

TWC/2022/0340

The Cleveland Arms, Cotwall Road, High Ercall, Telford, Shropshire, TF6 6AE  
Conversion of public house (use class sui generis) into 1no. dwelling (use class C3)

**APPLICANT**

John Hickinbottom

**RECEIVED**

20/04/2022

**PARISH**

Ercall Magna

**WARD**

Edgmond and Ercall Magna

**THIS APPLICATION IS PRESENTED TO COMMITTEE AS THE NUMBER AND NATURE OF REPRESENTATIONS FROM THE PUBLIC IS, IN THE OPINION OF THE SERVICE DELIVERY MANAGER: DEVELOPMENT MANAGEMENT, SUFFICIENT TO REQUIRE THAT THE APPLICATION SHOULD BE DETERMINED BY BOARD.**

Online Planning File:

<https://secure.telford.gov.uk/planning/pa-applicationssummary.aspx?Applicationnumber=TWC/2022/0340>

**1.0 SUMMARY RECOMMENDATION**

1.1 It is recommended that **DELEGATED AUTHORITY** be granted to the Development Management Service Delivery Manager to **REFUSE PLANNING PERMISSION.**

**2.0 SITE AND SURROUNDINGS**

2.1 The application site is located in High Ercall adjacent to the B5063 and comprises of a public house. The property can be accessed from the B5063 or the public highway known as Ridgeway east of the site.

2.2 There is associated parking north of the application site and a bowling green west adjacent which are both in the ownership of the applicant but do not form part of the red outline boundary on the submitted site location plan.

2.3 East of the site is a small housing development which was previously granted permission (ref: TWC/2012/0314).

2.4 The public house resides within a Conservation Area and the wider village benefits from a primary school, church, doctor surgery and a convenience store. High Ercall Village Hall is situated at the southern boundary of the village.

**3.0 APPLICATION DETAILS**

3.1 The application proposes the conversion of public house (Use Class Sui Generis) into 1no. dwelling (Use Class C3). Only the public house and access have been included within the red outline boundary leaving the car park and

bowling green within the ownership of the applicant according to the signed ownership certificates on the planning application forms.

- 3.2 The conversion will not propose external alterations. Most of the physical alteration to the existing public house will include internal changes to the floorplans to accommodate a design necessary for a residential dwelling.
- 3.3 The application proposes four parking spaces which are situated within the northern boundary of the site location plan. To access these spaces the occupier would need to access manoeuvre through the existing car park which is within the ownership of the applicant.

#### **4.0 RELEVANT HISTORY**

- 4.1 TWC/2017/0299 – The Cleveland Arms, Cotwall Road, High Ercall, Telford, Shropshire, TF6 6AE – Conversion of part of existing public house into 1no. dwelling, part demolition of building and the erection of a single storey rear extension and two storey side/rear extension to form new public house with staff accommodation and letting studio \*\*\*Amended description, plans and supporting documentation received\*\*\* Appeal Dismissed 23/02/2018.
- 4.2 TWC/2016/1095 – The Cleveland Arms, Cotwall Road, High Ercall, Telford, Shropshire, TF6 6AE – Conversion of part of Cleveland Arms into 1no. dwelling, part demolition of existing public house and the erection of a two storey side/rear extension to form new public house with staff accommodation and the erection of 2no. Semi-detached dwellings Withdrawn 22/12/2016.
- 4.3 TWC/2012/0314 – Land adjacent The Cleveland Arms, High Ercall, Telford, Shropshire, TF6 6AE – Erection of 6no. dwellings with associated car parking and an erection of 1.8m brick wall. Full Granted 11/03/2013.

#### **5.0 RELEVANT POLICY DOCUMENTS**

##### **5.1 National Guidance:**

National Planning Policy Framework (NPPF)  
National Planning Practice Guidance

##### **5.2 Local Development Plan:**

Telford & Wrekin Local Plan 2011-2031:

Policy SP3 Rural Area  
Policy SP4 Presumption in Favour of Sustainable Development  
Policy EC7 Local Centres and rural services  
Policy HO10 Residential development in the rural area  
Policy COM1 Community Facilities  
Policy C3 Impact of Development on Highways  
Policy C5 Design of parking

Policy BE1 Design Criteria  
Policy BE2 Residential alterations  
Policy BE5 Conservation Areas

5.3 Other Material Planning Considerations:

High Ercall Conservation Area Management Plan

**6.0 SUMMARY OF CONSULTATION RESPONSES**

**6.1 Local Member & Town/Parish Council Responses:**

6.1.1 Ercall Magna Parish Council: **Object:** *“Ercall Magna Parish Council, on behalf of the residents of the Parish STRONGLY object to this application. The site is subject to an Asset of Community Value order and therefore the community continues to support its retention as a public house. The proposal is not only contrary to the ACV it is also not in keeping with the Conservation Area. Much of the information contained in the application is inaccurate or incomplete. There have been significant attempts to negotiate the purchase of the property to fulfil the requirements of an ACV but these have been hindered by the applicant and agent. The property and the site have been left to decay. The Parish Council will call-in the application, for determination by the Planning Committee in order that all the historic information can be brought to the attention of the Members prior to them making a decision.”*

**6.2 Standard Consultation Responses**

Comments received from statutory consultees can be viewed in full on the planning file, but key points have been summarised as follows:

6.2.1 TWC Drainage: No objection.

6.2.2 TWC Ecology: No representation received.

6.2.3 TWC Highways: No representation received.

6.2.4 TWC Healthy Spaces: **Object due to potential impact on bowling green:**

6.2.5 TWC Built Heritage: **Support subject to Condition(s):**

- Removal of permitted development rights in order to preserve the historic and architectural character of this heritage asset and the character and appearance of the Conservation Area,
- Details of the boundary treatment (the erection of a brick wall along the east elevation) to ensure it is sympathetic to the neighbouring boundary walls in terms of height, design and materials,
- Details of the proposed highways signs in respect of their height, location and method of placement.

6.2.6 Shropshire Fire Service: **Note** that consideration should be given to the Fire Safety Guidance document.

## **7.0 SUMMARY OF PUBLIC RESPONSES**

7.1 23no. letters of representations have been submitted comprising 20no. letters of objection and 3no. letters of support, which are available in full on the planning file, but key points have been summarised as follows:

Object:

- The marketing exercise was not carried out in good faith.
- The marketing exercise was not robust over the 12 month period.
- The marketed price did not reflect the property value.
- Loss of public house.
- Community hub for the village and the wider community.
- Site is within a conservation area.
- Loss of the bowling club facility.
- The community bar which takes place once a week at the Village Hall (a charity run, solely by volunteers) proves the value and desire for such a facility.
- No communication from the estate agent for second viewing of the property.
- The public house has been deliberately damaged.

Support:

- No serious purchasers of the property.
- There is an equivalent alternative use or service nearby.
- Robust marketing evidence submitted.
- The property has been vacant more than 12 months.
- Visual amenity concerns (disrepair of the public house).

## **8.0 PLANNING CONSIDERATIONS**

8.1 Having regard to the Development Plan policies and other material planning considerations, including comments received during the consultation process, the planning application raises the following main issues:

- Principle of Development
- Significance of Heritage Assets
- Character and Appearance
- Impacts upon Residential Amenity
- Highways and Parking

### **8.2 Principle of Development**

8.2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this instance, the development plan consists of the Telford and Wrekin Local Plan (TWLP). The National Planning Policy Framework (NPPF) sets out policy guidance at a national level and is a material consideration in planning decisions.

- 8.2.2 Policy SP3 supports development within the rural area where it addresses the needs of rural communities. The Council will support the delivery of approximately 1,000 net new homes in the rural area up to 2031. According to Telford & Wrekin Housing Land Supply Statement 2021 (released May 2022) the Council can demonstrate a five-year housing land supply and its housing supply policies are, therefore, considered up to date for decision taking purposes.
- 8.2.3 Policy SP4 supports development proposals that are sustainable. Development is considered sustainable where it is in accordance with national and Local Plan policies, considering other material considerations.
- 8.2.4 Policy HO10 (Residential development in the rural area) supports limited infill housing and conversion of non-residential properties into housing within the listed rural settlements, including High Ercall.
- 8.2.5 Policy COM1 Community facilities aims to preserve existing community facilities. Development which detrimentally affects existing social infrastructure such as its removal or reduction will not be supported unless a lack of need is demonstrated or acceptable alternative provision exists or is proposed concurrently. The Council will not support the loss of land or buildings previously used as a community facility unless either:
- *a lack of need is demonstrated; or*
  - *an acceptable alternative provision exists or is proposed concurrently.*
- 8.2.6 Policy EC7 (Local Centres and rural services) safeguards against development resulting in the loss of floorspace within use classes A1, A2, A3, A4 or community use (D1) in rural areas unless the following criteria are met.
- i. There is an equivalent alternative use or service nearby that provides a similar offer which meets the needs of residents;*
  - ii. It has been vacant for a period of more than 12 months and robust evidence is provided of efforts to market the unit over that period; or*
  - iii. The proposal will provide a community facility for which there is a demonstrable need.*
- 8.2.7 Whilst the proposal site is not currently utilised as a public house, its last use is defined by use class A4. The proposed development seeks to convert the public house into a residential dwelling (C3 Use Class). Section 7 of the Local Plan defines 'community facilities' as "*General facilities such as community centres and halls and other spaces where community groups can meet*", amongst other types of community facilities. In this instance, the proposal site is considered to fall within the definition of 'community facility'.
- 8.2.8 In addition, The Cleveland Arms was nominated as an Asset of Community Value by the Parish Council and a local charity known as Cleveland Phoenix Charity which was granted in 2017; an appeal by the owners in 2018 was dismissed, although the bowling green was removed from the Local Assets of Community Value list. The ACV was in place for 5 years and expired in July 2022.

8.2.9 The Cleveland Arms is a large building residing in a plot that enables parking provision for customers and an ancillary leisure use in the form of the bowling green to facilitate outdoor sporting or community events. As a drinking establishment, it will likely be open from midday to midnight for informal social occasions between individuals and groups. The business model of a public house allows them to maintain these opening hours providing flexibility to the local community a public and informal social space.

8.2.10 If the proposed development is granted planning permission to convert the public house into a residential dwelling, a community facility will be lost. No alternative community facility is proposed. In addition, there is no equivalent community facility in the village of High Ercall with The Cleveland Arms being the only public house remaining in the village. The applicant has raised that the village community hall can perform an alternative and equivalent provision, however, this is a voluntary facility which requires formal booking and is limited in its opening hours and facilities. A public house on the other hand is a dedicated and informal walk-in service which is available most days throughout the week.

8.2.11 Policy COM1 requires the applicant to demonstrate *“a lack of need”* for the community asset. The second criterion is found under EC7(ii); *“It has been vacant for a period of more than 12 months and robust evidence is provided of efforts to market the unit over that period.”*

8.2.12 Whilst the policy itself does not explicitly outline the requirements of a marketing exercise, the Council confirmed in pre-application discussions that the any planning application for the change of use from public house to dwelling would need to include a detailed Marketing Report by a qualified and competent person consisting of:

- The name/names of the Agents the property is listed with
- Confirmation of whether the property has been considered for let as well as sale, and if not justification as to why not;
- 3 independent valuations to demonstrate that the building has been valued at a reasonable rate
- Details of when and where advertised;
- Copies of adverts placed
- Details of any enquiries / viewings / meetings and feedback on why these enquires were not pursued if this is the case
- If no offers are made, an assessment of the asking price
- The property should be intensively marketed for a minimum of 12 months.

8.2.13 The applicant has submitted evidence in response to Policy EC7, including a valuation and marketing exercise by the relevant competent persons. The property has been marketed between £249,500 and £295,000 according to the three valuations submitted with the planning application. It was marketed that a covenant would also be placed on the property of sale restricting it to a public house. The marketing dates can be seen below:

- On 23rd July 2019 inviting freehold offers at £295,000+VAT.

- On 29th October 2019 the asking price was reduced to £275,000+VAT.
- On 28th April 2020 the property was reduced again to £249,950+VAT.
- On 27th August 2020 the property was withdrawn from the market.

8.2.14 Three offers were made by three private individuals for £150,000, £200,000 and £100,000. The first and third offered was rejected as they were 'substantially lower' than the applicant's expectation and the prospective buyers did not agree to a covenant placed upon the property. The second offer was withdrawn due to the covenant.

8.2.15 Following this 13 month period of marketing, the applicant carried out a further 6 month marketing campaign where the public house was marketed as a combined option with the bowling green and without the bowling green at a combined price of £285,000+VAT and bowling green separately for £65,000+VAT from 15th February 2021.

8.2.16 Two further offers were made. The fourth offer from a limited company rejected the covenant position, offering £250,000 plus 33.3% overage if any development was achieved. The fifth offer was made by a local community group offering £185,000, however, the applicant does not consider this to be a formal offer and so did not pursue the offer any further.

8.2.17 Under Policy COM1 the applicant must demonstrate a 'lack of need' for the community asset. Policy EC7(ii) performs this function by requiring a property to be marketed for a period of 12 months and robust evidence provided to support this. It is clear that throughout both marketing periods numerous interested parties, including the local community, made offers to purchase the public house. These offers failed for one of two reasons;

1. The offer was lower than the applicant was prepared to sell the property for.
2. The applicant attaching a covenant restricting the future use of the property as a public house only.

8.2.18 Firstly, the planning system does not recognise the private interests of the individual as a material consideration. In this case, numerous offers were made by a variety of interested stakeholders and the applicant refused these offers. As one supporting public comment states; "the value of anything is what someone is prepared to pay" and thus it is clear, through the recent marketing exercises, where the market value of the property currently stands. Unwillingness to sell the property does not demonstrate the lack of need for the community asset. Indeed, one offer of £250,000 plus 33.3% overage was made to the applicant which is within the independent market valuations submitted by the applicant. In addition, the application has been accompanied by three valuations from competent persons, however, these calculations carried out a standard commercial methodology and failed to explore the various other types of public house business models utilised at different stakeholder levels within the industry as concluded by the Hotel Solutions report.

8.2.19 There is concern regarding the valuation figures. The property was purchased at auction by the applicant in 2013 for £185,000. The public house stopped trading in 2016 and has since undergone extensive works internally which have not yielded the property operational to any prospective buyer. This means significant investment would be required to allow future trade as a public house to continue. Taking this matter into account, it is difficult to see how the applicant's valuations of between £225,000 and £325,000 would have been derived as actions of the applicant since 2013 have actively devalued the property, not increased its value and any prospective purchaser would thus naturally negotiate a lower price of the property to compensate for remediation works. These actions to strip the property of its structural and internal equilibrium could be considered an act of bad will when marketing the property to discourage formal offers and this is amplified through comments received by numerous members of the public and by those who inspected the site for purchase recounting sustained negative comments about the investment opportunity from the applicant and their marketing agent. The valuations and cost estimates of the property are fully assessment under the Hotel Solutions report under section 4.3 and concludes that the likely value of the public house, having taken all valuations and market offers into account, would be approximately £185,000 if not less.

8.2.20 Secondly, the proposed imposition of a covenant for the future use of the marketed property as a public house was not identified as required by the Council or proposed within the strategy material submitted for our prior review and agreement, but the property has nonetheless been marketed in this manner. Neither Policy EC7 nor COM1 restrict use purely as a public house, with a covenant not being a material consideration, and multiple offers having been rejected on this basis. Here planning policy and any material planning considerations would be the determining factors of any future alternative use proposed by any future owner or lease party, with EC7 allowing a community facility for which there is a demonstrable need in said rural area. To exemplify this issue, it is stipulated in public comments that one individual attended the site and was interested in making an offer to purchase the property with the intention of converting it into a café, which would be considered a community facility which somewhat reflects the informal walk in service of a public house. However, the imposition of the covenant would have clearly prevented this individual from making a formal offer. It is considered that the imposition of this covenant is again an act of bad will by the applicant to actively discourage formal offers being proposed by prospective buyers. The fact that numerous offers were received despite this restriction, clearly indicates that there is not a lack of need and the community asset.

8.2.21 In conclusion, the applicant must demonstrate a lack of need for the community facility. The applicant has thus carried out two separate marketing periods covering 19 months. In that time numerous reasonable offers were made to the applicant, but the applicant was unwilling to sell the property. This does not demonstrate a lack of need for the facility. Furthermore, having assessed the submitted documents and all public comments, it is clear that the numerous formal offers from various stakeholders and over 20 public objections clearly demonstrates the need for this community facility.



8.2.22 The applicant must also demonstrate the property has been vacant for a period of more than 12 months and robust evidence is provided of efforts to market the unit over that period. The property has been vacant for a period longer than 12 months. However, the applicant has failed to provide robust marketing evidence in line with the Council's expectations set out to the applicant during the pre-application stage.

8.2.23 The proposed development for the conversion of a public house into a residential dwelling is unacceptable in principle as it fails to comply with Policies SP4, EC7 and COM1 of the Telford & Wrekin Local Plan 2011-2031.

### **8.3 Significance of Heritage Assets**

8.3.1 The NPPF states, in relation to heritage assets, that: "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification."

8.3.2 Chapter 16 of the National Planning Policy Framework at paragraph 190 sets out that the local planning authority should identify and assess the particular significance of any heritage asset. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Paragraphs 199-208 sets out the framework for decision making relating to heritage assets and this assessment takes account of the relevant considerations in these paragraphs.

8.3.3 Policy BE4 states, *"The Council will have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The Council will not support development that would detract from or damage the setting of a listed building. Any harm or loss to the significance of or setting to a listed building must be clearly justified."*

8.3.4 The proposed development is situated within the High Ercall Conservation Area and is evidenced by the High Ercall Conservation Management Plan (adopted 2008). The Council's Built Heritage Officer was consulted on the planning application.

8.3.5 *"Although it is not statutorily listed or a Building of Local Interest, it nonetheless forms an important focal point in the streetscape, particularly when travelling northbound on the B5062, and is considered a non-designated heritage asset. The pub's prominent siting on Cotwall Road also has a minor affect on the setting of the Grade II listed Garden boundary wall,*

*gate and gate piers of the Grade II listed Almshouses further to the east along Cotwall Road, particularly when the pub is approached from the east.”*

- 8.3.6 The Built Heritage Officer states in their response that the Victorian property was formally a dwellinghouse and was later converted to a public house. The public house has been vacant for some time and thus the conversion of the property back into a dwelling would have little impact on the significance of the heritage asset. If the property were to be brought back into beneficial use this would likely yield a net gain in visual amenity, particularly due to the prominence and visibility of the property within the street scene and wider conservation area. The proposal in its current form is considered to be broadly in keeping with local policies HO10, BE1, BE4 and BE5 and the NPPF section 16, and is acceptable subject to conditions.

#### **8.4 Character and Appearance**

- 8.4.1 Policy BE1 (Design criteria) is the general development management policy governing character and appearance of all new development. The Policy requires all new development to be reflective of the established local character both within and surrounding the proposed site location. The proposed development would involve limited external alterations with mainly internal works for a more efficient dwelling floorplan. Subject to conditions from the he proposed alterations are considered reasonable and do not adversely impact the visual amenity of the proposal site or wider context to such a degree as to warrant refusal under Policies BE1, BE2 and BE5 of the Telford & Wrekin Local Plan 2011-2031.

#### **8.5 Impacts upon Residential Amenity**

- 8.5.1 The proposed conversion would not incur any further residential amenity issues which are not already present at the site by virtue of overlooking, overbearing or overshadowing impacts. The scheme is considered acceptable with Policy BE1 and BE2 of the Telford and Wrekin Local Plan 2011-2031.

#### **8.6 Highways and Parking**

- 8.6.1 The proposed floorplans display four bedrooms. The Council's adopted parking standards can be seen in Appendix F of the Local Plan 2011-2031. The site is considered to be situated within a rural area and thus Table 25 applies. As the proposed development would provide four bedrooms the level of off street parking provision it must provide is 4 spaces. The submitted block plan indicates four off street parking spaces within the existing curtilage. Assessing highway impact, the scheme is considered appropriate in accordance with Policy C3 and C5 of the Telford and Wrekin Local Plan 2011-2031.

### **9.0 CONCLUSION**

- 9.1 The conversion of an existing building to a residential dwelling in a designated rural village is acceptable under Policy SP3 and Policy HO10.

- 9.2 Under Section 7 of the Local Plan a public house is considered to be a community facility, fitting the following listed description; “*general facilities such as community centres and halls and other spaces where community groups can meet*”. Policy COM1 will not support the building previously used as community facilities unless there is either a lack of demonstrable need, or there is an acceptable alternative provision which exists or is concurrently proposed.
- 9.3 Furthermore, Policy EC7 is clear that the Council will not support development resulting in the loss of A4 uses (formally public houses) or other community uses (D1) in rural areas unless there is an equivalent or alternative use nearby which provides a similar offer which meets the needs of residents; it has been vacant for 12 months and robustly marketed over 12 months or the proposal will provide a community facility.
- 9.4 The applicant has failed to demonstrate through their submitted evidence that there is a lack of demonstrable need for the public house. As the report from Hotel Solutions has confirmed, along with various offers during the marketing campaign and the numerous public comments objecting to the loss of this community facility, there is in fact a strong demand for such a community facility. In summary, there is a clear demonstrable need.
- 9.5 In assessing the applicant’s submitted marketing and valuation documents, Hotel Solutions have provided a thorough independent analysis of the submitted information, along with a site visit, speaking with different stakeholders and documenting the events leading up to this planning application. From the competent meta-analysis provided by Hotel Solutions, it is clear that the applicant has failed to provide robust marketing evidence and the marketing exercise itself was conducted in poor faith with the objective of not selling the community facility. As stated in paragraph 8.18 of this report, the planning system does not recognise the private interests of the individual as a material consideration. In this case, numerous offers were made by a variety of interested stakeholders and the applicant refused these offers. These offer were considered reasonable given the assessment provided by Hotel Solutions. The applicant’s unwillingness to sell the property does not demonstrate lack of need.
- 9.6 It is clear that there is no equivalent or alternative community facility within High Ercall to that of the Cleveland Arms, given it is the only public house in the village. The applicant has attempted to draw an equivalency to the village hall which has a voluntary one day a week bar, however, this is clearly does not provide the same offer as a dedicated and established public house business with operating hours throughout the week and certainly does not have the level of facilities required that a public house would entail. If anything, this pop up village hall bar is further evidence that there is demonstrable need, especially because this is a voluntary function by the community.
- 9.7 Having regard to the above considerations, the proposal represents an unsustainable form of development that is contrary to adopted local and

national planning policy and is, therefore, recommended for refusal.

## **10.0 DETAILED RECOMMENDATION**

Based on the conclusions above, the recommendation to the Planning Committee on this application is that **DELEGATED AUTHORITY** be granted to the Development Management Service Delivery Manager to **REFUSE PLANNING PERMISSION** for the following reasons:

- 1) The application has failed to demonstrate a lack of need for the community facility, failed to evidence a robust marketing campaign and failed to identify an equivalent or alternative community facility that provides a similar offer which meets the needs of residents. The proposed development would result in the unacceptable loss of a community facility and is contrary to Local Policies SP4, COM1 and EC7 of the Telford & Wrekin Local Plan 2011-2031 and provisions found under National Planning Policy Framework.