

<b>REFERENCE NO - 20/501090/FULL</b>		
<b>APPLICATION PROPOSAL</b> Change of use from Class A4 (drinking establishment) to Class C3 (residential) and erection of two storey rear extension.		
<b>ADDRESS</b> Clothworkers Arms Lower Road Sutton Valence Maidstone Kent ME17 3BL		
<b>RECOMMENDATION</b> APPROVE SUBJECT TO CONDITIONS		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> On balance, the development is considered to comply with Development Plan Policy and the aims of the National Planning Policy Framework. There are no overriding material considerations to indicate a contrary view.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Contrary to the views of the Parish Council who have requested Committee consideration.		
<b>WARD</b> Sutton Valence And Langley	<b>PARISH/TOWN COUNCIL</b> Sutton Valence	<b>APPLICANT</b> Shepherd Neame Ltd <b>AGENT</b> Milliken & Co. Chartered Surveyors
<b>TARGET DECISION DATE</b> 09/07/20	<b>PUBLICITY EXPIRY DATE</b> 03/09/20	

### **Relevant Planning History**

The most relevant history is:

87/1515

Internally illuminated corporate lamp.  
Approved Decision Date: 10.11.1987

03/0142

Removal of existing window and installation of new patio doors, external landing and stair structure to provide access from bar to garden, as shown on dwg nos 1340-01, 1340-02, 1340-SK.1 and 1340-SK.2 received on 23.01.03.  
Approved Decision Date: 01.07.2003

02/1665

Removal of existing window (on rear first floor) and installation of new patio doors, external landing and stair structure to provide access from bar to garden, as shown on dwg nos 1340-01 and 1340-02 received on 04.09.02.  
Refused Decision Date: 12.11.2002

### **Enforcement History:**

None relevant.

### **MAIN REPORT**

#### **1. DESCRIPTION OF SITE**

1.01 This application relates to a two-storey attached public house which is located within the settlement boundary of Sutton Valence. The garden area associated with the building lies outside of the settlement boundary, in the open

countryside. The whole site is located within Sutton Valence conservation area and also falls within the Greensand Ridge landscape of local value.

- 1.02 The public house has a mainly rendered front elevation, with attractive detailing, which is considered to make a positive contribution to the visual amenity of the conservation area. The first floor of the building contains associated residential accommodation to the public house use and to the rear is a sloping garden upon a steep slope. There is no existing off-road parking.
- 1.03 The village of Sutton Valence contains a number of facilities, including schools, Church, village Hall, doctors surgery and 2 other public houses.

## **2. PROPOSAL**

- 2.01 Planning Permission is sought for the change of use of the building from class A4 use as a public house to class C3 use as a dwelling, together with the erection of a two-storey rear extension.

## **3. POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan 2017 : SS1, SP11, SP15, SP17, SP18, DM1, DM4, DM17, DM20, DM23, DM30  
Kent Minerals and Waste Local Plan 2016: None specific.  
National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)

## **4. LOCAL REPRESENTATIONS**

### **Local Residents:**

- 4.01 2 representations received from local residents raising the following (summarised) issues
- Flying freehold and extractor fan may be blocked
  - Has consultation/site notice been carried out
  - Should be delayed until after lockdown
  - Loss of heritage asset
  - Not offered for sale
- 4.02 The issues relating to the extractor fan is not a material planning consideration and therefore cannot be taken into account in the determination of this application. The other matters raised by neighbours and other objectors are discussed in the detailed assessment below.

### **Sutton Valence Parish Council:**

- 4.03 "The Parish Council resolved that this application be refused and do wish to see this reported to the planning committee if the officer sees fit to approve. The Parish Council could see no evidence of it being advertised for sale as a going concern. This established has long catered for a large sector of the Community that live South of the Village. It has always been a wet pub and this is why it is well used. The Parish Council believes that the Clothworkers still has a future in the Parish and do not wish to see it closed. The patrons are unaware of this application and the Parish Council has only just managed this meeting before all

meetings being suspended. All pubs are now closed because of Covid-19 Parish Council believes it is unfair to make a decision which will affect a substantial number of parishioners at this time”.

## **5. CONSULTATIONS**

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

### Conservation Officer

5.01 No objections. Recommends a materials condition.

### KCC Archaeology

5.02 Recommends a watching brief condition.

### MBC Client Services

5.03 No response.

## **6. APPRAISAL**

### **Main Issues**

6.01 The key issues for consideration relate to:

- Principle
- Visual impact upon conservation area and countryside
- Residential amenity

### **Principle**

6.02 The key determining issues in this case is principle of the change of use. Policy SP 11 and SP 15 of the local plan generally resist the loss of community facilities in larger villages and policy DM20 also generally resists their loss. The key policy, which specifically relates to this issue, is policy DM 17. This policy states, under criteria 4:

“In considering planning proposals which would involve or require the loss of existing post offices, pharmacies, banks, public houses or class A1 shop selling mainly convenience goods outside local and district centres, consideration will be given to the following:

- i) Firm evidence that the existing uses are not now viable and are unlikely to become commercially viable;
- ii) The availability of comparable alternative facilities in the village all the local area; and
- iii) The distance to such facilities, the feasibility of alternative routes being used, and the availability of travel modes other than by private motor vehicle.

6.03 The preface to the policy also contains the following which is specifically relevant to this type of proposal:

6.04 “Local convenience shops and other such facilities can play an important role in sustainable development, by meeting the day-to-day needs of local communities. The NPPF seeks to guard against the unnecessary loss of valued facilities and

services, particularly where this would reduce the community's ability to meet such needs (paragraph 6.78).

- 6.05 "Whilst the Council recognises the importance of securing viable uses for premises, this must also be balanced against the needs of the community. Changes in the economy sometimes lead to public houses becoming vacant and an alternative use is being sought. However, for some communities, especially in rural areas, these facilities provide both important services and leisure opportunities (paragraph 6.79).
- 6.06 "Where the loss of a local convenience shop or facility is proposed, the council will expect such an application to be supported by a viability report, prepared by a qualified professional within the relevant industry, together with financial accounts and marketing information illustrating that the use is no longer viable. Accounts should, where possible, cover a three-year period. The council will also give consideration to the availability of comparable alternative facilities. In assessing this, the feasibility of such alternatives being used will be considered, including not only the distance from the potential users, but also the attractiveness and likelihood of the route being used. The impact of the loss of a local facility may be greater in village locations, where alternatives are less accessible. Well located local facilities can be positive assets, which are available to all, including those without cars and with mobility problems (paragraph 6.80)".
- 6.07 In this case, the applicant has submitted a viability study which contends that the public house use is no longer viable. Reasons given include:
- the fact that it is a "wet" pub which does not have the capacity to create a food trade, due to the limited space and lack of trade kitchen, plus the physical layout and small size make a significant food operation unviable,
  - changes in the market outside of town centres have resulted in successful public houses outside of the centre being of food led, plus changes in social habits such as the have had an adverse effect,
  - direct competition with 2 larger public houses with superior facilities such as parking and restaurants.
- 6.08 The applicant is the operator of a large number of public houses and is clearly experienced in the sector. They also contend that the high turnover of tenants is indicative of decline and confirm that they have carried out exit surveys which have indicated that the last 4 tenants left due to insufficient financial returns. The viability study also details the average annual beer barrelage and shows decline since 2009, with recently the lowest average since before 1990.
- 6.09 Therefore, in relation to the first issue within part 4 of policy DM17 and paragraphs 6.80, there is a viability report which has been prepared by a qualified professional within the industry. This report has been independently assessed by another qualified professional in the industry. The findings of this assessment included acknowledgement that a significant investment attempt by the applicant has been made (paragraph 5.23), that it is not unusual for tenants to stay around 2 years (paragraph 5.31), that 3 public houses may be too many for the village (paragraph 6.02), that there is a greater risk for "wet" public houses (paragraph 6.09) and that there appears to be insufficient marketing information (paragraph 7.16, 7.26 and 7.27).
- 6.10 In summary, he does acknowledge that the traditional public house market has been in gradual decline over many years and that, in his view, this is likely to continue. However, the key point within his findings appears to be that there is insufficient marketing information, particularly of the freehold of the property.

- 6.11 Some marketing information, showing 56 weeks of marketing in the last 4 years has been provided, however, there is, as stated, a lack of marketing of the freehold of the property, as opposed to the lease.
- 6.12 It seems clear that there has been a decline in trade. However, upon the first issue, relating to the firm evidence that the existing use is not viable, I conclude, that the lack of marketing of the freehold does weigh against granting permission.
- 6.13 However, the 2<sup>nd</sup> and 3<sup>rd</sup> issues within the policy must also be considered, namely the question of comparable facilities and the feasibility of them being used.
- 6.14 There are 2 other public houses in the immediate vicinity of the site. The Kings Head and The Queen's Head are both located in the High Street, a very short distance from the site. These other 2 public houses both have car parks, trade kitchen and restaurants. One of them is also located on the main road with higher passing footfall (drivers). Both of these facilities are located within easy walking distance of the Clothworker's Arms and given the close proximity, it is considered highly likely that potential customers would consider it feasible to travel to these facilities and would not be deterred by the additional distance or the nature of the route, which is in a village centre location. It is accepted that some customers may prefer the "wet" public house experience, but it is considered that it cannot be said in general terms that there is a lack of facilities, as the remaining public houses are clearly within walking distance of the site.
- 6.15 It is therefore considered, that there is a concentration of public houses in a very close proximity within the village of Sutton Valence. This concentration is not considered common within the Borough, and indeed, Sutton Valence is only classified as a larger village within the local plan, it is not of a scale of a rural service centre. Therefore, these issues are considered to weigh in favour of granting permission.
- 6.16 It is noted that the COVID-19 situation has clearly had some impact upon the sector and the full extent of this impact at this stage remains unknown. However, there is currently no indication that this will necessarily result in a continual and long term detrimental impact and therefore it is considered that the adverse impact of the virus should only be afforded limited weight and is not overriding.
- 6.17 The applicant has been approached regarding the lack of marketing of the freehold, but has declined to carry out further marketing and wishes the application to be determined on the basis of the submission.
- 6.18 Therefore, a decision must be made upon the application as it stands. The lack of marketing of the freehold weighs against the proposal, but the availability of comparable alternative facilities in close proximity to the site weighs in favour. This is a balanced case. Considering all of the above, on balance, having regard to the concentration of public houses in the vicinity and the extent of alternative facilities which would remain to serve the community, it is concluded that there are insufficient grounds to refuse the application and that the balance weighs in favour of granting permission on the issue of the principle of the change of use.

#### **Impact upon the conservation area**

- 6.19 The local plan and the NPPF both require heritage assets to be conserved in a manner appropriate to their significance. Although not listed, the building lies within a designated heritage asset, being Sutton Valence Conservation Area.

- 6.20 The NPPF seeks to provide uses for heritage assets and the continued use of the building would assist in ensuring that it is maintained within the conservation area. The proposal would retain the character of the front elevation, with a boarded bay window being restored. The plans for the rear extension have been amended and details of materials have been provided. The conservation officer is now satisfied that the proposal would preserve the character and appearance of the conservation area. The design is considered acceptable in its context, being seen with existing adjacent modern development to the rear of the adjacent building.
- 6.21 Materials comprise red bricks for the walls and zinc, with bricks being chosen to match those of the public house, powder coated aluminium fenestration and a membrane for the roof. A materials condition can be attached to ensure that the materials are of appropriate quality and the conservation officer is also satisfied with these materials in this location.
- 6.22 The extension would not affect the Street scene, being located here. It is noted that the garden of the site is within the countryside and the extension is considered modest in relation to the existing building and to have no significant adverse impact upon the openness of the countryside, being in keeping with its context and adjacent development.
- 6.23 A landscaping scheme has also been provided and this allows for more formal planting near to the building (which is within the settlement), with wilder landscaping as it moves towards the countryside, with native tree planting and wildflower meadow. This is considered sensitive to the transition between the settlement and the countryside and would enhance the quality of the rear space within the countryside and conservation area setting.

### **Other Matters**

- 6.24 Other matters include ecology, residential amenity, highways, setting of listed buildings and archaeology.
- 6.25 Taking each of these issues in turn, with regards to ecology, as stated a landscaping scheme with ecological enhancements has been sought and provided. This includes native tree planting and a wildflower meadow, which would enhance the ecological value of the site. Bee houses are also provided as ecological enhancements. The extent of ecological enhancements is considered commensurate to the scale and type of development and would enhance the ecological value and quality of the site.
- 6.26 In terms of residential amenity, given the levels and the siting of the extension, the orientation and the proposed installation of a privacy screen shown upon the plans, it is considered that there are no significant adverse impacts in terms of light, outlook or privacy for any neighbouring property. Moreover, there would be an enhancement in terms of residential amenity, as the proposed dwelling use is considered more compatible with the surrounding dwelling uses than that of the public house which is likely to result in greater noise and disturbance issues. I note that no objections have been received upon residential amenity grounds.
- 6.27 With regards to highways, no off-road parking is proposed, but none exists at present. Given the nature and intensity of the use, with only one unit been proposed, it is not considered that there would be any significant adverse impact, given the existing lawful use of the site. Moreover, the site is located near to a main bus route, being the A274, and is considered within easy walking distance of this. Therefore, given the sustainable location of the site, it is concluded that there are no parking grounds for refusal.

- 6.28 The siting and scale of the proposals are such that there is not considered to be any significant adverse impact upon the setting of any nearby listed buildings. In terms of archaeology, the site lies within the historic core of the Medieval settlement and therefore a watching brief condition, as suggested by the KCC archaeological officer, is considered appropriate and necessary.
- 6.29 With regards to issues raised in representations, a site notice was posted at the site on 19 March 2020 and letters have also been sent to neighbouring properties, such that the required public consultation has been carried out.
- 6.30 The impact upon the heritage asset is dealt with above, and it can be said that the building would not be lost but would be put to a new use which, as stated, is consistent with the aim to provide viable uses set out in the NPPF. The issue of the public house not being offered for sale is dealt with in detail above and the application has not been determined during lockdown. Government advice makes clear that the planning application process and determination of planning applications should continue despite the COVID-19 situation not being fully concluded at this time and therefore it would not be appropriate to delay determination further.
- 6.31 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

#### **PUBLIC SECTOR EQUALITY DUTY**

- 6.32 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

#### **7. CONCLUSION**

- 7.01 This is a balanced case. The lack of freehold marketing evidence weighs against the proposal, but the existence of comparable alternative facilities in the immediate vicinity weighs in favour. On balance, it is considered that the change of use is acceptable and would not result in a lack of sufficient facilities to serve the community. The proposal is considered to have an acceptable impact upon the character and appearance of the conservation area and residential amenity. It is concluded that, on balance, the development complies with Development Plan policy and the aims of the NPPF and there are no overriding material considerations to indicate a contrary decision. Approval is therefore recommended.

#### **8. RECOMMENDATION**

GRANT planning permission 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: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 1 Classes A-H to that Order shall be carried out without the permission of the local planning authority;

Reason: To safeguard the character, appearance and functioning of the surrounding area and the character, appearance and setting of the listed building.

- 3) The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing numbers 798:P01, 798:P02 and 798:P05 received on 05/03/20, 798:P06 received on 12/03/20, 798:P03A and B20059.101/A received on 18/08/20;

To clarify which drawings have been approved and to preserve the character, appearance and special interest of the listed building.

- 4) No development above slab course level shall take place until written details of the materials to be used in the construction of the external surfaces of the development hereby permitted, including rainwater goods, have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed using the approved materials;

Reason: To ensure a satisfactory appearance and that the character and appearance of the conservation area is maintained.

- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first use of the development hereby permitted or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development

- 6) The ecological enhancements shown on drawing number B20059.101/A received on 18/08/20 shall be installed prior to the first use of the development hereby permitted and shall be maintained thereafter;

Reason: In the interests of biodiversity.

- 7) The privacy screen shown on drawing number 798:P03A received on 18/08/20 shall be installed prior to the first use of the development hereby permitted and subsequently maintained;

Reason: In order to protect privacy for neighbouring occupiers and to provide a satisfactory living environment.

- 8) The developer shall arrange for a watching brief to be undertaken by an archaeologist approved by the local planning authority so that the excavation is observed and items of interest and finds are recorded. No works shall start on



site until a written programme and specification for the work has been submitted to and approved by the local planning authority;

Reason: To enable the recording of any items of historical or archaeological interest.

### **INFORMATIVES**

- 1) Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.
- 2) Clearance and burning of existing woodland or rubbish must be carried without nuisance from smoke etc to nearby residential properties. Advice on minimising any potential nuisance is available from the Environmental Health Manager.
- 3) Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.
- 4) No vehicles may arrive, depart, be loaded or unloaded within the general site outside the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.
- 5) Adequate and suitable provision in the form of water sprays should be used to reduce dust from the site.
- 6) The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25th October 2017 and began charging on all CIL liable applications approved on and from 1st October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.
- 7) Permitted development rights extensions and external alterations have been removed and therefore any future such alterations are likely to require planning permission, including replacement windows with a different material. The use of UPVC units is likely to be strongly resisted

Case Officer: Louise Welsford