

REPORT OUTLINE FOR AREA PLANNING COMMITTEES

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| Date of Meeting | 27 th March 2019 |
| Application Number | 18/10662/FUL |
| Site Address | Trotting Horse Bushton Royal Wootton Bassett Wiltshire SN4 7PX |
| Proposal | Change of use of the former public house to create one dwelling |
| Applicant | Mr & Mrs Tucker |
| Town/Parish Council | CLYFFE PYPARD |
| Electoral Division | Lyneham – Councillor Allison Bucknell |
| Grid Ref | 406251 177923 |
| Type of application | Full Planning |
| Case Officer | Catherine Jackson |

Reason for the application being considered by Committee:

The application has been called to Northern Area Planning Committee by the Local Member, Councillor Allison Bucknell, in order to allow Members to consider whether the change of use would result in the loss of a community asset, which is against the Community Plan for the parish.

1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations.

Clyffe Pypard Parish Council object to the proposal. 7 letters of support and 6 letters of objection have been received.

The report recommends that Planning Permission be **GRANTED** subject to the imposition of conditions.

2. Report Summary

The main issues in the consideration of the above application are as follows:

- The principle of development
- Loss of the public house
- The impact of the proposal on the character and appearance of the application site and the surrounding rural landscape.
- The impact of the proposal on the amenities of surrounding residential properties.
- The impact of the development on highway safety.

3. Site Description

The application site comprises The Trotting Horse Public House (which has been closed for business since September 2016) together with its associated car park, two holiday chalets and stable block. Several residential dwellings are located within the immediate vicinity of the site, however the surrounding land use is predominately agricultural.

The public house building itself is two storeys in height with a pitched roof and render finish. As is common with PHs, residential accommodation within the building includes three bedrooms to the first floor.

The site is located to the North of Bushton, which is not identified within the settlement hierarchy set out by CP1, CP2 and CP19 of the Wiltshire Core Strategy. In planning terms, Bushton and the application site is therefore regarded as open countryside in planning terms.

4. Planning History

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| N/87/01180/FUL | Change of use of land from agricultural to car park | Refused September 1987 |
| N/13/01529/S73A | Stable to Rear of Car Park, Demolition of Skittle Allet and Erect 2 Chalets as Holiday Accommodation (Retrospective) | Approved October 2013 |
| 14/02091/FUL | Siting of Caravan for Occasional Staff Accommodation (Retrospective) | Refused April 2014 |
| 14/00138/FUL | Mobile Home in Car Park of Public House | File Closed – Breach remedied by the mobile home not being in residential use. |

5. The Proposal

The application seeks to change the use of the former public house to a single residential dwelling. The new dwelling would consist of five bedrooms.

The existing holiday chalet accommodation and stable would be retained for use as per their current purposes. The existing car parking and garden areas is to be retained together with a degree of additional planting.

6. Planning Policy

National Planning Policy Framework (NPPF)

Wiltshire Core Strategy (WCS):

Core Policy 1: Settlement Strategy

Core Policy 2: Delivery Strategy

Core Policy 19: Spatial Strategy for the Royal Wootton Bassett and Cricklade Community Area

Core Policy 49: Protection of Rural Services and Community Facilities

Core Policy 51: Landscape

Core Policy 57: Ensuring High Quality Design and Place Shaping

7. Summary of consultation responses

Wiltshire Council Highways: No objection.

Wiltshire Council Estates Surveyor: Summary of comments:

- From the information provided and one site visit, concurs with the description of the property and offer - approximately 465m² (5,000sq. ft.) on a site of 0.26 ha (0.63 acres).
- There are 7 pubs within 3 miles and 27 pubs within 5 miles of the property and observes that there is a very limited customer catchment base (shared with the other pubs in the vicinity) from which to render a viable business.
- Considers that the 30 covers offered is insufficient for a food led or destination pub, and it would without significant expenditure (which cannot on the basis of the accounts be financially justified) struggle to compete with the other pubs in the area.
- In 2013 a £39,000 refurbishment was undertaken, and the holiday chalets were built. B&B was offered, but despite 3 re-launches, the accounts provided show it traded at a loss for each month, despite the owners taking no salary.
- The property was put on the market in March 2017 by Sidney Philips who are acknowledged specialists in licensed and leisure property. They were unable to secure any credible offers.
- After 18 months (well in excess of the 6 months marketing period called for in Core Policy 49 and by CAMRA) there is no record of offers having been received. Sidney Phillips appear to have carried out a business-like marketing campaign over a prolonged period, the property being advertised on various property, licensed property and business websites.
- Comments note that at the time of their site visit, there was a "For Sale" board on the site, but not, as the report suggests, an "All Enquiries" board. There is no evidence that it was offered on a leasehold or* freehold basis (*author's emphasis).
- The open market is the best way to test viability. The property has been exposed to the market since March 2017, without achieving a sale. Accounts are used to establish profitability. Earnings before interest, taxes, depreciation, amortisation and [restructuring or] rent (EBITDAR) is a key performance indicator and valuation metric of profitability employed in the valuation of hotel and leisure properties. According to the Sturt & Company report:

Since 2013 three unsuccessful attempts to relaunch as a going concern.

After the initial refurbishment in 2014, the run up to Christmas (the strongest trading period) losses were sustained each week without the owners drawing salary.

Further refurbishment was undertaken in 2015 and the pub was reopened but after poor sales, it was closed in September.

After further advertising and promotion, a final re-launch in May 2016 opening on a limited basis (Friday and Saturday - the busiest days of the week) produced no return from the public house, holiday cabin income and B&B.

Summary accounts have been provided for trading years 2014 – 2016 suggesting a loss – although notes that it remains unclear whether the income includes that from the B&B offer or data on the makeup of gross costs, is of the opinion that the indications are clear.

From the information provided, EBITDA is demonstrably negative. The business is unviable.

- A comprehensive marketing campaign (as required under CP49) has been undertaken, and the report states that all other options have been exhausted.

Wiltshire Council Archaeology: No comment.

Clyffe Pypard Parish Council: Objection. Comments repeated verbatim below:

"Clyffe Pypard Parish Council are opposed to the application for change of use at the Trotting Horse Pub.

Prior to the current owners purchasing the Trotting Horse, the pub was much used by the community.

The Parish Council understand the difficulties of running a successful rural pub, but a key attribute is that it needs to be open, and since refurbishing the pub in 2015, it hasn't been open often enough to truly test if the pub is viable. When it was open, local residents did their best to support the pub, but the management was so chaotic, few wished to repeat their experience.

With reference to Wiltshire Council's Core Policy 49 An applicant for change of use must demonstrate they have tried to run a successful pub, the failure of this pub is due to the poor management. An applicant for change of use should have tried to market the property as a going concern. There are a number of parties interested in purchasing the pub, but considering the work required to reopen, with much of the ground floor including the kitchen having been gutted, the price being asked by the owners is not realistic.

The Parish Council are confident that if the application for change of use is turned down and the pub is marketed at its true commercial value, a new owner would reopen the pub as the successful venue it used to be."

8. Publicity

The application was advertised by site notice and direct neighbour notification letter in accordance with the Council's adopted Statement of Community Involvement.

Seven letters of support were received and are summarised as follows:

- The proposed change of use to residential accommodation is the best option for the site.
- Both a change in village life and drinking habits have resulted in a decline in business for the public house.
- The owners have tried very hard to make the business work but it is not generating a profit.

Six letters of objection (by eight members of the public) were received and are summarised as follows:

- The Trotting Horse has the potential to be a successful pub if run correctly.
- The recent changes to the pub, including the loss of the skittle facility and dart board as well as the internal alterations have resulted in the decline of customers.
- The property has been put on the market for an unrealistic price and therefore the marketing exercise is flawed.
- The pub provides a community facility which should remain.

9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

Principle of development

Whilst the application site and property is positioned outside the limits of development identified, the proposal will not result in the erection of a new dwellinghouse which would be contrary to the settlement strategy set out by the WCS. Further, the existing PH already includes a component of residential accommodation and, accordingly, the proposal would merely represent an extension of existing accommodation rather than a frequency count increase of residential units in the open countryside.

The existence of the ancillary holiday accommodation is not affected by the proposal.

Loss of the public house

Whilst the property is not nominated or listed as an Asset of Community Value (ACV) under Section 88(1) and (2) of the Localism Act (2011), the proposal should nonetheless rightly be considered against CP49 of the WCS since it will result in the loss of a community facility (paragraph 6.71 to the WCS suggests public houses should be regarded as such).

CP49 states that proposals involving the loss of a community service or facility will only be supported where it can be demonstrated that the site/building is no longer economically viable for an alternative community use. Preference will be given to retaining the existing use in the first instance, then for an alternative community use. Where this is not possible, a mixed use, which still retains a substantial portion of the community facility/service, will be supported. Redevelopment for a non-community service/facility use will only be permitted as a last resort and where all other options have been exhausted. CP49 goes on to confirm that in order to reach a conclusion on the veracity of a proposal for a non-community re-use, a comprehensive marketing plan should be completed.

Such a marketing exercise has been carried out and submitted in support of the application as part of a more encompassing Community Resource Analysis report (prepared by Stuart & Company, August 2018). It provides the following commentary in respect of each of the criteria attached to CP49:

- i. Be undertaken for at least six months - *At the time of the application's submission, The Trotting Horse had been on the market for eighteen months with the current marketing plan being in place for at least six months.*
- ii. Be as open and as flexible as possible with respect to alternative community use - *A variety of alternative community uses appear to have been considered at the site including a Community Village Hall/Theatre, Indoor Sports/Recreation Facilities, a Health and Care Establishment, a Convenience Store/Post Office as well as Library, Cultural and Arts Facilities. A number of constraints are present at the site, which have deterred the Applicants from pursuing the above uses. For example, there is no identified need for a Village Hall at the site given the existence of several village halls close by, including the Bushton Village Hall. The site is regarded as being too small to provide any indoor sports facilities. A Health and Care Establishment is in this remote location would be considered unsustainable and due to the small scale of Bushton, the Applicants consider it unlikely that a Convenience Store/Post Office would be sustained at the site. Furthermore, Library, Cultural and Arts Facilities are not considered to be in demand at the site, due to the close proximity of the nearby Bushton Village Hall.*
- iii. Establish appropriate prices, reflecting local market value, for the sale or lease of the site or building, which reflect the current or new community use, condition of the premises and the location of the site - *The property was initially marketed for £625,000, however due to the lack of interest in the property, it was offered in February 2018 on an 'All Enquiries' basis, on both 'For Sale' and 'To Let' tenures. The property has been marketed by Sidney Phillips who, according to their website, are specialists in dealing with sales, acquisitions, valuations and insurance of Licensed businesses, including public houses.*
- iv. Demonstrate the marketing has taken into account the hierarchy of preferred uses stated above - *The property has been marketed as a public house.*

- v. Clearly record all the marketing undertaken and details of respondents, in a manner capable of verification - *The property was advertised via marketing brochures, websites, mailing and a marketing board, as well as being featured in 'The Morning Advertiser' in April and July 2018. The submitted report provides the figures for the numbers of applicants notified of the availability of the property as well as those who downloaded or received the details of the property.*
- vi. Provide details of any advertisements including date of publication and periods of advertisement – *The advertisements used have been reproduced within the submission.*
- vii. Offer the lease of the site without restrictive rent review and tenancy conditions, or other restrictions which would prejudice the reuse as a community facility - *The property has been marketed on 'For Sale' and 'To Let' tenures and the submitted report indicates that the owner is flexible in terms of lease length and rent cost.*
- viii. Demonstrate contact with previously interested parties, whose interest may have been discouraged by onerous conditions previously set out - *According to the submitted report, no approach was made by the Parish Council or other community organisations to inspect the property, neither were there any offers from them to take over the pub. The Parish Council suggests however that a number of parties are interested in purchasing the pub for the right price. Following the change in price of the property from £625,000 to 'All Enquiries', details of the property were sent to 1511 applicants and during a subsequent marketing campaign, a further 1378 applicants were notified.*

The submitted Community Resource Analysis Report, which includes a summary of trading accounts for the years 2014 – 2016, has been reviewed by the Council's Estates Surveyor. They consider the submission to make a coherent case in favour of addressing the requirements of CP49. In their commentary, they suggest that the marketing of the business over a period of 18 months has exceeded that required by CP49 and whilst the submitted report omits any data of offers received (Note: the report suggests there were none in any event), there is also little evidence to support that a wider exposure to the market would render results. The Council's Estates Surveyor ultimately concludes that the marketing campaign has been carried out by a known specialist in such property (Sidney Phillips) was well orchestrated and credible.

Paragraphs 3.20-3.24 of the submitted Community Resource Analysis Report also sets out the steps taken by the applicant so as to render their business viable and attractive to trade; spending money on the property and re-launching the business a number of times, albeit unsuccessfully. It is acknowledged that representations (including that of the Parish Council) suggest that the attempts have been sporadic and without proper management, there is no evidence before the LPA to dispute the submission in this regard – indeed, the Council's Estates Manager observes that the submission confirms 3 separate unsuccessful re-launches in the context of a trading loss each month, despite the owners taking no salary.

Both CP49 and the NPPF (particularly para.92) require that planning decisions should, *inter alia*, 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. As identified within the submission there are several pubs within three miles of the application site; The Goddard Arms being less than one mile. The Goddard Arms is in fact registered as an Asset of Community Value, however a representation received from the owner indicates that the pub is currently closed and there is no intention to re-open it. Nevertheless, in the context of a multitude of other open pubs in close proximity to the application site it is considered that the community's need for a public house such as The Trotting Horse is still being met in the locality.

A comprehensive consideration of the evidence submitted within the application, its substantive nature and general concurrence with the views of the Council's Estates Surveyor, when seen in the context of other PHs in the locality, does tend to fall in favour of regarding the proposal as meeting the requirements of CP49 and the NPPF.

Character and Appearance

There are no external changes proposed for the building as a result of development taking place.

The site currently comprises a large area of hardstanding which is not considered to contribute positively to the character and appearance of the locality. The submitted site plan shows that much of this would be replaced by areas of lawn and planting, thereby likely to significantly improve upon the sites appearance and presentation to the street.

Given the amount of soft landscaping proposed and its integral function to a successful change the use of a property from a commercial enterprise to dwellinghouse, it is considered reasonable to impose a planning condition which would compel implementation and maintenance for a minimum period of 5 years.

In this regard, the proposal is considered to comply with the provisions of CP57 of the WCS.

Residential Amenity

The application site directly adjoins existing residential properties.

Although there is no evidence that the operation of the PH has caused noise or disturbance to surrounding neighbours, the change of use to a single residential dwelling would nonetheless potentially result in improved residential amenity of the locality. It is reasonable to assume a reduction in traffic movements associated with the change of use, particularly at peak times, as well consequent noise, light spill and activity connected to the operation of a PH.

In this regard, the proposal is considered to comply with the provisions of CP57 of the WCS.

Highway Safety

The application seeks no changes to the existing access and the substantial hardstanding/car park is to be partially seeded to grass.

The site will retain adequate access and car parking space to serve a five bedroom dwelling with ancillary holiday accommodation. As referred above, it is likely that there would be a reduction in traffic movements as a result of the proposed change of use.

The Council's Highway Engineer has raised no objections to the proposal when considered against relevant criteria contained in CP57 of the WCS and there is considered to be no reason to disagree with those conclusions

10. Conclusion

Whilst regrettable, the loss of the public house, as a community facility, is acceptable in this instance and would comply with the criteria set out by policy CP49 of the WCS as well as the NPPF.

In all other respects, it is considered that the proposed development would comply with the development plan, meeting the requirements of the various development control criteria set out by policy CP57 of the WCS.

The development is considered to be acceptable on its planning merits and having regard to all other matters raised, it is recommended that planning permission be granted subject to the imposition of suitable planning conditions.

RECOMMENDATION: That planning permission is GRANTED, subject to the following conditions:

- 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 The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (Drawing Number 1222/04), Proposed Ground Floor Plan (Drawing Number 1222/11) and Proposed First Floor Plan (Drawing Number 1222/12) dated 12 November 2018 and Proposed Site Plan (Drawing Number 1222/15) dated 9 January 2019.

REASON: For the avoidance of doubt and in the interests of proper planning.

- 3 Notwithstanding Class C3 of the Schedule to the Town and Country (Use Classes) Order 1987 (as amended)(or any order which revokes and re-enacts that Order with or without modification), the chalet accommodation within the curtilage of the dwelling hereby granted planning permission shall be used to provide holiday accommodation only, which shall not be occupied as permanent, unrestricted accommodation or as a primary place of residence. An up to date register of names and main home addresses of all occupiers shall be maintained and shall be made available at all reasonable times to the Local Planning Authority.

REASON: This site is in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit permanent residential accommodation.

- 4 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

INFORMATIVE TO APPLICANT:

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

INFORMATIVE TO APPLICANT:

The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance,

available access and the ground conditions appertaining to the sewer in question.

INFORMATIVE TO APPLICANT:

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

INFORMATIVE TO APPLICANT:

Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.