

Trottiscliffe
Downs And Mereworth

13 June 2017

(A) TM/17/01522/FL
(B) TM/17/01438/LB

Proposal: (A) Change of use from A4 public house to C3 two bed residential dwelling and new roof to single storey side extension
(B) Listed Building Application: New roof to single storey side extension and undertaking internal and external alterations to facilitate proposed change of use from public house to a dwelling house

Location: Plough Inn Taylors Lane Trottiscliffe West Malling Kent ME19 5DR

Applicant: Mr D Carson

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1. Description (A & B):

- 1.1 The applications are for a change of use of the building from a public house (Class A4) with a one bedroom flat above, to a two bedroom dwelling (Class C3). The first floor layout would remain the same other than the conversion of the existing kitchenette and living room into a second bedroom.
- 1.2 The ground floor public house layout would be converted to create a new reception room, lounge and sitting room. The kitchen would remain as such but be converted to a domestic rather than commercial kitchen. The toilets would be converted to a new cloakroom with W/C. This conversion work would involve minimal alterations to the room layout downstairs, other than removal of the bar and the insertion of one stud partition.
- 1.3 A new window would be proposed in the front elevation to replace a door. The single storey extension which was originally to be demolished as part of the initial proposal is now to be retained and its corrugated mono pitch roof would be replaced with a tiled pitched roof. This would link into the new double hipped tiled roof proposed on the remaining side extension, which is currently a mix of a tiled cat slide and corrugated lean-to roof.
- 1.4 The existing outbuildings in the rear garden and car park area will be retained, and the car park and pagoda will remain as existing, leaving ample parking. Vehicular access would remain as existing and the pub signage would be removed.
- 1.5 A planning statement has been submitted along with supporting information including a profit and loss statement for 30th January 2017 to 31 July 2017, and supporting statements from the owner and the company employed to create and distribute promotional leaflets.

- 1.6 During the course of both applications, the pub was the subject of a nomination by the Parish Council for listing as an Asset of Community Value (ACV). This was accepted by the Council on 6 September 2017. A hearing to review the nomination was made by the applicant on 8 September 2017 under s.92 of the Localism Act 2011. The hearing took place on 24 October 2017 where it was concluded that the status of the property as an ACV should be retained. This decision was made due to the fact that although the property has now ceased to operate as a pub, it has in the recent past done so and has been used by a variety of local groups for social events. Under the ACV process it was therefore concluded that the pub has furthered the social interests and wellbeing of the community in the recent past.
- 1.7 The ACV decision also concluded that whilst the applicant has argued that the pub is no longer viable and has made clear their intentions to live at the property in the future, if planning permission were not granted, there is the possibility that alternative considerations will be made by the applicant. These could include the future sale of the property, or an alternative business model to facilitate the continuing residential element of the pub, which could realistically happen within the next 5 years. Given these assumptions made as part of the ACV appeal process, retention of the ACV status was supported by the notion that there is a realistic possibility that the pub could be used for a variety of purposes which could provide social value and continue to further the social interests of the local community within the next 5 years.

2. Reason for reporting to Committee:

- 2.1 The change of use planning application has been called into Committee by Councillor Kemp due to local concern over the loss of the pub.

3. The Site:

- 3.1 The site is situated in the village of Trottiscliffe, a Rural Settlement. It is also within the Trottiscliffe Conservation Area, and the North Downs AONB designation washes over the village.
- 3.2 Trottiscliffe is a small rural village to the north of the M20. Development within the village is fairly linear following the main route through the village and those connecting to it via a number of small junctions. The village also includes a second pub, The George, a primary school and a cricket ground.
- 3.3 The pub is a two storey building dating back to 1483 and is a Grade II Listed Building. It was originally built as two farm cottages and is a masonry and timber frame construction with a traditional Kent peg tile roof. It has been extended over the years. An ale licence was granted in 1817 and it has remained as a public house until the present day.

- 3.4 The car park is situated on the northern side of the pub. The area immediately to the rear of the pub is split by a 1.8m fence to separate the pub garden area from the private yard area serving the pub. There is a large pagoda to the rear of the pub and a pair of attached brick built outbuildings abutting the rear boundary.
- 3.5 The building sits on the front boundary and so directly abuts the footpath along Taylors Lane. It is the most forward projecting property in the surrounding staggered building line. Both adjacent properties are set back and are in residential use. More houses surround the site including a pair of semi-detached dwellings directly opposite.
- 3.6 The site is also within a Source Protection Zone and Aquifer Designation Bedrock, as defined by the Environment Agency.

4. Planning History (relevant):

TM/51/10310/OLD grant with conditions 23 October 1951

Sanitary Accommodation.

TM/65/10458/OLD grant with conditions 17 November 1965

Car park.

TM/90/11647/FUL grant with conditions 12 June 1990

Single storey toilet extension and electrical intake cupboard.

TM/90/11658/LBC grant with conditions 13 June 1990

Listed Building application: single storey toilet extension and electrical intake cupboard.

TM/13/02557/LB Approved 17 October 2013

Listed Building Application: Replace existing fascia and hanging signs; add 1 no. fascia sign; new external lighting to signs

TM/15/03163/FL Approved 11 January 2016

Retrospective: Creation of timber pergola to patio area

TM/15/03164/LB Approved 11 January 2016

Listed Building Application: Retrospective: Replacement of cellar doors.
Decorative works (overclad tiling) to kitchen and WCs

TM/17/01438/LB

Listed Building Application: Demolition of single storey side extension and
undertaking internal and external alterations to facilitate proposed change of use
from public house to a dwelling house

TM/17/01522/FL

Change of use from A4 public house to C3 two bed residential dwelling including
demolition of existing single storey side extension, new roof to remaining single
storey side extension

5. Consultees (A & B):

5.1 PC: no objection to the listed building works but object to the change of use on the grounds that The Plough is an important part of the community and heritage of the village. The applicant has not made sufficient effort to make it viable. It has been successful in the past providing a valuable role to the community. It has been nominated as an ACV and there are a number of objections from parishioners including a petition to support the ACV nomination.

5.2 Private Reps: 6/0X/39R/1S + Listed building/Conservation Area Site and Press Notices

- Never any intention to make it a successful pub
- It was purchased for conversion into a dwelling and to erect a detached dwelling on the car park
- It should not be closed and converted to make personal profit
- Insufficient effort/time allowed for the pub to operate successfully under the new owner as a viable business, before the planning application was made
- The village attracts walkers and cyclists who could make use of it if it were run successfully
- Unwelcoming appearance, unclear if the pub was open to passers-by
- A stated lack of support from locals is untrue; The community spirit in Trottiscliffe is valued and should be sustained
- Past successful community events have been supported at the pub including senior citizens meals, charity events, men's meeting club and

music events. It has also been supported by the tennis club, darts team, and outside entertainers

- A continuing need for community interaction, village pub/restaurant; an ACV should be retained and protected
- Should be put back on the market to give alternative buyers the opportunity to purchase the pub and make a success of it: The Angel at Addington is a successful Freehold pub that has built success over 11 years
- The George pub, also in the village, is very busy with 'outsiders'. The Vigo nearby, has also recently been converted to residential, as has another pub in Mereworth
- Retention as a pub would create job opportunities: should be retained as a business
- The pub has been in the village for over 200 years, and has in the past been a thriving successful pub
- The local shop and post office have already been closed, there is concern the village school will be closed. The loss of the pub would be loss of an integral part of the community, a great British institution and historic heritage
- If alterations to the building are approved these will facilitate the conversion to residential so should be refused
- No objection to sympathetic alterations to improve viability if remaining a pub, but not to facilitate conversion to a dwelling
- The extension to be demolished is the men's toilets which a pub would require. *(the extension is now proposed to remain, and is not toilets, but a dining area)*
- Insufficient effort to make the pub a viable local community pub, including limited food and ale offered, reduced opening hours, lack of promotion or marketing
- Sign boards used on the pavement were unacceptable as forced walkers to walk into the road

5.2.1 One letter of support states that:

- the pub has been in decline for a number of years, it is hard to sustain two pubs in the village, locals have not always supported past landlords

- It would be preferable that the building be converted to a dwelling than remain a neglected business concern
- The pub would not have come on the market so frequently if it had received sufficient local support
- It was only ever possible for locals to support it due to inadequate parking so was not attractive for those beyond walking distance
- Excellent pub but lacking necessary facilities to make it viable so it would not make sense to register it as an ACV.

5.3 Historic England: No comments

6. Determining Issues:

(A) 17/01522/FL

- 6.1 The main issues to consider are the principle of development in this location and whether the loss of the public house would be acceptable in policy terms. Other material considerations would be the impact on the Conservation Area, the AONB, neighbouring amenities, highway safety and the ACV status of the pub. The impact upon the listed building and its setting is discussed under application (B).
- 6.2 The site lies within the rural settlement and as such the proposal must accord with policy CP13 of the adopted TMBCS. Proposals for new dwellings in the Rural Settlement are acceptable in principle under this policy if they amount to minor development appropriate to the scale and character of the settlement. The proposal is therefore acceptable in principle as the new dwelling would be the result of conversion of an existing building which includes an ancillary dwelling in the form of the flat above the pub.
- 6.3 Policy DC2 of the MDEDPD, allows for the re-use of rural buildings. The proposed conversion of the pub would meet the policy criteria. The building is of permanent and sound construction, there is no need for extensions or ancillary buildings, the existing residential environment created by the first floor flat will be improved by the accommodation proposed downstairs and the changes to internal layout, and the curtilage will not be significantly changed. The loss of the public house car park to parking on a more domestic scale will be an improvement in terms of impact on the character of the area.
- 6.4 The site is also located within the North Downs AONB and any development should therefore be in accordance with policy CP7 of the TMBCS which aims to prevent harm to protect the natural beauty and quiet enjoyment of the AONB. The proposed change of use and external alterations would not have any impact upon these qualities of the AONB.

- 6.5 Due to the site's location within the Conservation Area, section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention be paid to the desirability of preserving or enhancing the character or appearance of that area. In this respect account should also be taken of paragraphs 131 – 134 of the NPPF, and specifically paragraph 137, which requires new development within a Conservation Area to enhance and preserve the elements of the setting that make a positive contribution to or better reveal the significance of the Conservation Area. The proposed use as a residential dwelling and the external changes to the building will not harm the appearance or character of the Conservation Area within which it is located. The building would be retained in an improved form and so it would contribute to and enhance the Conservation Area.
- 6.6 The proposal therefore accords with policies CP7 and CP13 of the TMBCS, and policy DC2 of the MDEDPD. The proposed change of use to residential would not harm the amenities of neighbouring properties. It would be a less intensive use for those neighbours in terms of activity and noise and so also accords with Policy CP24 of the TMBCS in this regard.
- 6.7 Policies CP1, and CP24 of the TMBCS and SQ1 of the MDEDPD relate to details of the design and layout of the development which is considered to be acceptable. The proposed alterations to the existing differing mismatched roof pitches to the side extensions, and the removal of the Public House signage would not be considered harmful. The proposed roof is considered to represent a visual improvement. These proposed changes would be subtle and would not detrimentally impact upon the visual amenities of the street scene within which the building is set or the wider character of the rural village.
- 6.8 The proposed vehicular access will remain as existing, as will parking arrangements which will make use of the existing hard surfacing area. The creation of one 2 bed dwelling would have a lesser impact upon traffic movements and trip generation than the existing 1 bed flat and public house. As such the proposal would not give rise to any harmful impact upon highway safety and accords with Policy SQ8 of the MDEDPD.
- 6.9 The main remaining planning issue in this proposal is the loss of the public house to residential, and whether it would be acceptable in policy terms.
- 6.10 Para 28 of the NPPF advises that in order to promote a strong rural economy, local plans should support economic growth to create jobs and prosperity, and promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.
- 6.11 Policy CP26(3) of the TMBCS states that the loss of a community facility will only be permitted if

(a) an alternative facility of equivalent or better quality and scale to meet identified need is either available or satisfactorily provided at an equally accessible location, or

(b) a significant enhancement to the nature and quality of an existing facility will result from the development or part of that facility, or

(c) the applicant has proved to the satisfaction of the Council that for the foreseeable future there is likely to be an absence of need or adequate support for the facility.

6.12 The pre-amble to the policy text refers to the need for an assessment of the viability of retaining the existing use.

6.13 The supporting documents in the submission include a statement about the background of the current situation, a financial breakdown of profit and loss for 30 January to 31 July 2017 and a planning statement. These state that the owner also owns another Public House in Hoo which has now been leased by her to another operator. The success of that pub has not been evidenced as part of this planning application. The background statement confirms that The Plough was purchased with a 10 year record of poor trading, the reason why the Brewery offered the freehold to the applicant to dispose of the pub.

6.14 It was intended that a manager, whom the applicant had previously employed elsewhere, would manage the pub, and the applicant would live in the flat above as her home. The pub was in a fairly good condition and so both the applicant and the proposed manager refurbished the pub themselves upon purchase, at a cost of over £15K, which included installing a kitchen to the first floor to make the flat self-contained. This resulted in enforcement investigation but no further action was taken as there was no expediency to do so.

6.15 The business plan indicated to the applicant that wet sales alone would be insufficient to support overhead costs and make the pub viable. The applicant arranged for 10,000 promotional leaflets to be delivered to villages within 10 miles of Trottiscliffe. The supporting statement from the company which produced these confirms this to be the case. The applicant was aware of the constraints including the small car park, lack of family friendly garden, location close to dwellings, lack of sufficient passing trade, and competition from the larger nearby pub, The George, which lies around 250m down the road and is more centrally located in the village. Further south is The Angel in Addington which is a successful pub/restaurant.

6.16 The statement confirms that despite the introduction of the coffee shop and wine bar and music jamming sessions, after the first couple of weeks the pub did not break even and this, along with insufficient footfall through the door, rendered the business unviable to continue. Both the applicant and some residents' responses have put forward statements referring to lack of local support, whilst on the other

hand other residents have referred to the unwelcome appearance, limited food and ale options, reduced opening hours and lack of effort to make it a viable operation.

- 6.17 These issues are supporting information to the actual assessment as to whether the pub is a viable venture at present. From the profit and loss statement and supporting background information, it is concluded by the applicant that the pub is not a viable business option. Broader background information suggests that previous tenants have also struggled to make the pub work as a viable business, with the last use as a Greek restaurant failing after one year. The conclusion of the supporting statement is that there is simply not enough trade for both public houses within the village to survive financially.
- 6.18 The neighbour notification and public consultation process indicate that there is a great deal of local support to retain the pub as a meeting place and venue for social interaction, which is considered to be of great importance to the character of the village, and the lives of those living in the village. This desire to retain the pub is not disputed and it is understood that many locals would prefer the style and atmosphere of the Plough Inn to that of the George or The Angel. However when considering adopted policy, were the Plough Inn considered to have been proven as a viable venture that could be supported in the future (something that is not evident in the last 10 years of trading), its loss through the grant of a planning permission would be contrary to policy CP26 and its retention could be supported. This is not the case and as discussed below its retention, in pure planning policy terms, cannot be supported.
- 6.19 The apparent lack of adequate customer support, which is needed to continue its operation as a pub (regardless of the reasons for this lack of support), and the alternative facility very close by in the same village, both conflict with the requirements of policy CP26 in terms of retaining the pub as it is. It is accepted that many of the residents objecting raise the point that The George is a different type of pub, which is often busy and caters for those who live outside the village, rather than offering a more low key option to meet for a quiet get together, as is the case with the Plough Inn. However, it could be argued that the reason for the continuing success of the George over that of the Plough Inn could be down to the fact that it is able to attract larger numbers of visitors from further afield, in particular families. The dynamics preferred by locals wishing to use the Plough Inn have not been proven as part of this application to be sufficient in a financial sense to make it viable.
- 6.20 Policy CP26 (3) can only prevent the loss of a premises such as the pub if there is no alternative facility of equivalent or better quality and scale, which would meet the identified need. There is however the presence of a second pub very close by, and within the same village, which is considered to be at least equivalent quality in terms of the services it can offer, and is of a larger scale. This therefore allows for the loss of the Plough Inn to be viewed as in accordance with this policy.

- 6.21 Another issue to be considered in this assessment is the fact that on 6 September 2017 the nomination for the Plough Inn to be considered as an ACV was accepted and an appeal against this decision was dismissed on 24 October 2017. The conclusion of the Hearing on the nomination was that whilst it is not considered to be viable to use the premises as a pub at that time, there was the possibility that the premises could in the future be used for a range of other purposes that could provide social value and further the social interests of the local community within the next five years.
- 6.22 In terms of determining the change of use planning application, an assessment must therefore be made as to how to balance the adopted planning policy position against the recent ACV nomination. As has been discussed, the policy is very clear that the loss of the pub cannot be seen as contrary to policy where there is another such facility close by, and it has been proved to the satisfaction of the Borough Council, that for the foreseeable future, there is likely to be an absence of need or adequate support for the facility. It cannot be disputed that for the first point, there is an alternative facility close by to meet the need. With regard to the second reason there is, on the one hand, confirmation from the applicant that the pub has run at a loss for 10 years in various guises without success, yet there is stated support from locals that they could use the facility for some form of social community use in the future.
- 6.23 Taking this into account, it is considered that whilst the ACV exists on the basis that the building could be used successfully in the future, planning policy does not exist to support the retention of the community use. Therefore, on balance, it is concluded that although the ACV is a material consideration in the determination of the proposal, it cannot be given weight to override the adopted policy as discussed above. Outside of the planning process, a grant of permission does not override the status of the pub as an ACV. The applicant would still be required to follow due procedure under The Assets of Community Value (England) Regulations 2012, if they were to sell or dispose of the pub.
- 6.24 This includes a requirement by the applicant to notify the council of any intention to sell or dispose of the pub, upon which the council would notify the nominating party of this intention, and they would have a period of 6 weeks in which to register their intention to be considered as a bidder for the pub. If no interest is registered, the owner is free to sell the pub at the end of the 6 week period. If interest is however registered within the 6 week period, a further moratorium of 6 months is triggered. During this period only a sale to a community interest group is allowed. If no such buyer is found and a sale agreed to them, the seller is free to sell to whomever they choose at whatever price, and no further moratorium will apply for the remainder of a protected period lasting 18 months, (running from the start date of when the owner notified the local authority of their intention to sell).
- 6.25 (There are a number of exemptions which apply to when the owner is required to notify the local authority of intention to sell.)

- 6.26 However if the applicant decides not to sell or dispose of the pub, but to implement a planning permission to convert the pub to a dwelling for their own use, the legislative requirements of the ACV nomination, as referred to above, would not be triggered. In this scenario, a future review would therefore be undertaken to re-consider the merit of listing the building as an ACV, if the pub use no longer exists due to an authorised conversion to a dwelling.
- 6.27 With the above assessment in mind, I consider that the proposal is acceptable in terms of design and impact on the amenities of neighbouring properties, the character of the rural locality, the listed building, the Conservation Area and AONB and highway safety. It would be in accordance with the above policies and should be supported.

(B) 17/01438/LB

- 6.28 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Paragraph 131 of the NPPF states the LPAs should take account of the desirability of sustaining and enhancing the significance of heritage assets (in this case the Listed Building). Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
- 6.29 The proposed external and internal works are considered to be relatively small scale and not harmful to the integrity or the historic importance of the building. The initial proposal to remove one of the side extensions has been removed and this will be retained with a new roof to improve the overall appearance of the building. The existing roof and that of the remaining side extensions are not original and their loss is not considered to be detrimental to the listed importance of the building.
- 6.30 With the above assessment in mind, I consider that the proposal is acceptable from a listed building point of view both in terms of the building itself and its setting.

7. Recommendation:

(A) 17/01522/FL

- 7.1 Grant Planning Permission** in accordance with the following submitted details:

Location Plan MW/0311/101 dated 23.11.2017, Block Plan CR/0404/102 B dated 23.11.2017, Existing + Proposed Plans and Elevations KD/0709/104 C dated 23.11.2017, Proposed Floor Plans KD/0709/112 A dated 23.11.2017, Existing + Proposed Plans and Elevations KD/0709/104 D dated 15.11.2017, Email dated 09.08.2017, Other Background information dated 09.08.2017,

Other Profit and Loss dated 09.08.2017, Planning Statement dated 09.08.2017,
Existing Floor Plans KD/0709/111 dated 09.08.2017,

Conditions / Reasons

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

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

- 2 The parking and turning spaces as shown on the approved plans shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking.

- 3 Foul water shall be disposed of directly to the main sewer, unless agreed in writing by the Local Planning Authority for any variation.

Reason: To prevent pollution of groundwater.

Informatives

- 1 The Local Planning Authority supports the Kent Fire Brigade's wish to reduce the severity of property fires and the number of resulting injuries by the use of sprinkler systems in all new buildings and extensions.
- 2 You are advised that during the demolition and construction phase, the hours of working (including deliveries) shall be restricted to Monday to Friday 08:00 hours - 18:00 hours. On Saturday 08:00 to 13:00 hours, with no work on Sundays or Public/Bank Holidays.
- 3 You are advised that use of bonfires could lead to justified complaints from local residents and that the disposal of demolition waste by incineration is also contrary to Waste Management Legislation.
- 4 There should be no discharge into land impacted by contamination or land previously identified as being contaminated. There should be no discharge to made ground. There must be no direct discharge to groundwater. Only clean uncontaminated water should drain to the surface water system. Roof drainage shall drain directly to the surface water system (entering after the pollution prevention measures). Appropriate pollution control methods (such as trapped gullies and interceptors) should be used for drainage from access roads and car parking areas to prevent hydrocarbons from entering the surface water system.

(B) 17/01438/LB

Grant Listed Building Consent in accordance with the following submitted details:

Location Plan MW/0311/101 dated 23.11.2017, Block Plan CR/0404/102 B dated 23.11.2017, Existing + Proposed Plans and Elevations KD/0709/104 C dated 23.11.2017, Proposed Floor Plans KD/0709/112 A dated 23.11.2017, Existing + Proposed Plans and Elevations KD/0709/104 D dated 15.11.2017, Existing + Proposed Plans and Elevations KD/0709/104A dated 26.05.2017, Planning Statement dated 26.05.2017, Statement HERITAGE dated 06.06.2017,

Conditions/Reasons

- 1 The development and works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: In pursuance of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 2 Prior to the commencement of works hereby approved, sample areas of the concealed roof of the single storey dining room extension to the northern side of the building, shall be exposed and the local planning authority notified for inspection on site or by photographic record. Should any historic features deemed to be worthy of a Retention be found, amended drawings shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

- 3 No development shall take place until details and samples of materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character and appearance of the Listed building or the visual amenity of the Conservation Area.

- 4 No development shall take place until details of any joinery to be used have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character and appearance of the existing listed building or visual amenity of the Conservation Area.