

# Report DCL/18/41

**Application No:** Y18/1580/FH

**Location of Site:** Bridge Tavern 129 Station Road Lydd TN29 9LL

**Development:** Change of use from Drinking Establishment (Class A4) to 3 residential units (Class C3) comprising two 4 bedroom dwellings and one 5 bedroom dwelling with associated parking and garden areas.

**Applicant:** Mr Stephen Komolafe

**Date Valid:** 09.01.2019

**Expiry Date:** 06.03.2019

**PEA Date:** 26.03.2019

**Date of Committee:** 30.4.2019

**Officer Contact:** Robert Allan

## SUMMARY

This application is for the change of use of the existing public house to 3 residential units. 6 vehicle parking spaces would be provided as well as external garden space for each dwelling and bicycle storage. However, insufficient evidence has been submitted to demonstrate the public house use is no longer viable and the development therefore comprises the unacceptable loss of a community facility. The proposal is also considered to constitute poor layout and design and would result in poor amenity for the future occupants of the dwellings. Insufficient evidence has been submitted in relation to protected species (bats in this case) to ensure that the development would not cause harm to protected species or their habitats.

<b>RECOMMENDATION: That planning permission be refused for the reasons set out at the end of the report.</b>
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## 1.0 THE PROPOSAL

- 1.1 This application is for the conversion of the existing public house (drinking establishment – Class A4) to three residential units (Class C3). The proposal would include two 4-bedroom properties and one 5-bedroom property.
- 1.2 Units ‘a’ and ‘b’ would be accessed from the front of the building with access to unit ‘c’ from the rear. Unit ‘a’ would provide accommodation over three floors (ground, first and loft) with unit ‘b’ providing accommodation over four floors (basement, ground, first and loft) and unit ‘c’ at the rear being a single storey, ground floor unit. Parking for two cars would be provided to the side of the building with four spaces also being provided at the rear. Private gardens would be provided for units ‘b’ and ‘c’ to the north east of the

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building with an enclosed grass area for unit 'a' to the south west, where the existing grassed area is.

- 1.3 The only external alteration proposed is the replacement of the existing front door with two entrance doors to provide access to units 'a' and 'b'.

## 2.0 SITE DESIGNATIONS

2.1 The following apply to the site:

- Within settlement boundary
- Adjacent to area of archaeological potential.

## 3.0 LOCATION AND DESCRIPTION OF SITE

3.1 The application site is a vacant public house that sits on a corner plot between Station Road and Kitewell Lane. Station Road is the main road into Lydd from New Romney. The building itself is a large, three storey detached property with a single storey side and rear projection. The building is of brick construction with the three storey element being painted a light pink colour. Fenestration is white uPVC with two bay windows on the front elevation.

3.2 There is an area of hardstanding to the front of the building and to the side of the building is a grassed area. 'Bridge Home Park', a static caravan site is to the north east of the application site but accessed from the rear of the site and the former ambulance station is to the north west of the site (rear).

## 4.0 RELEVANT PLANNING HISTORY

4.1 Planning permission was granted in 2001 for the erection of a glazed covered way (ref Y01/0310/SH). There is no other recent planning history for the site.

## 5.0 CONSULTATION RESPONSES

5.1 Consultation responses are available in full on the planning file on the Council's website.

<https://searchplanapps.shepway.gov.uk/online-applications/>

Responses are summarised below.

5.2 Lydd Town Council  
Support

5.3 Environmental Health  
Recommend contamination condition and condition requiring basement room to have openable window.

5.4 KCC Ecology

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A bat scoping survey has been submitted which advises the need for an emergence survey to be carried out, the results of this survey and any mitigation required must be submitted prior to determination of the planning application. If the application is approved, ecological enhancements should be required by condition.

## 5.5 Economic Development

Views awaited.

## 5.6 Merebrook

The likelihood of contamination is considered to be low. Recommend final part of the Council's standard land contamination condition to keep a watching brief during the works for any unexpected land contamination.

## 5.7 Southern Water

Request an informative if planning permission is granted.

## 6.0 PUBLICITY

6.1 Neighbours notified by letter. Expiry date 31.01.2019

## 7.0 REPRESENTATIONS

7.1 No representations have been received. .

## 8.0 RELEVANT POLICY GUIDANCE

8.1 The full headings for the policies are attached to the schedule of planning matters at Appendix 1.

8.2 The following saved policies of the Shepway District Local Plan Review apply:  
SD1 HO1 BE1 BE8 TR5 TR12 U1 CO11

8.3 The following policies of the Shepway Local Plan Core Strategy apply:  
DSD SS1 SS3 SS5

8.4 The following policies of the Places and Policies Local Plan Submission Draft apply:  
HB1 HB3 T2 T5 NE2 C2

The Submission draft of the PPLP (February 2018) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between February and March 2018. The Plan was submitted to the Secretary of State for independent examination in September 2018. Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which confirms that weight may be given to policies in emerging plans following publication (paragraph 48). Based on the current stage of preparation, and given the relative age of the saved policies within the Shepway Local Plan Review (2006), the policies within the Submission Draft

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Places and Policies Local Plan (2018) may be afforded weight where there has not been significant objection.

- 8.5 The following paragraphs of the National Planning Policy Framework 2018 apply: 92, 127, 175

## 9.0 APPRAISAL

### Relevant Material Planning Considerations

- 9.1 The relevant issues for consideration with regard to this current application are the principle of the change of use, design and layout, residential amenity, parking and highway safety and ecology.

### Principle of change of use / loss of public house

- 9.2 The application site is located in north Lydd, close to existing residential development and within the defined settlement boundary. Core Strategy policy SS1 states that additional development should be focused to the most sustainable towns and villages as set out in Policy SS3 which identifies Lydd as a service centre for the district. The priority in policy SS1 is for development which helps to maintain and support the local role of Lydd. Therefore some additional housing in this location would be considered acceptable in principle, subject to other material planning considerations (such as the loss of the public house and residential amenity).
- 9.3 However, the proposed development result in the loss of a public house which the NPPF classes as a community facility. The NPPF at paragraph 92 sets out that planning decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. At the local level, Core Strategy policy SS3 states that development must address social and economic needs in the neighbourhood and not result in the loss of community, voluntary or social facilities unless it has been demonstrated that there is no longer a need or alternative social / community facilities are made available in a suitable location.
- 9.4 Further to this, emerging policy C2 requires an applicant to demonstrate that there is no longer a demand for the facility within the locality. This needs to be supported by evidence that the premises has been actively marketed for a minimum period of 12 months in the recent past prior to submission of the planning application and evidence that the sale price was realistic for the existing use, supported by a written valuation from a commercial estate agent.
- 9.5 The applicant has supplied some information to support the change of use, including a letter from the former landlord of the public house stating that the business was not viable and that it closed in 2011. Additionally, a letter from Fleurets (a leisure property specialist) has been submitted confirming that the property was advertised for sale on the open market from September 2015. It does not say how long the business was advertised for, however 7

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viewings took place and all of the viewers were looking to convert the property to an alternative use, primarily residential. In addition, a list of other public houses in the area has been supplied.

- 9.6 While some evidence of marketing has been supplied, the information provided does not demonstrate marketing of the public house for a period of 12 months. It also does not include evidence that the sale price was realistic for the existing use. In fact, the sales advert says that the site has “potential for alternative uses” so it is not surprising that all viewers were considering putting the site to an alternative use. Due to this, it has not been demonstrated that the site was advertised at a suitable price for its current use and the price that the site was advertised at could have been inflated to account for these “potential alternative uses”, such as residential.
- 9.7 As such, it is not considered that sufficient evidence has been submitted to demonstrate that the site is no longer suitable or viable for a public house or community facility use. Neither has it been demonstrated that alternative social / community facilities have been made available in a suitable location. The proposed loss of the public house has therefore not been demonstrated to be acceptable and as such the proposed development fails to comply with emerging policy C2, Core Strategy policy SS3 and paragraph 92 of the NPPF. The proposed change of use is therefore not acceptable in principle and it is considered that planning permission should be refused for this reason.

## Design and Layout

- 9.8 Saved policy BE1 requires a high standard of layout, design and choice of materials for all new development and emerging policy HB1 requires development to make a positive contribution to its location and surroundings.
- 9.9 The only external alteration proposed is the replacement of the existing entrance door with two external doors to provide access to units ‘a’ and ‘b’ which would be located in the front of the building. The doors have been shown on the proposed elevations, however, details of the doors haven’t been submitted. If planning permission were to be granted, in order to ensure the doors are appropriate, a condition could be imposed requiring details to be submitted. With an appropriately worded condition, ensuring the doors reflect the character of the existing building, the proposed external alterations to the building are considered to be acceptable.
- 9.10 In terms of site layout, the enclosed garden area for unit ‘a’ would be long and narrow, with a width of over 18 metres but a depth of only approximately 4.75 metres. This is considered to constitute poor layout and is likely to result in this space being of poor quality garden space and therefore would get little use from the future occupants. It is considered that the site could be better arranged to provide usable amenity space for all the dwellings and the proposed layout is of poor design, contrary to saved policy BE1.

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- 9.11 Further, the proposed block plan shows the bins for each unit being stored externally, with the bins for units 'a' and 'b' being in front of the principle elevation of the building. These are shown to be positioned in front of a bedroom and lounge window but in reality, the future occupants of these units would not be likely to store their bins in front of windows of habitable rooms. Without a bin enclosures and a designated collection point, the bins could be left anywhere on the area of hardstanding to the front of the building, resulting in a cluttered appearance when viewed from the streetscene. It is considered this would have a detrimental visual impact on the quality of the site and enclosed bin storage should be provided in less prominent locations within the site. However, as there is a principle objection to the proposal, as well as other concerns, details of bin storage and an alternative location for this within the site has not been requested. As proposed, the bins being located in front of the principle elevation of the building, adjacent to the highway, is considered to result in a harmful visual impact on the character and appearance of the site and the proposal therefore does not make a positive contribution to its location and surroundings, contrary to emerging policy HB1.
- 9.12 Overall, the development is considered to represent poor quality design and layout with a narrow, enclosed garden area for unit 'a' to the side of the building and unenclosed bins being located to the front of the building. The proposal therefore fails to comply with saved policy BE1 and emerging policy HB1 and should be refused as such.

## **Residential Amenity**

- 9.13 Saved policy SD1, emerging policy HB1 and paragraph 127 of the NPPF require that consideration should be given to the residential amenities of both neighbouring properties and future occupants of a development.
- 9.14 In terms of neighbouring occupants, the proposal would not increase the footprint or height of the existing building and would therefore not result in any increased overshadowing. The proposal also wouldn't include any additional windows and would therefore not result in increased overlooking. In terms of noise and disturbance, three residential units are considered to be less of a disturbance to neighbouring residents than the existing public house use which could have large numbers of customers, resulting in high vehicle movements, playing of loud music and noise from customers leaving possibly late in the evening. As such, the proposed change of use would be a betterment in terms of the amenity of neighbouring residents.
- 9.15 In terms of the amenity of future occupants, emerging policy HB3 sets internal and external space standards for new and converted dwellings. The proposal would include two 4-bedroom dwellings and one 5-bedroom dwelling. For 4-bedroom, 3 storey properties, emerging policy HB3 requires internal space of 121 sqm. Unit 'a' would provide approximately 189 sqm and unit 'b' would provide approximately 201 sqm of internal space. Both units 'a' and 'b' would therefore provide sufficient internal space, complying with emerging policy HB3. For unit 'c' which would provide five bedrooms over one floor of accommodation, HB3 requires 121 sqm of internal space

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for five bedrooms properties, which the proposal would again exceed as the flat 'c' would provide approximately 180 sqm of internal space.

- 9.16 However, the technical guidance that supports the internal space standards also says that in order to provide one bedspace, a single bedroom should have a floor area of at least 7.5sqm and be at least 2.15m wide. In this case, bedroom 2 of units 'a' and 'b' located at first floor level would have a width of 1.8 metres and 1.9 metres, respectively. Therefore, even though each bedroom is over 7.5sqm, these two bedrooms do not provide the internal width to provide suitable levels of amenity for the future occupants of these bedrooms. Even if a single bed were to be used, these bedrooms would not provide enough space for other necessary furniture such as wardrobes and would feel cramped to the future occupants. These therefore represent a poor level of amenity for the future occupants of these dwellings.
- 9.17 HB3 also requires the provision of an area of private garden for the exclusive use of an individual dwelling house of at least 10m in depth and the width of the dwelling. The proposed block plan shows private garden space for units 'b' and 'c' to the north east of the dwelling, each with a depth of approximately 12.75 metres and a minimum width of 12.75 metres and 11.25 metres, respectively. However, as set out above, due to the poor layout of the site, it is considered that the proposed garden space for unit 'a' is of poor layout which would mean the future occupants of this unit are unlikely to use this garden space, resulting in poor amenity due to a lack of high quality, useable external amenity space.
- 9.18 Additionally, unit 'b' would include one bedroom at basement level with no details being provided of a window serving this bedroom or excavations being made to provide an area of open space adjacent to the building to allow natural light and ventilation into this bedroom. As such, this basement bedroom is considered to represent a poor level of amenity for the future occupants of the dwelling. Further, the proposed parking for unit 'c' would be located immediately outside a window serving one of the ground floor bedrooms of unit 'a'. This is considered to represent a poor level of amenity for the future occupants of unit 'a' with vehicles for unit 'c' causing noise disturbance and a poor outlook for this bedroom.
- 9.19 Overall, the proposed development is considered to result in poor amenity for the future occupants of the proposed dwellings, with poor external amenity space for unit 'a', no windows serving the basement bedroom for unit 'b' and poor outlook and noise disturbance to the ground floor bedroom of unit 'a' from the adjacent vehicle parking serving unit 'c'. As such, the proposal is considered to fail to comply with saved policy SD1, emerging policies HB1 and HB3 and paragraph 127 of the NPPF and it is recommended that planning permission is refused for these reasons.

## **Parking and Highway Safety**

- 9.20 Saved policy TR12 and emerging policy T2 require the provision of suitable off street parking in accordance with the parking requirements of Kent Highways IGN3. IGN3 requires 2 independently accessible spaces per unit

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for 4+ bedroom dwellings in suburban areas. The submitted block plan shows 2 parking spaces to the side of the property and 4 to the rear, totalling the 6 required.

- 9.21 However, KCC Vehicle Parking Standards (SPG4) recommends a width of 6 metres to give access to parking in layouts such as this to allow for vehicles to reverse out of spaces. In this instance, of the four proposed parking spaces along the North West boundary of the site, none of these spaces would have a distance of 6 metres between the parking space and the rear wall of the building. As such, it is considered that these spaces would not be accessible in reality and therefore the scheme comprises a poor layout with inaccessible parking spaces and as a result, does not actually provide two spaces per unit and is therefore deficient in parking requirement for the site.
- 9.22 Emerging policy T5 requires the provision of 1 cycle parking space per bedroom for new development which would result in a need for 13 cycle spaces. The submitted proposed block plan shows bicycle storage along the south western boundary of the site, adjacent to the garden area of unit 'a'. Although this area doesn't show space for 13 bicycles, due to the large garden areas for units 'b' and 'c', it is considered that there is sufficient space within these two garden areas to provide secure cycle parking. Therefore if planning permission were to be granted, it is considered reasonable to impose a condition which required details of secure cycle parking to be submitted which could be included in the enclosed garden areas for units 'b' and 'c'. The proposal therefore could comply with emerging policy T5 and is therefore acceptable in this regard.

## Ecology

- 9.23 Saved policy CO11 states the District Planning Authority will not give permission for development if it is likely to endanger plant or animal life (or its habitat) protected under law unless (i) there is a need for the development which outweighs these nature conservation considerations and (ii) measures will be taken to minimise impacts and fully compensate for remaining adverse effects. Emerging policy NE2 states "Development proposals that would adversely affect European Protected Species (EPS) or Nationally Protected Species will not be supported, unless appropriate safeguarding measures can be provided".
- 9.24 A bat scoping survey was submitted with the application which details that bat droppings were recorded within the loft space and that there are suitable features for roosting bats on all elevations of the building. The report advises that there is a need for an emergence survey to be carried out with at least 3 visits to fully assess the presence of bats within the site. These surveys are required to fully assess how bats are utilising the building and to consider the impact that the proposed development will have on protected species when determining the planning application.
- 9.25 KCC Ecology has advised that the results of these surveys and details of any mitigation required must be submitted prior to determination of the application. While this information would normally be requested during the



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application process, as this application is being recommended for refusal on other grounds, it was considered unreasonable to add additional expense to the applicant when it would not result in permission be granted due to the other planning concerns as set out above.

- 9.26 As set out above, saved policy CO11 requires there either to be a need for the proposal which outweighs the harm to protected species or suitable measures taken to minimise the impact. In this case, there is not considered to be an overriding need for the development – as set out above, it has not been demonstrated that there is no longer a need for the public house and as the District can demonstrate a five year housing land supply, there is not considered to be an overriding need for housing, in planning terms. Also, no details of proposed mitigation has been provided and therefore it cannot be concluded that measures are being taken to minimise the impacts on protected species. As such, the proposal fails to comply with saved policy CO11.
- 9.27 Similarly, emerging policy NE2 states development which would adversely affect protected species will not be supported. As insufficient information has been submitted to determine the impacts on protected species (bats in this instance), it cannot be concluded that the proposal complies with emerging policy NE2 as it has not been demonstrated that the proposal would not adversely affect protected species.
- 9.28 As such, the information submitted fails to demonstrate that the proposal would protect protected species and there is considered to be insufficient information submitted to conclude that the proposed development would not have a significant impact on protected species, failing to comply with saved policy CO11 and emerging policy NE2 and should therefore also be refused on this basis.

## **Environmental Impact Assessment**

- 9.29 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1 & 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

## **Local Finance Considerations**

- 9.30 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.
- 9.31 In accordance with policy SS5 of the Shepway Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme,

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which in part replaces planning obligations for infrastructure improvements in the area. The CIL levy in the application area is charged at £0 per square metre for new residential floor space.

- 9.32 The New Homes Bonus Scheme provides for money to be paid to the Council when new homes are built within the district for a four year period. The New Homes Bonus funding regime is currently under review and is anticipated to end. In this case, an estimated value of the New Homes Bonus as a result of the proposed development would be £3,818 for one year and £15,271 for 4 years when calculated on the basis of the notional council tax Band D on which NHB is based. If an authority records an overall increase in new homes in any one year, but this increase is below the 0.4% threshold, the authority will not receive any New Homes Bonus funding relating to that particular year. New Homes Bonus payments are not a material consideration in the determination of this application.

## Human Rights

- 9.33 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.
- 9.34 This application is reported to Committee as the views of the Town Council differ from the recommendation of the officer.

## 10.0 BACKGROUND DOCUMENTS

- 10.1 The consultation responses set out at Section 5.0 and any representations at Section 7.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

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### **RECOMMENDATION – That planning permission be refused for the following reasons:**

1. The use of the building as a public house is considered to be a community and social facility and therefore in the absence of sufficient supporting evidence relating to the viability of the business, trade potential and attempts to market the public house as its existing use at a realistic price, it has not been satisfactorily demonstrated that the public house is not viable or such a facility is no longer required in this locality and community. Neither are alternative social and community facilities being provided elsewhere. As such the loss of the public house is therefore considered to be unsustainable development contrary to paragraph 92 of the National Planning Policy Framework, the aims and objectives of Shepway Core Strategy Local Plan

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2013 policy SS3 and emerging policy C2 of the Places and Policies Local Plan which seek to retain community facilities such as public houses and prevent their unnecessary loss.

2. The proposed development is considered to amount to poor layout and design with an enclosed garden area for unit 'a' being long and narrow and likely to be an unusable space, with better alternative areas for external amenity space within the site. Further, the lack of enclosed bin storage with bins being sited in front of the principle elevation of the building, would result in a harmful visual impact to the character and appearance of the site, thereby having a detrimental impact on the streetscene. The proposal is therefore contrary to saved policy SD1 of the Local Plan Review which requires a high standard of layout and design and emerging policy HB1 of the Places and Policies Local Plan which requires development to make a positive contribution to its surroundings.
3. The proposed development would result in poor amenity for the future occupants of the proposed dwellings, with a poor external amenity space for unit 'a' being a long and narrow enclosed garden which is not likely to be a practical usable space as well as inadequate internal space for bedroom 2 in units 'a' and 'b'. Further, no windows are proposed to serve the basement bedroom for unit 'b' resulting in no natural light or ventilation and no outlook to this habitable room. Additionally, the proposal would result in unacceptable noise disturbance and poor outlook to the ground floor bedroom of unit 'a' from the adjacent vehicle parking serving unit 'c'. As such, the proposal fails to comply with saved policy SD1 of the Local Plan Review, emerging policies HB1 and HB3 of the Places and Policies Local Plan and paragraph 127 of the NPPF.
4. The proposed development, due to its poor layout, would provide parking spaces along the north western boundary of the site which are inaccessible due to their proximity to the rear elevation of the main building. As such, the proposal would fail to provide sufficient off street parking, contrary to saved policy TR12 of the Local Plan Review and emerging policy T2 of the Places and Policies Local Plan, which both require the provision of off street parking for new dwellings; and constitutes a poor layout of the site, contrary to saved policy BE1 which requires a high standard of layout.
5. The submitted Bat Preliminary Roost Assessment identified a number of bat droppings and potential roost features on all elevations of the building and therefore concludes that there is a high potential for roosting bats and recommends further work is undertaken to establish the presence, or means of mitigating potential impacts on protected species (in particular bats). This has not been submitted to the Local Planning Authority. Consequently, it has not been satisfactorily demonstrated that protected species will not be harmed by the proposed development, contrary to saved policy CO11 of the Local Plan Review, emerging policy NE2 of the Places and Policies Local Plan and paragraph 175 of the NPPF, which seek to conserve and enhance biodiversity through resisting development if it is likely to endanger plant or animal life (or its habitat) protected under law and/or identified as a UK Biodiversity Action Plan priority species.

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