired and worn condition throughout and requires considerable refurbishment" and that works to enhance the public house accommodation (providing an extended eating area and kitchen) would cost in excess of £200,000. Such costs inevitably put interested parties off.

The uncertainty is enshrined within a record obtained from the Swindon Valuation Office which illustrates that the business rateable value in April 2000 was £14,900. Ten years on, the premises are valued at £12,750.

## National Trend

According to an article written in the Daily Telegraph on 4 November 2008, the previous owners, Punch Taverns are reported to have written off 491 "value less pubs" following the smoking ban. With increased wholesale food and energy prices and declining alcohol sales and a reduction in the numbers visiting pubs, analysts predicted that the pub industry faces a challenging economic period. This position was further underlined by The Times which reported on 22 July 2009 that 52 pubs close each week.

## Failing Finances

Companies House have confirmed that for the accounting year ending 31 August 2006 the business recorded a loss of £22,478. The following year was even worse with a recorded loss of £32,273.

The previous licensee left the premises in 2008 and did not submit their trading figures. However, the demise of the business is borne out by the above records which ultimately led to the business being liquidised.

## Access Constraints

The premises are also constrained by having a very narrow access off the busy A363 public highway. The applicants submit that if the premises were to remain as a pub or as alternative commercial entity, there would be inevitable road safety conflicts. Two vehicles cannot pass along the access.

## Local Offer

The applicants submit that Bradford on Avon benefits from 16 operating pubs and licensed eating establishments, many of them are located within 1 (car driven) mile of the application site.

## Neighbour Consultation

The applicants approached both the Town Council and the three neighbours before submitting the planning application to appreciate local opinion. The applicants submit that neighbours responded positively to their plan to convert the public house to a dwellinghouse (after the marketing exercise failed to secure the pub's future as a going concern).

## The Selling Agent's Position

Following third party objections, the case officer wrote directly to the selling agents to ascertain the level of interest shown in the property during the marketing exercise. The Selling Agent (Mr Meek of James A Baker) replied as follows on 15 July:

I write in reference to your letter dated 7th July 2010 highlighting third parties objections made to the planning application, alleging that as agents we prevented access / viewings to interested parties during the time stated that the premises were marketed. The above allegation is cause for concern. "We are an experienced and reputable firm of chartered surveyors with offices in London and Bath. Our clients are mainly national pub companies with whom we have dealt with for many years and our reputation is of paramount importance to us. Our brief from our clients is always to market those properties they have given us to sell in as wide a sphere as possible to encourage maximum interest and achieve the highest price possible. The suggestion that we have refused to undertake viewings from interested parties because of a "constructive de-licensing" agenda is one I most strongly refute".

The Beehive was first marketed by James A Baker in December 2008 following the failure of the tenant and the pub's closure. The pub was placed on the market at that time for £295,000. Subsequently the property has been put through a substantial marketing exercise which involved advertising through the national trade press of Estates Gazette, Publican and Morning Advertiser publications.

A large email shot was done to all potential interested parties using our data base and a prominent For Sale sign erected on the front of the building. Despite considerable interest, 22 accompanied viewings and two expressions of interest were made, no proceedable offer was able to be expedited. A decision was made in June 2009 to reduce the price to £250,000 and an offer was finally received in late 2009 from the present owner.

"During the entire marketing exercise spanning nearly 13 months I can honestly say there was limited appeal from most of the interested parties I dealt with to keep the Beehive as a licensed property".

Here are some of the negative comments I received whilst undertaking viewings.

"The Beehive is in a very tired and worn condition. It will take many thousands of pounds to put the building in good order. The entire area to the rear is in Green Belt and the pub cannot be extended. The drive way to the rear car park is too narrow to access for some vehicles. Entrance to the pub is dangerously close to a blind bridge. The interior trading space will only accommodate thirty plus customers and is too small to be profitable."

My team have a well established system here in the Bath office and any request to view a property is logged on our data base and dealt with promptly. I am not aware of any viewings at the Beehive being refused while it has been on the open market. On the contrary, I was under some pressure from clients to conclude a sale on the Beehive as it had been on our books for some time. I would have gladly welcomed interest from anybody for any use.

The only time a viewing may be refused is when a property has gone under offer and the sale is in the hands of solicitors.

I have been responsible for the sale of many pubs in the Wiltshire, Avon and Somerset areas in 2009/2010, the majority of which have been kept as licensed premises rather than for alternate use and I am happy to provide examples should you require to illustrate our broad approach to public house sales".

The selling agents also emphasised the following on 19 August (after further third party representations which cast doubt upon the robustness of the marketing exercise and questioned the professional integrity of the selling agents):

Following receipt of the case officer's letter dated 9 August offering the selling agents the opportunity to respond to several allegations made by third parties, the selling agent stressed that they "were instructed to sell this pub on the open market on an unconditional basis. This involved the normal course of marketing, viewings, offers being made and negotiations taking place. The result was an unconditional sale".

The applicants advised on 6 October that the Beehive was burgled stealing £3000 worth of tools. The crime is being investigated by the Police. This is the second time the premises have been illegally entered.

In addition to the above incidents, certain people feel the need to urinate in the car park access. An alarm system and security light have been fitted. On 2 October a 'mature' gentleman was captured urinating down the access. This is completely unacceptable, and whilst the premises remain vacant, the risks of the above are highlighted.

## **6. Planning Policy**

### Government Guidance

PPS1 - Delivering Sustainable Development  
PPG2 - Green Belts  
PPS3 - Housing  
PPS4 - Planning for Sustainable Economic Growth  
PPS7 - Sustainable Development in Rural Areas  
PPG13- Transport

### Wiltshire Structure Plan

DP1 - Priorities for sustainable development  
DP9 - Reuse of land and buildings  
DP12- The Western Wiltshire Green Belt  
T3 - Public Passenger Transport

### West Wiltshire District Plan Policies

C1 - Countryside Protection  
C26 - Maintenance of Buildings  
C31a- Design  
C38 - Nuisance  
CF3 - Villages and Rural Areas  
H21 - Conversion of Rural Buildings  
T10 - Car Parking

## **7. Consultations**

Town/ Parish Council - The Town Council recommends refusal of this application. The applicant has not adequately demonstrated that the existing use cannot continue or that a suitable other non-residential use cannot be achieved. In addition the proposed change of use will remove a local community and tourist facility in the vicinity of the Kennet and Avon Canal and will be detrimental to

the economic well-being of the town contrary to the policies in PPS4 - Planning for Economic Growth, PPS7 - Sustainable Development in Rural Areas and PPG2 - Green Belts.

There is a presumption in favour of retention of the existing use, or of an alternative non-residential use. In this case the applicant has not provided adequate information to justify the proposed change of use and relies heavily on the views of the vendor and the selling agents, both of whom have a vested interest.

### Third Party Memorandum submitted through Town Council/Local Ward Member -

#### I. The key issues are

retention of the existing pub use as a community and tourist facility, particularly in close proximity to the Kennet and Avon Canal  
justification for the change of use  
investigation into alternative uses  
marketing at a realistic value  
development in the Green belt

2. Planning policies support the retention of public houses and similar facilities because of the contribution they make to community life, economic activity and provision for visitors.

Where a change of use is proposed it is for the applicant to provide a full justification for the change based on a rigorous assessment of all key issues

3. This application is accompanied by a statement by the applicant of the circumstances leading to his proposal but this is not a proper assessment. In his submission the applicant relies on the views (expressed or implied) of the vendor and the selling agent to support his case. Comments are accepted without challenge and are flawed. Information from the last landlord makes it clear that his inability to run a profitable enterprise was severely hindered by the attitude of the pub company. In addition the fact that the property has been marketed as a pub for some time needs to be assessed on the basis of whether or not the valuation was realistic in relation to the known trading position, and whether or not any restrictions were imposed by the vendor. The pub company will welcome disposal for a residential use as it has clearly given up on a continuing licensed trade and residential use significantly enhances the sale price.

4 Green belt policies require a proper assessment of non-residential uses before change of use to residential is considered. There is no evidence of marketing for an alternative use (or mixed uses) and simply to report vague interest from non-licensed premises use is inadequate.

#### Conclusion

There is a presumption in favour of retention of the existing use, or of an alternative non-residential use.

In this case the applicant has not provided adequate information to justify the proposed change of use and relies heavily on the views of the vendor and the selling agents, both of whom have a vested interest.

#### Recommendation

Refuse. The applicant has not adequately demonstrated that the existing use cannot continue or that a suitable other non-residential use cannot be achieved. In addition the proposed change of use will remove a local community and tourist facility in the vicinity of the Kennet and Avon Canal and will be detrimental to the economic well-being of the town contrary to the policies in PPS 4 - Planning for Economic Growth, PPS7 - Sustainable Development in Rural Areas and PPG 2 - Green Belts.

Highways - No objections. The access that serves the site is extremely substandard in terms of visibility and therefore would attract an adverse highway recommendation on this basis. However, the

site was formerly a public house with living accommodation on the first floor. The proposal would result in the building becoming a one residential unit. On this basis, the proposal would not result in an increase of vehicular movements from the site and would be difficult to substantiate a refusal reason.

Wessex Water - No objections subject to an informative.

## **8. Publicity**

The application was advertised by site notice, press notice and neighbour notification.

Expiry date: 23 July 2010

Summary of points raised:

Bradford on Avon Preservation Trust - The Trust recommends Refusal and supports the Town Council. This Public House, on a main access road into town and on the canal, has been extremely successful in the past as one would expect from its prime location. While the Trust agrees that it would, indeed, make a most attractive and valuable dwelling, to the benefit of the present owner, the Planning Committee is convinced that it could also be a profitable Public House and a beneficial community and tourist facility in this otherwise rather badly served part of town. What it needs is the right manager and chef.

28 letters of objection received from third parties raising the following points:-

The Beehive is a historic coaching inn and should be maintained as a public house. There is a need for a community pub in this part of the Town. Apart from the Beef and Barge (which is not considered a pub), there are none in the local vicinity. It was once a place where people in the local community could meet, drink and enjoy pub food. A few letter writers state that the previous landlord was unable to keep regular customers. Public houses add variety to communities and can be a valued tourist destination. Pubs act as important economic and social facilities. If allowed to run as a pub, the premises have the potential to act as a catalyst for increased use of this important resource and by doing so, bring significant economic benefits for the whole area. Another, similarly located public house, located close to the canal, is the Cross Guns at Avoncliff, which gets very busy in the summer. One letter writer who highlights this point goes on to say that to a degree such popularity detracts seriously from the attraction itself.

Third parties state that the premises are within easy walking distance of many houses, and that the Beehive Inn was a place visitors always wanted to re-visit. This was a few years ago and times have changed. In recent years, the food did go downhill and regular customers did not always feel comfortable and eventually stopped going. This could however change with the right ownership.

A keen and competent landlord would be able to turn the premises into a successful venture (given the number of local residents and passing canal boat trade). It is submitted that this pub was once a well loved and viable public house which has been allowed to deteriorate purely for financial reasons. The public house has everything going for it including a great setting, a garden with potential of being the best in town, a car park (like gold dust in the town) with alleged no egress or entry problems noted (in 2006). It is also submitted that a new owner would not be subject to a rapacious pub group.

Insufficient effort has been made to market the pub as a going concern and it is alleged that at least 2 interested parties were refused access to the property and that their interest in buying the pub was ignored.

It is accepted by some letter writers that it would require serious investment, but it is submitted that so did the Beef & Barge and The Castle and they have flourished. Interestingly, a fair comparison would be with The Bear and Stallards in Trowbridge. When they shut, people thought they would not be re-opened, but both were enthusiastically renovated by local micro brewers. The beef & barge premises are currently on the market and seem to be constantly "under new management", which is not a good sign or recommendation for any business and is not guaranteed to stay open. If the beef & barge

were to close, there would be an undue strain placed on those existing local pubs, which would ultimately detract from the attraction and variety of the area.

One letter writer states that he had left several messages with the selling agents noting his interest in the premises and running it as a pub with another local resident. No response was provided by the selling agent. The same letter writer claims that people are occupying the building following it being taken off the market.

It is alleged that the selling agents may well have deliberately discouraged prospective landlords from taking on the pub, in favour of residential. One letter writer states that he was keen on buying the pub back in November 2009, whilst it was still on the market, but was given the impression that the premises had already been sold or that a sale had been agreed; and that the agents were reluctant to conduct viewings. The agents did however encourage the interested party to make an offer, without having first seen the premises. The letter writer has since purchased another closed down pub in Chippenham.

One letter writer asks why the premises were sold off so cheaply.

The local branch secretary of the Campaign for Real Ale (CAMRA) registered their objection to the development proposal. It is submitted that The Beehive was, under the ownership of former landlord Clive Crocker, a very successful pub. It sold an interesting and ever-changing range of well kept beer, was regularly featured in the CAMRA's annual Good Beer Guide, served excellently cooked food, and was a well-liked and popular community pub. It had an extensive beer garden and, rarely for a pub in Bradford, a reasonably large car park. It was, when owned by Mr Crocker, the only genuinely free house in the town.

It was well used by residents, not only from the nearby houses, but from across the whole of Bradford on Avon and further afield. It was a useful stop-off for canal users, including walkers and cyclists, and was conveniently close to The Beehive field, which is used regularly for caravan and camping functions, Bonfire nights, annual funfairs and live music.

The Beehive, in the right hands, has the potential to be a successful and well-used pub once again within the Bradford on Avon area. There are examples of pubs that have seemingly been on the verge of permanent closure that have been successfully turned around. The Castle, at the top of Bradford, is a good example of what can be achieved. This pub was in a very poor state and little used but, following a major refurbishment by the Flat capper pub chain, was transformed into a very popular family-oriented pub with a wide selection of beers, excellent food, and a welcoming atmosphere. It is now a successful business and has contributed to employment in the local area.

Other examples of pubs whose fortunes have been improved by wise investment in the immediate area include the Bell at Rode and the Somerset Arms in Semington. Meanwhile the Stallards in Trowbridge and the long-closed Bear in the centre of Bradford are being refurbished by local small breweries who clearly believe that these premises are worth investing in and can be both successful pubs and lucrative business ventures.

The point here is that the Beehive should not be written-off as a pub simply because of prevailing economic conditions or some quite false idea that the pub industry is on its knees. This is simply not the case.

We would argue that pubs closures are normally caused by lack of investment, bad management and, in the case of leased pubs, crippling high rents. The Beehive was successful as a free house but its fortunes changed when it was acquired by Punch Taverns. We do not believe that Punch Taverns made a genuinely earnest attempt to preserve the popularity of the pub; indeed we would go so far as to assert that the company, either intentionally or inadvertently, allowed the Beehive to fail.

The company bought the pub, knowing it to have been successful, but did not meaningfully invest in it whilst charging the landlords who managed the pub for the company punishingly high rents. It is our view that Punch Taverns treated the Beehive as simply a source of income. We believe that it would have been difficult for any landlord to have made a decent living from the pub under the company's



ownership. This point has been raised by several letter writers claiming that Punch Taverns imposed excessively high rents.

What the Beehive needs is investment in the building to maintain it in good condition and an experienced licensee who understands how a pub should be run and who has the freedom to stock the range of beers, ciders, wines and spirits that his customers wish to drink. The Beehive preferably needs to be free of tie and the landlords who run it, if they are lessees or tenants, need to be charged a reasonable level of rent, not the sort of unnecessarily high rents that tend to be imposed by the large pub chains.

We would also contend that Bradford-on-Avon is not oversupplied with pubs. At a time when pubs have been closing in some numbers in some parts of the country, only one pub, the Masons Arms on Newtown has closed permanently in the local area. All the other pubs in the town have survived and, in some cases, thrived over the last few years. There is no reason why the Beehive could not also thrive if re-opened as a pub.

There is no comparable pub on the Trowbridge Road and the Widbrook area of town. The nearby Beef & Barge is a very different sort of business, as is the Plough, which is around half-a-mile further along Trowbridge Road in the direction of the town centre. Widbrook Grange is a hotel offering non-resident dining but would not be classed as a public house.

There is to be more housing built in Bradford on Avon in the near future. The Kingston Mill development will consist of at least 162 units of which 41 will be for single occupants. I understand also that the nearby golf course may be the site of further new housing. The population of the town is growing and the need for pubs will grow with it.

There has been a change in the attitude of the Government towards pubs. There is a drive to save pubs from closure and a new emphasis on the role of the pub as a focus for the communities that they serve.

The Trowbridge Road and the Widbrook area of the town need a good community pub. The nearest pubs in town that approximately match the description of community pub are over half a mile away from the immediate neighbourhood of the Beehive.

The Beehive comes with many in-built advantages to becoming a successful community pub, such as the large beer garden and car park. In the right hands, it could once again become a well-loved and popular pub and a successful business, perhaps bringing some local employment. We would argue that the Beehive is the prime candidate for a community pub for the south-east area of town. Since its closure, the immediate local community is missing an important social facility.

We would urge you to refuse the application. If the Beehive is turned into a private residence, it will be lost irretrievably. Refusing this application would at least give the Beehive another chance of becoming a well-used local amenity.

Under the private ownership and stewardship of The Crocker's, a couple who still live locally, it was rescued from a slow, lingering death whilst owned by Ushers. Under the Crocker's guidance it once again became a sort of local hub catering for many darts, crib and pub-quiz teams and even a cricket team (still referred to as The Beehive), whilst catering for a wide range of people including many locals, but also many who regularly who came from a large area around it; and of course passing trade from the canal, and the occasional event (camping, caravans etc.) in The Beehive Field.

Unfortunately Mrs Crocker, the mainstay of the catering side of things, suffered from a truly debilitating form of arthritis in her ankles which forced retirement plans to be brought forward and to sell on the pub. Eventually after a quick exchange over the weekend of the sale from Inntrepreneur (or some other huge pub group) it landed in the ample and uncaring lap of Punch Taverns who brought in a succession of inappropriate and rather incompetent tenants whilst piling on a yearly rental of some £37,000 this being a significant (huge and substantial) burden on profitability, and was undoubtedly based on the turnover of the Crocker years. It is often assumed that the large pub companies know how to run pubs; this is in fact almost the exact opposite of the truth; if in doubt, I refer you to CAMRA HQ.

The pub's demise was not the introduction of the smoking ban cites one letter writer. Once the pub ceased to be a free house, the unrealistic rent imposed by Punch Taverns proved to be an unsustainable burden placed on the previous tenants.

So the pub was/is most definitely viable in competent hands (witness the restoration of The Castle, The Barge, and hopefully The Old Bear in recent years), and most especially as a free house, so rare in this area, which is why it is rather surprising (shocking) that there is now an application for a change to residential use. The vendors will (or would have) no doubt cite 'lack of interest', by that is in fact a complete and utter lie. I know personally of four independent interested parties who would have considered taking it on again as a pub, but only one of those was actually allowed access to view having approached the vendor agents.

So, it seems to me that there has been some sort of attempt at what one might call 'constructive de-licensing' here; two of the refused interested parties will have already formally objected to this application, and the third are considering their position. The fourth has a major interest in another local pub. Another letter writer states that once the property was marketed at a reasonable price and available as a free house, at least three potential buyers with the ready finance wishing to run it as a pub with ideas of some promise were not allowed to view the property.

The Council should not even bother to consider the flimsy case that the applicant has had plenty of time to put forward. The applicant gets months, years even to develop a case, the objectors get weeks at most if they even get the chance to hear of the application (it's summer holiday time).

One third party submitted a representation stating that in March 2010, he enquired whether the premises were still on the market (as a sign stating the reduced price was still displayed). The selling agent advised that the premises were no longer available for sale (on 18 March 2010).

As a local CAMRA member who does not like to see pubs killed off unnecessarily, I have decided to add my name to those objecting for a number of reasons. The applicant repeatedly tries to convince the planners that the pub has no future. I am writing a book about the canal, and know the canal well. Traditional pubs like this are doing well along the canal. Some new ones have opened and old ones, like the Jolly Anglers in Reading, have come back to life. In fact, the story of the Jolly Anglers is not unlike this one, where the pubco Enterprise was making determined efforts to close it, in the face of local opposition.

Furthermore, with the restrictions placed on smoking in public, pubs with a garden are doing better than those without. Properly advertised on the canal, as many now are, this pub as a free house could be a most successful business.

The applicants' have manipulated the facts. With one breath he tells us how much Punch invested in the pub to keep it going, and in the next that the building is in an appalling state of repair. He refers to Mr Symons' failure to see the pub, but ignores Mr Jenner's comments that he was refused a viewing. He tells us that he has support from local people - but where is that support? We only have his word for it. Indeed, other people in the same road are strongly objecting. I find this sort of behaviour distasteful, and as such it has worked against the applicant, because I have now been moved to add my objection to the list.

Although I know there are pubs that cannot survive - I have seen some go down, without surprise and without making any effort to save them - but this could be, in the right hands, a valuable asset to the community. The Royal Oak at Twerton is a classic example of a pub that had been shut for years - look at it now - one of Bath's major venues on the music scene, and three times winner of the local Pub of the Year. There is absolutely no reason why, now the pub is free of tie that this could not happen here. I urge the council to ignore the applicant's pleas, and refuse this application, and allow this building to fulfil its role as a centre of the community.

Towards the end of the planning process, two third parties admitted to having submitted bids for the Beehive Inn during the marketing campaign. The first was pitched £145,000 below the original asking price of £295,000 in February 2009. No follow up offer was submitted by this interested purchaser. A

second bid was submitted on 19 October 2009 from a different party; however the offer was £50,000 below the reduced asking price and was not increased.

### The Applicants Supporting Comments

In response to the above objections, the applicants submitted the following rebuttal -

I do appreciate the Council's need to be satisfied that the advertising has been sufficiently robust but I would say that I cannot think of a more robust means of advertising than the internet.

The selling agent advises that they have access to and are able to download a list of Pubs for Sale and the agents for them or a list of pubs for sale in a particular area if so wished. Even without internet access, the marketing information about the Beehive could have been obtained. The Beehive was also advertised by means other than internet sources.

Several of the objections submitted are very emotive and I can sympathise with some of them. If I had been resident in Bradford on Avon and The Beehive had been my regular pub, then I would be most disappointed at its closure. Despite the fact that I have applied for 'change of use' I am a little sad at the demise of The Beehive. It is a shame whenever a building, facility, business, factory closes, especially when it has been active for so long. However, there are a lot of reasons why this has come about (which is contained within the applicants supporting statement).

Nothing I have read indicates in anyway that a re-opened Beehive would enhance the tourist trade.

## **9. Planning Considerations**

### 9.1 Principle of Development - (e.g. site marketing, economic viability and alternative uses)

Within the Local Plan, the Council recognises the importance of public houses in rural areas. The Local Plan states within policy CF3 a clear presumption against planning proposals which would result in the loss of rural facilities and especially in cases whereby a "last of its kind" facility would be lost. The Local Plan requires applicants seeking permission to convert such a facility to submit a robust statement explaining the site circumstances and the reasons as to why such premises can no longer operate; and provide a supportive statement outlining the case for any conversion proposal.

In this particular case, it has been demonstrated that following the decision of the previous Pub owners (Punch Taverns) to market the premises (after the last licensees terminated their lease), James A Baker were commissioned to act as agents over a 13 month marketing exercise period. The selling agents have confirmed that there was "limited interest" shown in the property whilst it was available to purchase on an unconditional basis. In direct response to third party objections, the selling agent stressed that during the marketing campaign there were no refused viewings. During the 13 months the property was on the market, three formal bids were submitted. The first, in February 2009 was £150,000 below the asking price and the offer was not followed up with any increased bid. Another offer which was submitted in October 2009 from someone interested to run the premises as a pub submitted an offer £50,000 below the reduced asking price of £250,000. The individual making the offer made it clear that he wished to 'stick to his guns' and decided not to increase his offer. It should therefore be of no surprise to learn that by offering a higher amount (at least £20,000 more than anyone else) the applicants offer was accepted by Punch Taverns.

From the information presented to the Council, it is submitted that the premises went to the highest bidder after going through a clear and transparent marketing exercise. There is no evidence to back up third party claims that there has been any impropriety or constructive de-licensing. The allegations questioning the integrity of the selling agent has no planning merit and should not influence the proper determination of this planning application.

Following receipt of comments received from Mr Meek, representing James A Baker, it is clear that the property was subject to a robust marketing exercise. If any interested party wished to view the property and/or make an offer, the opportunity existed for more than 1 calendar year. The number of

third parties who state that they knew of interested parties being refused a viewing is strenuously denied by the selling agent. It is also clear from the information presented to the Council that two low offers were submitted to the selling agents, and that these offers were turned down. Under the terms of any particular sale, the onus is entirely on interested purchasers to make an offer. It is not the role of the owners or the selling agents (or the applicants for that matter) to make people increase their bids. The fact is two bids were deemed unacceptable and the two individuals decided not to increase their offer. The property was sold to the highest bidder. It is also duly noted that one of the two unsuccessful purchasers accepts that Punch Taverns were not guilty of such a practice.

Whilst the facts presented to the Council have been challenged by third parties, Members are advised that there is no planning breach taking place at the site. The applicants are not occupying the building. At the time of receiving the objection letters, and after visiting the site, it is duly submitted that the property had no hot or cold water upstairs, there is only cold water downstairs, the toilet block is leaking, the electrics are undergoing a full check and repair, there is no flooring on the first floor and there is no central heating. In addition, Members are also advised that since January, over 100 gallons of water has been sucked out from the building's damp interior. For the benefit of the Committee, a selection of internal photographs has been included within the photographic presentation to show the interior condition of the premises.

Local Plan Policy CF3 also states that important community facilities, such as public houses, should be retained "unless satisfactory alternative provision" is available locally. It is a fact that the application site falls outside the defined Town Policy Limits, and is therefore designated in Local Plan terms as being sited in the open countryside. The Beehive Inn may well have been a more traditional public house than other nearby licensed premises such as the nearby Beef & Barge, Widbrook Grange and Medlar Tree Restaurant, but it is nevertheless true to say that similar facilities exist locally. Taking the Town as a whole, it is submitted that there are more than a dozen operating licensed premises within about 1 mile of the Beehive Inn. Reading the third party comments more thoroughly it is clear that the Beehive's former regulars came from a widespread area, and not just in close proximity to the premises. With the range of other taverns, inns, public houses and licensed hotels available locally, the loss of the Beehive, whilst regrettable, does not constitute a conflict with Local Plan Policy CF3.

It must be acknowledged that the asking price was reduced by £45,000 during the period the premises were advertised; and despite this, no firm interest was received from commercial based parties willing to offer a sum near the reduced asking price. Through the submission of the business accounts for 2006-2007 it is clear that the business was making a sizeable loss. This may well have reduced the level of interest. The economic downturn and smoking ban may well have contributed to the failing economic position of the business, but it is duly recognised that the premises are constrained to degree through limited floor space, the access constraints; limited opportunity for expansion given the site's location in the Green Belt; and being located outside the designated Town Policy Limits of Bradford on Avon and having to compete against 16 other local pubs/eating establishments. The pub closed in the Autumn of 2008 on the grounds that it was not a viable enterprise, or able to sustain the costs of running the unit and providing realistic employment.

Third party objectors have queried the price paid for the property, questioning as to why it was sold off so "cheaply". Notwithstanding the fact that the applicant paid more than anyone else (who may well have wished to retain the premises as a public house), sufficient evidence has been presented to the Council to suggest that the premises requires significant refurbishment work (some of which has begun) which would not unreasonably cost in excess of £100,000. Once complete, the finished premises ready for occupation would have cost the owners between £350,000 and £400,000. Given the circumstances, this is not considered to be a "cheap" purchase at all. It should also not be forgotten that as an operating public house, the business was failing. Irrespective of the personal comments and failings attributed to previous licensees, the publicly documented valuation figures demonstrate that the business was not successful. The appointment of a liquidator in October 2008 emphasises the economic position the business was in. It is fully accepted that other pubs (such as the Stallards) have re-opened and are seemingly successful. The case for the Beehive is somewhat different. Unlike the Stallards, no potential publican or brewery wanted the Beehive enough to pay the unconditional asking price, or even increase low "rejected" offers. Under free market conditions, a clear message has been made: as a going concern, the Beehive Inn had limited appeal.

Taking on board all the submitted information and representations received, your officers recommend that the premises do not appear to have much scope for opening up once more as a commercial entity (given the evidence presented following the marketing exercise, the limited interest in running the premises again as a pub or alternative non-residential uses, the failing profit margins when the Beehive was operating, its limited floor area, the need for significant refurbishment work, the current economic climate). As a consequence and in line with Council policy, the Council must reasonably consider the proposed conversion to residential use.

## 9.2 Vehicular and pedestrian access and parking provision

As highlighted above, the Council's Highway Authority reports no objection to this proposal. The development is therefore acceptable in terms of site servicing, parking provision and access arrangements.

## 9.3 Impact on Green Belt

The applicants are not seeking to extend the premises and no external alterations are proposed. The relevant Government Planning Guidance relating to Green Belts is contained within PPG2. This publication makes it clear that with suitable safeguards, the re-use of buildings should not "prejudice the openness of Green Belts, since the building(s) are already there". Within paragraph 3.8 it is clearly stated that a development proposal which seeks to re-use an existing building in the Green Belt would not be classed as being "inappropriate" if the proposal does not have a materially greater impact than the present use on the openness of the Green Belt and the purposes of including land in it". The building itself is of permanent and substantial construction and is capable of being converted without major reconstruction. On the basis of the above, the development proposal therefore does not conflict with the established Government Planning Guidance covering development in the Green Belt.

## 9.4 Impact on Surroundings / Neighbouring Amenities

The proposed development would not cause nuisance to the surrounding area or properties. It is also duly noted that no objection has been received from the occupiers of properties adjoining the application site. Whilst this in itself does not constitute as support for the proposals, it is nonetheless recognised that converting the old public house to residential use would be appropriate to the immediate residential area.

## 10. Conclusion

The abovementioned premises have been subject to a robust marketing exercise spanning almost 13 months during which only 3 formal offers were made by three individuals, one of them being the applicants. All three offers fell below the asking price. Indeed, all three offers were below the reduced asking price. The commissioned selling agents, James A Baker have demonstrated that the premises were properly marketed and whilst third parties objecting to the application, have raised doubts over the exercise and the integrity of the estate agent, sufficient evidence has been provided by both the applicant and the selling agent to suggest that there was insufficient interest shown in the property to run it as a public house as a going concern. It is also clear that no offer was made to run the property as an alternative commercial entity. Notwithstanding third party opposition, there are other licensed drinking establishments locally (positioned within a reasonable walking/travelling distance), and for this reason, the Beehive Inn is not seen as being a "last of its type". After a lengthy marketing exercise, the highest offer (which itself was lower than even the reduced asking price) came from someone interested in converting the ground floor accommodation to residential use. Given the above facts, Members are advised that such a change would not conflict with the established planning policies and that the Council should recognise the merits of the case for allowing the premises to be converted to one residential planning unit subject to the following conditions.

**Recommendation:           Permission**

**For the following reason(s):**

**The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.**

**Subject to the following condition(s):**

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

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

- 2     Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions/extensions or external alterations to any building forming part of the development hereby permitted.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions/extensions or external alterations.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a and C38

- 3     The ground floor conversion hereby approved together with the upper floor accommodation of The Beehive shall be occupied as one dwelling unit.

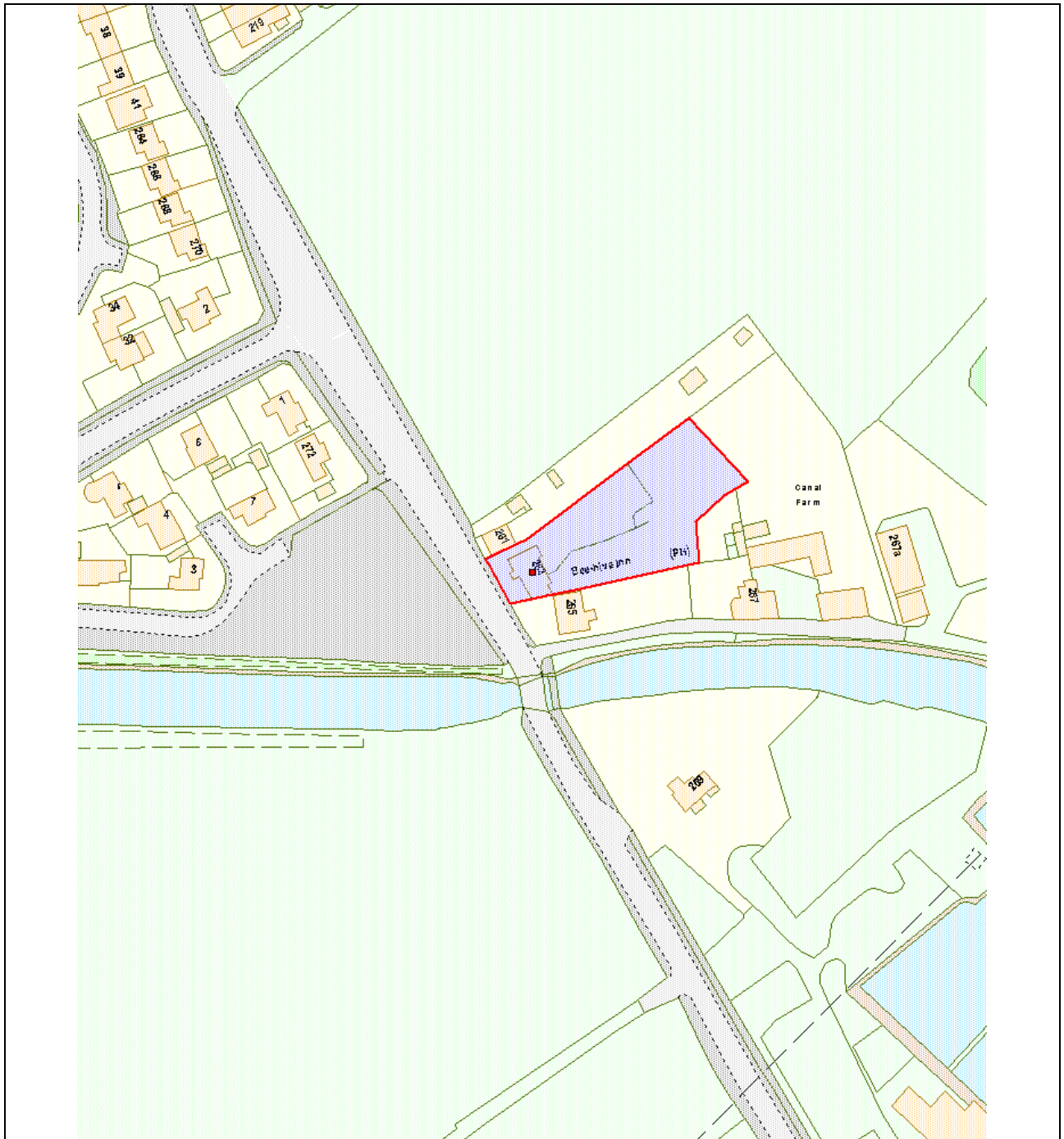
REASON: The formation of a separate residential accommodation would not be appropriate.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy H19.

**Informative(s):**

- 1     The attention of the applicant is drawn to the contents of the attached letter from Wessex Water dated 22 June 2010.

<b>Appendices:</b>	
<b>Background Documents Used in the Preparation of this Report:</b>	



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office ©  
Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Tel: 01225 770344 Fax: 01225 770314 Development Control West Wiltshire Council  
Bradley Road Trowbridge Wiltshire BA14 0RD www.wiltshire.gov.uk

MSA: 100022961

## RELEVANT APPLICATION PLANS

- Drawing : LOCATION PLAN received on 15.06.2010
- Drawing : SITE PLAN received on 15.06.2010
- Drawing : EXISTING GROUND FLOOR PLAN received on 15.06.2010
- Drawing : PROPOSED GROUND FLOOR PLAN received on 15.06.2010
- Drawing : FIRST FLOOR PLAN received on 15.06.2010
- Drawing : FRONT ELEVATION PLAN received on 15.06.2010
- Drawing : REAR ELEVATION PLAN received on 15.06.2010
- Drawing : SOUTH END ELEVATION PLAN received on 15.06.2010
- Drawing : NORTH END ELEVATION PLAN received on 15.06.2010