

APPLICATION: MA/13/1127 Date: 24 June 2013 Received: 2 October 2013

APPLICANT: Mr Richard Scutt

LOCATION: BELL HOTEL, HIGH STREET, STAPLEHURST, TONBRIDGE, KENT,
TN12 0AY

PARISH: Staplehurst

PROPOSAL: Conversion of public house to 4No. residential units as shown on drawing numbers A1300-PL-001, A1300-PL-010, A1300-PL-100, A1300-PL-101, A1300-PL-102, A1300-PL-104, A1300-PL-200, A1300-PL-201, A1300-PL-202, A1300-PL-204, A1300-PL-400, A1300-PL-401, A1300-PL-402, A1300-PL-403, A1300-PL-410 and A1300-PL-411, supported by a design and access statement and highways statement, planning statement and viability report, all received 25th June 2013; drawing numbers A1300-PL-412/A, A1300-PL-413/A, 29066-001-002 rev D and 29066-001-003F, and Lloyd Bore landscape report, all received 2nd October 2013; and drawing number A1300-PL-250/E received 7th November 2013.

AGENDA DATE: 21st November 2013

CASE OFFICER: Catherine Slade

The recommendation for this application is being reported to Committee for decision because:

- **Staplehurst Parish Council** wish to see the application refused for the reasons set out below, and have requested that the application be reported to Planning Committee.

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, T13, R11
- Government Policy: National Planning Policy Framework 2012, PPS5 Planning and the Historic Environment – Practice Guide
- Other: Kent Design Guide 2009, Circular 11 of 1995 Use of Conditions in Planning Permission

2. HISTORY

- MA/13/1128 - An application for Conservation Area Consent for works to facilitate the conversion of the public house to 4No. residential units including

the demolition of a single storey extension – APPROVED SUBJECT TO CONDITIONS

- MA/06/2000 - Erection of children's play equipment with the formation of a children's play area and associated site fencing - APPROVED WITH CONDITIONS
- MA/06/1799 - Installation of a mushroom roof vent cowl for the trade kitchen extract - APPROVED SUBJECT TO CONDITIONS
- MA/95/0639 - An application for listed building consent for internal alterations to ground floor - WITHDRAWN
- MA/87/1151 - Listed building consent for internal alterations - WITHDRAWN
- MA/87/1150 - Internal alterations, erection of porch under existing roof and alterations to public bar extension – APPROVED

2.1 The proposed demolition works to the building have been the subject of a concurrent application for conservation area consent under application reference MA/13/1128, the details of which are set out above. The application was approved on 19th August 2013. Due to changes to the legislative framework in October 2013 which amended the procedures for applying for conservation area consent, a separate conservation area consent is no longer required for the proposed works, and this element of the proposal falls to be considered fully under the scope of the current application.

3. CONSULTATIONS

3.1 **Staplehurst Parish Council:** wish to see the application refused on the following grounds:

3.2 *"The committee noted the comments made in public forum and by correspondence in respect of loss of amenity, the ringing of church bells and issues of parking. After discussion councillors agreed that their principal concerns were the lack of sufficient parking and the proposed highway access which they considered to be hazardous in the context of traffic volume and speed on the A229."*

3.3 Following consultation on the amended plans received in October, the Parish Council maintained their objection, making the following detailed comments:

3.4 *"Councillors noted the new access arrangements and voiced a range of views about the loss and viability of a public house on the site. Councillors' principal concern remained insufficient parking provision, noting that the amended*

proposal contained one fewer space, and for this reason they voted nem con to recommend refusal and requested that it be reported to MBC Planning Committee."

- 3.5 **Maidstone Borough Council Conservation Officer:** raises no objection to the proposal subject to conditions requiring the submission and written approval of details of materials, joinery, landscaping (including hard surfacing), boundary treatments, and the removal of permitted development rights. The officer makes the following detailed comments:
- 3.6 *"The Bell Inn occupies a historic inn site, a public house having probably existed here since medieval times. The site was previously occupied by a timber-framed building, probably of 16th Century date, of which the adjacent Bell Cottage remains (and is a listed building). Bell Cottage is not affected by these proposals.*
- 3.7 *The original buildings burnt down in the early years of the 20th Century and had been replaced by the current structure by 1908. The destroyed buildings stretched further to the north, right up to the junction with Bell Lane; however, the rebuilt structure was truncated, leaving the current gap to the side towards Bell Lane. The original building was apparently not razed to the ground by the fire, as parts of the lower walls of the existing building on the High Street frontage appear to incorporate fabric from the original building in the form of 16th or 17th Century brickwork and ragstone. For this reason, and because of the sympathetic quality of the Edwardian rebuild, in my view the existing building should be considered as a non-designated heritage asset; it makes a positive contribution to the character of the Staplehurst Conservation Area and therefore deserves to be preserved.*
- 3.8 *The loss of the pub could be considered to have some adverse effect on the character of the conservation area because of loss of vitality, although it is accepted that trading has been difficult in recent years and that the premises have been vacant for a while. The adjacent King's Head continues to provide a similar facility and if the viability arguments are accepted, residential use is probably the best alternative. The conversion proposals are sympathetic to the building's character. A small part of the building is proposed for demolition. It is unclear whether this forms part of the original Edwardian rebuild or is a later extension; whichever is the case, it is a relatively insignificant part of the building and its loss is acceptable."*
- 3.9 **Maidstone Borough Council Landscape Officer:** Raises no objection to the proposal subject to a condition requiring the submission and approval of a landscaping condition, and makes the following detailed comments:

- 3.10 *"I would refer you to my previous comments dated 30 July 2013 whereby, whilst I have said that the trees on the northern boundary do not merit protection, I indicated that it is important that landscaping is continued along this boundary due to the lack of space for further planting.*
- 3.11 *In view of the current proposal to put an access in the middle of the northern boundary as well as replace the fence, the few trees left will offer little, if any, long term amenity value. I would therefore like to see a proposal to also remove these remaining trees and the area widened and replanted with a couple of standard trees and hedgerow shrubs to improve the appearance of the amenity of the area and soften the streetscene. A landscape condition will, therefore, be required if you are minded to grant consent for the application."*
- 3.12 Maidstone Borough Council Environmental Health Officer: Raises no objection to the proposal subject to conditions requiring the development to satisfy Part E (resistance to passage of sound) of the Building Regulations and informatives relating to good working practices during construction phases. The officer makes the following detailed comments:
- 3.13 *"The site is in a mixed residential area and although it is located alongside the busy A229 it is within the 30mph section of the road as it runs through Staplehurst, so I do not consider that traffic noise is likely to be a problem.*
- 3.14 *The site is outside the Maidstone Town Air Quality Management Area and I do not consider the scale of this development and/or its site position warrant an air quality assessment. Any demolition or construction activities will definitely have an impact on local residents and so the usual informatives should apply in this respect. The main building to be converted plus the small rear extension to be demolished, should be checked for the presence of asbestos and any found must only be removed by a licensed contractor.*
- 3.15 *There is no indication of land contamination based on information from the Maidstone Borough Council's contaminated land database and historic maps databases, but there is an indication from the latest British Geological Survey maps that there is a significant chance of high radon concentrations.*
- 3.16 *The site is in a "radon affected area" and has a 3-5% chance of having high radon concentrations, (radon is a naturally occurring radioactive gas which enters buildings from the ground). The Health Protection Agency recommends that protection methods should be used to keep radon levels at or below the "Action Level" of 200 Becquerels per cubic metre (200 Bq m⁻³) in radon affected areas; where a building has a greater than 3% probability of having an annual radon concentration above the HPA Action Level. An indication of high radon potential does not necessarily mean that an individual property will have a high*

radon concentration, this can only be established by having the building tested. The HPA provides a radon testing service. [NB. It should also be noted that the Health Protection Agency produced a consultation document on radon in June 2009 and this document suggested that the present system of domestic radon Action Level of 200 Bq m⁻³ should be reduced.]

- 3.17 *It should also be noted that Section 54 of the Clean Neighbourhoods & Environment Act 2005 requires developers to produce a site waste management plan for any development which is over £300,000. The plan must be held on site and be freely available for view by the local Authority at any time."*
- 3.18 **Kent County Council Highway Services:** Raise no objection to the proposal subject to conditions and make the following detailed comments:
- 3.19 *"I confirm that these (details) are acceptable. The original submission showed access to the site from the A229 adjacent to the junction of Bell Lane. The revised access via Bell Lane is in my opinion preferable and safer. This access is adequate in terms of width and visibility, parking provision is satisfactory and tracking diagrams indicate that sufficient space is available within the site for turning.*
- 3.20 *The gap in the railings has been provided at my request to allow the occupants of the new homes a pedestrian access through the site to the High Street. Without this, pedestrians from the new homes will need to walk from the site access and along Bell Lane to the High Street.*
- 3.21 *The amendments to the road markings to provide edge of carriageway markings, as opposed to the existing broken white lines, is in line with the guidance given in the Traffic Signs Regulations and General Directions Manual. I have spoken to our Agreements Engineer who has suggested that the lines can be provided without a S278 agreement or letter of agreement subject to a recognized and approved contractor undertaking the works; details of this should be agreed with KCC Highways.*
- 3.22 *With regard to the footway along Bell Lane I realise that the number of pedestrian movements arising from this development will be less than that generated by the pub and the residents of the new homes will be able to walk through the site to the High Street (subject to there being a gap in the railings). With this in mind I am content for the footway to be provided when the adjacent site is developed but the land required for the footway along the Bell Lane frontage should be transferred to highway. Please note that a land transfer is required as opposed to the dedication of the land following advice from our Agreements Engineer."*

3.23 **UK Power Networks:** Raise no objection to the proposal.

3.24 **Southern Water:** Raise no objection to the proposal.

4. REPRESENTATIONS

4.1 Five representations were received as a result of the publicity procedure. These raised the following concerns:

- Inadequate onsite parking provision.
- Loss of a public house and failure to retain the premises as a community asset.
- Loss of green space and the future of the land immediately to the west of the site (the former car park and beer garden).
- Access rights to the rear of neighbouring properties.

5. CONSIDERATIONS

5.1 Site Description

5.1.1 The application site is located to the south west of the junction between High Street, the A229, and Bell Lane, an unclassified public highway.

5.1.2 The site comprises the public house formerly known as "The Bell" and some land to the north and west of the main building, including the existing site access to High Street and the eastern part of the premises' car park, but excluding the majority of the car park and the public house's beer garden. The majority of the site not covered by the main building is laid to hard surfacing, with the exception of a narrow landscaped buffer running along the northern boundary of the site with Bell Lane.

5.1.3 The main building is a handsome and prominent two storey building purpose-built as a public house in the early twentieth century following the loss of the pre-existing structure in a fire. The Edwardian rebuild, considered by the Council's Conservation Officer to be "sympathetic", incorporates 16th or 17th Century brickwork and ragstone fabric of the original building in the frontage of the replacement building at ground level, and its design makes use of traditional Kentish materials and forms.

5.1.4 Although not listed, the building and site is located in its entirety within the Staplehurst (south) Conservation Area, and a number of neighbouring properties are Grade II listed buildings, including Rosemary, Hillcrest, Craybrook Studios and Kent Cottages located to the south of the application site, numbers 1 to 4 Church Cottages (inclusive) located on the opposite side of High Street, and the Kings Arms, a public house located on the opposite side of Bell Lane to the north

of the site. In addition, the Church of All Saints, located to the east of High Street adjacent to Church Cottages, is Grade I listed.

- 5.1.5 As set out above, the existing building is considered to be of some local architectural and historic value, and to constitute an undesignated heritage asset. It is prominent in the streetscape, and makes a positive contribution to the conservation area and the setting of nearby listed buildings.
- 5.1.6 The site is located within the defined settlement boundary of the rural service centre of Staplehurst, in an edge of village centre location. The site has no designations in the Maidstone Borough-Wide Local Plan 2000 other than the heritage designation discussed above.

5.2 Proposal

- 5.2.1 The application seeks planning permission for the change of use of the existing buildings on site from a public house to four self contained residential properties, and external alterations to facilitate the change of use.
- 5.2.2 The change of use of the existing building would provide two houses, one being two bedroom and the other three bedroom, and two flats, each single bedroom units, by way of the conversion of the existing building. No new build elements are proposed. Each house would have an outdoor private amenity area to the rear of the building, as would one of the flats.
- 5.2.3 The application also seeks planning permission for external alterations to the building including the introduction of four rooflights to the northern and eastern roof slopes of the southern wing of the building, and alterations to the existing arrangement of openings to the ground floors of the north and west elevations. Conservation area consent has previously been granted for the demolition of an existing single storey extension to the rear (west) elevation of the main building under the scope of MA/13/1128.
- 5.2.4 The scope of the proposed alterations to the building are limited, but include the rendering of an area of pebble dash to the north elevation to match existing infill panels, the introduction of timber cladding to the north elevation in place of existing openings, and the making good of the west elevation following removal of the existing single storey extension.
- 5.2.5 In addition to the conversion of the existing buildings to provide flatted accommodation, the application includes ancillary development to remove the existing hard surfacing and provide private garden space for the two houses and one of the flats in the rear of the site; five onsite car parking spaces (one per unit) and vehicle access and turning areas; and enclosures for the storage of

refuse and recyclables in the north west of the site. The existing vehicle access to High Street is to be closed up, and a new access to be formed to Bell Lane, approximately 14m to the west of the junction of High Street and Bell Lane. A metal railing is proposed to the site frontage with High Street and Bell Lane in order to allow separation of the public and private spheres, whilst maintaining the open character of the site.

- 5.2.6 The proposal includes the transfer of land adjacent to the public carriageway along the northern boundary of the site to Kent County Council Highway Services in order to facilitate the future provision of a pedestrian footway along the highway, and the introduction of landscaping, including hedge and tree planting, within the site along its boundaries with the public realm.

5.3 Principle of Development

- 5.3.1 The proposal site is located within the defined settlement of Staplehurst in a sustainable location in close proximity to bus routes and a railway station, and the village centre. It is well served by local facilities and amenities. The site is a former public house and associated land, and as such falls within the definition of previously developed land as set out in the National Planning Policy Framework 2012. For these reasons the principle of residential use in this location is considered to be acceptable, being in accordance with central government planning policy in the National Planning Policy Framework, which states in paragraph 51 that Local Authorities should seek to bring empty buildings into residential use, and should, in suitable locations, "normally approve planning applications for change to residential use from commercial" where there is no strong economic case for the proposed development being inappropriate. The National Planning Policy Framework also sets out a presumption in favour of sustainable development, which in the context of decision making is defined as approving development proposals that accord with the Development Plan without delay, and where the Development Plan is silent, granting planning permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits.
- 5.3.2 Notwithstanding the above, Local Plan Policy R11 of the Maidstone Borough-Wide Local Plan 20000 states that in assessing applications which would result in the loss of facilities including public houses, particularly in villages, consideration will be given to the impact on the local community and the availability and accessibility of alternative facilities in the local area.
- 5.3.3 A viability report has been provided in support of the application, which states that the viability of the public house is limited at the current time as a result of the cost of upgrading the existing facilities (estimated by the surveyor as being between £50,000 to £150,000, with the cost of provision of a catering kitchen

estimated as being between £25,000 and £35,000), and competition from other establishments including the King's Head, a "period" public house located immediately opposite the application site on the north of Bell Lane. In addition, the premises has been unsuccessfully marketed on at least three occasions (in 2000, 2005 and 2010).

- 5.3.4 For these reasons, I consider that the change of use of the public house, particularly in light of the absence of significant alterations to the building which would preclude the change of use of the premises back to an A4 use class, is not contrary to the spirit of the policy and guidance in the National Planning Policy Framework 2012.
- 5.3.5 For the reasons set out above, it is considered that the principle of the change of use is acceptable in the context of local, regional and national planning policy and guidance, subject to all other material considerations.
- 5.3.6 Leaving the principle of the proposed change of use aside, to my mind in the circumstances of this case the key issues in the assessment of the application are the design of the proposed development and its impact upon the surrounding heritage assets; highway safety, including parking; landscape and arboricultural matters; and residential amenity.

5.4 Design and impact upon the surrounding heritage assets

- 5.4.1 The National Planning Policy Framework 2012 requires that development positively responds to the physical and natural environment, using innovative design to create a high quality built environment whilst respecting and enhancing the character and distinctiveness of settlements. Proposed development is required to promote design solutions appropriate to context, which build upon local character and distinctiveness and sense of place, including the sensitive reuse of redundant historic buildings. In the wider context of development affecting heritage assets, the National Planning Policy Framework 2012 seeks to protect, enhance and conserve the historic environment, and supports proposals which bring underused heritage assets into appropriate use.
- 5.4.2 In this case, the proposal site comprises an unlisted building considered to represent an undesignated heritage asset, located within a conservation area and in close proximity to listed buildings. Whilst the impact of the proposal on the undesignated heritage asset is a key consideration in the determination of the application, the impact of the proposed development on the designated heritage assets is of utmost importance. Consequently, the design of the proposal is paramount in assessing the acceptability of the proposal.

- 5.4.3 In this case, the overall character and appearance of the building would be retained, which is considered appropriate in view of the heritage value of the building and its prominence in the streetscape of the conservation area. The works to the building are limited in extent, and would not be overly obvious in public views of the conservation area or listed buildings. The main alteration proposed is the removal of the existing rear single storey extension (previously granted conservation area consent under MA/13/1128), and as a relatively recent addition of limited architectural or historic merit, there is no objection to this element of the proposal. The alterations proposed are considered, as set out in the Conservation Officer's comments, to be sympathetic and acceptable, and to my mind would enhance the appearance of the original building. In order to ensure that these alterations are of an acceptable quality and appearance, a condition is suggested requiring the submission and approval of materials and external joinery. It is noted that drawing number A1300-PL-413A received 2nd October 2013 shows the area of the west elevation to be made good following removal of the single storey extension to be rendered in textured cream, however this is not considered appropriate in the context of the existing wall surfaces, and the use of red brick should be secured by way of condition.
- 5.4.4 For these reasons it is considered that the proposed alterations to the building and the existing fabric of the site are acceptable, subject to the conditions set out above.
- 5.4.5 Notwithstanding the above, no details have been provided of the bin stores and limited detail of boundary treatments, including the metal railing to the site frontage and the means of enclosure to the private garden areas, and as such it is considered appropriate and necessary in the circumstances of this case to require the submission of details of these elements of the proposal. The condition should ensure the use of an alternative, more open and visually appropriate, means of enclosure of the western boundary of the site than that of a 1.8m close boarded fence as shown on drawing number A1300-PL-250/E received 7th November 2013, the introduction of which would result in an overly enclosed appearance to the development and be detrimental to views of the conservation area and un-designated and designated heritage assets from Bell Lane.
- 5.4.6 Furthermore, unrestricted additions to the two houses that would result from the proposal would potentially result in development that would be detrimental to the character and appearance of both the proposal site and the conservation area, and cause harm by way of the loss of open garden spaces within the site. As such, the restriction of permitted development rights has also been requested by the Council's Conservation Officer, a view with which I concur, considering it to be appropriate in this case in respect of Part 1 and Part 2 of the Town and

Country Town Planning (General Permitted Development) Order 1995 (as amended).

5.4.7 For these reasons, it is considered that the design of the development, and its relationship to and impact upon neighbouring listed buildings and the Staplehurst (South) Conservation Area, are acceptable, subject to the conditions set out above.

5.5 Highways

5.5.1 The site is located on the junction between a busy classified A road and an unclassified road, both of which are subject to a speed restriction of 30 miles per hour in the vicinity of the site. The existing access to the public highway allows access and egress directly to the High Street (the A229).

5.5.2 The proposal originally sought to retain the use of this access, however in response to objections received from the Kent County Council Highway Services Officer, an alternative arrangement has been put forward which would close the existing access and result in the introduction of a new access from Bell Lane located 14m from the junction of the two highways. Pedestrian access from the site to High Street would be provided immediately to the north of the main building. Kent Highways have confirmed that this arrangement is considered to be acceptable in terms of highway safety. The developer has undertaken to amend the road markings to provide edge of carriageway markings, as opposed to the existing broken white lines, however it is not considered necessary to require this by way of condition given that the cessation of the use of the access would be secured by way of the introduction of the railings to the relevant parts of the site frontage, as shown on drawing number A1300-PL-250/E received 7th November 2013.

5.5.3 As set out in the comments of the Kent Highways above in paragraph 3.22, it is considered desirable that the land in the immediate north of the site is retained for future use as a pedestrian footway along the southern side of Bell Lane. It is recognised that the provision of a footpath or contribution to secure the same by the applicant in respect of the current application would fail to satisfy the tests for conditions as set out in Circular 11 of 1995 as a pedestrian access to both the High Street and Bell Lane has been provided for the future occupiers of the development.

5.5.4 However, it is not unreasonable to expect that the remainder of the land associated with the Bell Public House (the beer garden and car park, which are now redundant), which comprises blue land and is therefore currently within the control of the applicant, will come forward for housing or other development in the future. This circumstance is such that pedestrian traffic will be generated

between the High Street and Bell Lane which would justify the provision of a pedestrian footway, and as such it is considered appropriate and necessary that the land is transferred by way of an appropriate legal mechanism to the ownership of Kent County Council for the purpose of providing future highway improvements and safeguarding highway safety. The extent of the land to be transferred is shown on the drawing attached as Appendix 1 to this report. This matter has been the subject of negotiation between the applicant and Council Officers, and has been assessed by the Council's legal officers as being compliant, in the circumstances of this case, with the Community Infrastructure Levy Regulations and paragraph 204 of the National Planning Policy Framework 2013.

- 5.5.5 In respect of onsite parking, the proposal would provide five off road parking spaces, one per unit, and adequate turning space within the site boundaries as shown on the tracking diagrams on drawing number 29066-001-003F received 2nd October 2013. The comments received from Staplehurst Parish Council are noted, however this element of the proposal has been fully assessed by the Kent Highways and considered to be acceptable given the scale of the units proposed, the sustainable location, and the close proximity of a public car park on Bell Lane for use by visitors, subject to a condition securing the areas for these purposes.
- 5.5.6 For these reasons it is considered that the proposal is acceptable in regard to considerations of highway safety and parking subject to the legal mechanism and condition detailed above, and therefore no objection is raised in regard of highway safety.

5.6 Landscape

- 5.6.1 As set out above, the proposal would result in the introduction of a new vehicular access which would result in disruption of the existing landscape buffer between the north of the site and Bell Lane, and as such a landscape report has been provided in support of the application.
- 5.6.2 The Council's Landscape Officer has confirmed that, whilst this element of the proposal would result in the loss of trees protected by virtue of their location within a conservation area, the specimens involved are of limited amenity quality and in some cases poor structural condition. Indeed, the removal of all existing landscaping and its replacement with a wider band of landscaping within the site adjacent to its boundary has been suggested by the Landscape Officer.
- 5.6.3 It is considered that the proposed replacement planting of appropriate trees, suitable for the limited planting environment and of appropriate size and form, together with hedging, as shown on drawing number A1300-PL-250/E received 7th November 2013, would effectively provide an equivalent softening of the site

to that currently in place, and through its introduction after the completion of the development and use of suitable species be more likely to provide long term benefit than the retention of the existing landscaping. The proposed landscaping would thereby secure the character and appearance of this frontage of the site, notwithstanding the introduction of the access itself, and enhance the character and appearance of the Staplehurst (South) Conservation Area and the setting of neighbouring listed buildings.

5.6.4 The proposed landscaping would be located within the site, but would be visible in public views by virtue of the open structure of the proposed boundary treatments, and would thus be effective in protecting public amenity. The landscaping would be located entirely within the enclosed part of the rear of the site in order that its long term survival would not be compromised by the transfer of land along the northern boundary of the site from the applicant to Kent County Council and subsequent future introduction of a pedestrian footway, as discussed above in paragraph 5.5.3 and 5.5.4. Kent Highways has confirmed that this can be achieved without detriment to the safe turning and manoeuvring of vehicles, and therefore landscape and landscape implementation conditions are suggested in accordance with the comments of the Landscape Officer in order to secure the appearance of the site and the conservation area, and prevent net loss of biodiversity.

5.6.5 For these reasons it is considered that the proposal is acceptable in regard to considerations of landscaping subject to the conditions detailed above, and therefore no objection is raised in this regard.

5.7 Residential amenity

5.7.1 It is considered that the two houses and flat 2 would provide a reasonable standard of living conditions for future occupiers. However, the openings to the main living area (living/dining area and kitchen space) of flat 1 (located on the ground floor) would be overshadowed by two storey elements of the existing building, failing the BRE 45° rule, a matter which would be exacerbated by the north facing aspect of these windows. However, the proposed layout is a sensitive treatment of the building and no alternative arrangement has been put forward. To my mind, the principle of "buyer beware" would apply in this case, and this would not have any detrimental impact upon the occupiers of existing dwellings. Therefore, it is not considered that the proposal should be refused on this ground. However, the condition restricting permitted development rights suggested above in paragraph 5.4.5 for reasons relating to the conservation of heritage assets would go a considerable way towards preventing this situation from worsening over time through the introduction of inappropriate and harmful additions to houses 1 and 2.

- 5.7.2 It is not considered that the change of use of the building would result in any significant additional harm to the amenity of the occupiers of neighbouring dwellings of itself when assessed against the existing lawful use of the building as a public house. Whilst new openings are proposed as detailed above, the spatial relationship between them and nearby residential properties, particularly in respect of separation distances, are considered to be such that no loss of privacy or light or harm to outlook would result to habitable rooms of existing properties.
- 5.7.3 For these reasons it is considered that the proposal is acceptable in regard to considerations of residential amenity, subject to the permitted development restrictions stipulated above which should be secured by way of a condition.

5.8 Other matters

- 5.8.1 Concern has been raised in regard to the provision on site provision of storage of refuse and recyclables. The application contains details of the provision of such facilities, and no objection to the proposal has been raised by the Environmental Health Officer. As such it is considered that no objection is raised to the proposal in this regard. However, it is considered that the sensitivity of the site is such that in the circumstances of this case details of the bin enclosures should be required to be submitted and approved in writing by condition in order that the visual impact of the structures can be minimised through the use of appropriate design.
- 5.8.2 Concerns over the loss of a green space, the failure of the pub to be retained as a community facility and the future of the remainder of the land associated with the public house are noted. However, these are beyond the scope of the current application, and cannot be taken into consideration in its determination.
- 5.8.3 It is noted that the Council's Environmental Health Manager has requested the imposition of a condition requiring the development to be undertaken in accordance with Part E (resistance to passage of sound) of the Building Regulations, however to do so would duplicate legislation and thereby fail the tests for conditions set out in Circular 11 of 1995.
- 5.8.4 The scale of the proposed development falls short of the thresholds for contributions to local community infrastructure and affordable housing, and as such none are sought.
- 5.8.5 The proposed development is for the conversion of an existing building, and as such the Code for Sustainable Homes cannot be imposed on the development.

5.8.6 Members will be aware that private covenants and rights of access are not planning matters, and cannot be taken into consideration in the determination of applications for planning permission.

6. CONCLUSION

6.1 For the reasons set out above, it is considered that the principle of residential development in this location is acceptable, that the loss of the public house would not be contrary to Local Plan policy R11, and that the design and scale of the proposal are such that the character and appearance of the Staplehurst (south) Conservation Area and the setting of the neighbouring listed buildings would be preserved. The proposal would not result in any harm to residential amenity and is acceptable in regard to highway issues and in all other material considerations, subject to the conditions detailed above.

6.2 It is therefore concluded that, subject to an appropriate legal mechanism, as detailed above in paragraph 5.6.4, the Head of Planning and Development be granted delegated powers to grant planning permission subject to conditions.

7. RECOMMENDATION

SUBJECT TO: THE PRIOR COMPLETION OF AN APPROPRIATE LEGAL MECHANISM SECURING THE TRANSFER OF THE LAND IDENTIFIED IN RED ON THE PLAN ATTACHED AS APPENDIX 1 TO THIS REPORT TO THE HIGHWAY AUTHORITY, THE HEAD OF PLANNING AND DEVELOPMENT BE DELEGATED POWERS TO 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. The development shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces and areas of hard surfacing of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials. Notwithstanding the details shown on the submitted drawings, the materials shall include, inter alia, red brick to match existing in the making good of the west elevation of the building following removal of the existing single storey extension, and natural timber panels to the north elevation;

Reason: To ensure a satisfactory appearance to the development, and secure the character and appearance of the undesignated heritage asset and the Staplehurst (South) Conservation Area, and the setting of neighbouring listed buildings.

3. The development shall not commence until details in the form of large scale drawings (at a scale of 1:20 or 1:50) of the following matters have been submitted to and approved by the Local Planning Authority;

- i) Details of external joinery; and

- ii) Details of brick arches above all new external openings.

The development shall be undertaken in accordance with the approved details and maintained as such thereafter.

Reason: To ensure a satisfactory appearance to the development and secure the character and appearance of the undesignated heritage asset and the Staplehurst (South) Conservation Area.

4. Notwithstanding the details shown on drawing number A1300-PL-250/E received 7th November 2013, the development shall not commence until details of all fencing, walling and other boundary treatments have been submitted to the Local Planning Authority and approved in writing. The submitted details shall include, inter-alia, the details of the railings to the north east and east site frontages, which shall be of a traditional metal appearance, and fencing or railings of an open appearance to the west and north west boundaries of the site. The development shall be carried out in accordance with the approved details before the first occupation and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development, and secure the character and appearance of the undesignated heritage asset and the Staplehurst (South) Conservation Area, and the setting of neighbouring listed buildings.

5. The development shall not commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, a programme for the approved scheme's implementation to include the planting of the boundary landscaping in the first planting season following completion of the development or occupation of one or more of the residential units, whichever is sooner, and the scheme's long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines.
The scheme of landscaping shall include, inter alia, the provision of areas of

planting within the railings along the north frontage of the site with a trench planted area of minimum width of 1m and minimum depth of 600mm including a minimum of 2.no standard trees comprising a mix of Sorbus aucuparia 'Streetwise', Prunus padus 'Albertii', and Acer campestre 'William Caldwell' and a hedge made up of a mix of Hawthorn (Crataegus monogyna), Hornbeam (Carpinus betulus) and Hazel (Corylus avellana)

Reason: To ensure a satisfactory appearance to the development, and secure the character and appearance of the undesignated heritage asset and the Staplehurst (South) Conservation Area, and the setting of neighbouring listed buildings.

6. 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 occupation of the buildings 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 appearance to the development, and secure the character and appearance of the undesignated heritage asset and the Staplehurst (South) Conservation Area, and the setting of neighbouring listed buildings.

7. The development shall not commence until details in the form of drawings (at a scale of 1:50 or 1:100) of the bin storage areas have been submitted to the Local Planning Authority and approved in writing;

Reason: To ensure a satisfactory appearance to the development and secure the character and appearance of the undesignated heritage asset and the Staplehurst (South) Conservation Area.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 1, Class(es) A, B, C, D, E and F and Schedule 2, Part 2 to that Order shall be carried out without the permission of the Local Planning Authority;

Reason: To ensure a satisfactory appearance to the development, and secure the character and appearance of the undesignated heritage asset and the Staplehurst (South) Conservation Area, and the setting of neighbouring listed buildings, and safeguard the residential amenity of future occupiers.

9. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (as amended by any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.

Informatives set out below

In order to minimise dust and dirt being blown about and potentially causing a nuisance to occupiers of nearby premises the following precautions should be taken.

- Reasonable and practicable steps should be used during any demolition or removal of existing structure and fixtures, to dampen down the general site area, using a suitable water or liquid spray system.
- Where practicable, all loose material on the site should be covered during the demolition process.
- During the construction, reconstruction, refurbishment or modification of the building and where practicable the exterior should be sheeted, enclosing openings etc. as necessary.

Adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed.

Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228:2009 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 EHM regarding noise control requirements.

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 EHM.

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.

Vehicles may only arrive, depart, be loaded or unloaded within the general site between 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.

Provision should be made for the separate storage of recyclables from household waste. Advice on recycling can be obtained from the Environmental Services Manager.

The applicant should be aware that the site is in a radon affected area with a 3-5% probability of elevated radon concentrations. If the probability of exceeding the Action level is 3% or more in England and Wales, basic preventative measures are required in new houses, extensions, conversions and refurbishments (BRE 1999, 2001, and 2007).

The developer will be required to produce a Site Waste Management Plan in accordance with Clean Neighbourhoods and Environment Act 2005 Section 54. As per the relevant act and the Site Waste Management Regulations 2008, this should be available for inspection by the Local Authority at any time prior to and during the development.

Any new connections to the public sewerage system will require a formal application to be made to Southern Water (Atkins Ltd., Anglo St James House, 39A Southgate Street, Winchester SO23 9EH (01962 858688 www.southernwater.co.uk).

Note to Applicant:

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

Offering a pre-application advice and duty desk service.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The applicant/agent was advised of minor changes required to the application and these were agreed.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000) and there are no overriding material considerations to indicate a refusal of planning consent.