

**Applications delegated to Director of Planning,
Housing & Environmental Health to determine**

TM/20/00516/FL

Location: The Cock Horse Inn London Road Hildenborough Tonbridge Kent TN11 8NH

Proposal: Change of use/conversion/extension of Cock Horse Public House (Class A4: Drinking Establishment) to a pair of semi-detached houses (Class C3: Residential Use), plus hard and soft landscaping works

Target Date: 28 April 2020

EOT Target Date: 30 June 2020

1. Description of Proposal:

1.1 Planning permission is sought for the conversion of the existing public house into a pair of semidetached dwellings, with associated works.

2. The Site:

2.1 The site is The Cock Horse Inn, a prominent public house on the main road between Sevenoaks and Tonbridge, The building has 17th century origins but is not Listed, having been much altered. It does have local historic significance though and as highlighted by the applicant's heritage statement, can be considered a non-designated heritage asset.

2.2 Aside from the building itself the site comprises of a narrow beer garden to the rear and an associated car parking area, which is subject to a separate application under consideration. All the site lies outside of the settlement confines, within the Green Belt. The pub has been closed for some months.

3. Planning History (relevant):

TM/49/10142/OLD grant with conditions 8 June 1949

Use of stables as commercial garage.

TM/55/10137/OLD grant with conditions 28 June 1955

Proposed Gents Lavatory Accommodation.

Officer Delegated Report

TM/75/10278/OLD grant with conditions 28 October 1975

Overhead Line.

TM/86/10523/FUL grant with conditions 8 December 1986

Extensions and alterations.

TM/86/11192/FUL grant with conditions 12 February 1986

Single storey extension at rear together with internal alterations.

TM/90/11117/FUL grant with conditions 23 January 1990

New car park for 13 No. cars and garage.

TM/03/03168/FL Grant With Conditions 28 November 2003

Extend to the rear a raised platform/deck with access provided via double french windows

TM/20/00404/FL Pending consideration

Erection of 3 bedroom house (Class C3: Residential Use), plus car parking, access and hard & soft landscaping works

4. Consultees:

4.1 PC: Hildenborough Parish Council would like to make the following comments on the above planning application:

1. The first question is of public interest. In this case, we feel it is to the detriment of the local populace. The removal of a local amenity and a focus point for the community is of great detriment to local people. This has been reflected in the comments submitted by local people from across the whole of the village which from a planning perspective is proof for this point.

2. The plans submitted alongside the supporting planning statement contain a number of inaccuracies. Dating is an obvious issue. The pub was built in 1502

(Hildenborough History Society have several documents proving this alongside a list of licensees if required). Another piece of misleading data being the viability study, in particular the graph pertaining to beer sales per barrel. This in itself does not show the viability of the pub, merely a change in drinking habits over the years, many more spirits are sold in pubs than beer now.

3. The lack of financial evidence is also an issue, only showing rates from the previous year (this happens to be the worst year in the pub's financial history). There are also two pubs in Hildenborough (The Half Moon and The Flying Dutchman) which follow a similar pattern in profits etc. Does allowing this redevelopment set precedence for these pubs too? Will we be 'pub-less' soon?

4. There is also a big issue surrounding current parking arrangements and future safety if these parking spaces are no longer available. Old Cock cottages have no provision for parking currently and use the rear of the pub for safe parking spaces, in agreement with the previous landlords. If the development goes ahead these spaces will be lost for those residents forcing them to park alongside the road or even in the road providing a highway hazard on a National Speed limit road.

5. This historic building should be maintained to its existing appearance and fenestration.

6. The presence of Japanese Knotweed is noted to the south of the property which would need to be removed.

4.2 Neighbours: 7 objections received on the following summarised grounds:

- Loss of amenity to local area
- Strongly object
- Pub was highly successful
- Fault of inept tenants
- Deliberate ploy to prove non-viability
- Integral part of local community
- Loss of parking
- Road hazardous
- No provision for visitor parking or deliveries
- No resident consultations
- No environmental impact assessment
- Does not consider adjacent cottages
- Construction must not block rights of access

4.3 TMBC Environmental Health (Contaminated Land): Due to the age of the property to be converted, and the requirement to demolish some pre-existing extensions, I would recommend conditions.

4.4 TMBC Environmental Health (Noise): The site is in very close proximity to the busy B245 with the likely loss of amenity due to traffic noise. The applicant should be

required to undertake a noise assessment to confirm the site is suitable for conversion to residential properties. From this noise assessment the applicant will need to demonstrate that internal noise levels can meet those given in BS8233. If internal levels cannot be achieved with windows open the applicant should also be required to submit a suitable scheme of attenuation including mechanical ventilation to ensure rapid cooling of rooms can be achieved. Until such details are submitted I must register a holding objection.

I also note from the ecological report that Japanese knotweed had been identified just outside the boundary of this site, and this should be flagged with the applicant.

- 4.5 TMBC Environmental Health (Noise) further comments following receipt of noise survey: I've looked at this and am satisfied that suitable glazing can control internal noise levels with windows closed. However they do not propose any glazing so this would need to be controlled by condition to ensure internal levels in line with BS8233.

A couple of other points, Hann Tucker seem to suggest that opening windows to allow purge ventilation would only be short term thing and so does not matter in terms of the effects on internal noise. I disagree entirely and do not think that it is right residents should have to rely on trickle vents for ventilation if they want to keep windows closed to control noise. I would wish to see suitable mechanical ventilation to allow residents the option to keep windows closed whilst allowing purge ventilation of rooms and maintain internal noise levels in line with BS8233. Also noise levels would appear to indicate that external amenity areas would exceed the recommended 55dB but I don't think that should be suitable grounds for refusal.

5. Relevant Policies & Determining Issues:

- 5.1 The site lies outside of the settlement confines, in the Green Belt. The key considerations are therefore the impact on the Green Belt, character and appearance including the heritage value of the building, neighbouring amenity, protected species, parking and highways, and whether the loss of the pub as a community facility is justified.
- 5.2 Policy CP3 of the TMBCS advises that National Green Belt policy will apply (Section 13 of the NPPF). The aim of the Green Belt is to prevent urban sprawl by keeping land permanently open, with the essential characteristics of Green Belts being their openness and their permanence (para 133 of the NPPF).
- 5.3 Paragraph 143 of the NPPF states that "inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances."
- 5.4 Paragraph 144 states that "when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to

the Green Belt and that very special circumstances will not exist unless potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”.

- 5.5 Paragraph 146 explains that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes the re-use of buildings.
- 5.6 The proposal would see the building internally subdivided into a pair of semi-detached dwellings, with some new extensions to the rear and consolidation of existing extensions. Areas of decking that form part of the pub garden would be removed. Otherwise the building would remain largely the same, with the re-use of the building not having any greater impact on the openness of the Green Belt or conflict with the purposes of including land within in. Furthermore the garden areas would see the removal of some outbuildings are structures with a discreet area set aside for parking at the rear of the site.
- 5.7 In terms of the proposed extensions, they are not significant and largely amount to replacement of existing additions with a consolidated design. These works would not amount to disproportionate additions over and above the size of the original dwelling. Overall, it is considered that the proposal would amount to a re-use and not disproportionate extension and therefore appropriate development in the Green Belt. There would be no conflict with policy CP3 of the TMBCS or paragraph 146 of the NPPF.
- 5.8 As a public house serving the local community, the site can be considered a community facility. Policy CP26 of the TMBCS seeks to safeguard community facilities as follows. Proposals for development that would result in the loss in whole or part of sites and premises currently or last used for the provision of community services or recreation, leisure or cultural facilities will only be proposed in the LDF or otherwise permitted if:
- (a) an alternative facility of equivalent or better quality and scale to meet identified need is either available, or will be satisfactorily provided at an equally accessible location; or
 - (b) a significant enhancement to the nature and quality of an existing facility will result from the development of part of that facility; or
 - (c) the applicant has proved, to the satisfaction of the Council, that for the foreseeable future there is likely to be an absence of need or adequate support for the facility.
- 5.9 This policy is consistent with the Framework at paragraph 83 that sets out that planning decisions should enable the retention and development of accessible local services and community facilities, and paragraph 92 that explains that

decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

- 5.10 The applicant has provided a viability study for the pub which examines turnover and profit margins as well as volume of beer sold over the period 1990 – present day. A significant decrease in volume of wet sales can be seen, down to 56 barrels a year from 188 in the 1990's. It further notes the high turnover in landlord tenants in recent years as lack of viability, along with a number of factors that have reduced the viability of pubs including the smoking ban, increases in minimum wage and associated costs with licensing and duty.
- 5.11 The study sets out two potential turnover scenarios based on existing trading levels to consider if the pub could be viably run either tenanted or freehold. In both scenarios the percentage of profits is poor and would not represent a viable business.
- 5.12 Furthermore a number of physical limitations of the site are noted, including small number of dwellings in walking distance (for potential patrons), limited parking area, and floorspace constrained by both the Green Belt designation and the heritage value of the building. Even with significant investment (of which there is no evidence it would be forthcoming) these designations would greatly restrict the pub's ability to increase trading areas and table numbers. Whilst third party comments are noted, there is no evidence that the pub has been deliberately run down. The report provides strong evidence that the pub cannot be run viably and no counter evidence has been provided except anecdotes. Accordingly, based on the submitted evidence, it is considered that the applicant has proved, to the satisfaction of the Council, that for the foreseeable future there is likely to be an absence of adequate support for the facility. The obligations of policy CP26 are therefore discharged and no objections are raised to the loss of the community facility.
- 5.13 As noted previously, the site has local historic significance and there has been a pub at this location since at least the 16th century. The current building is mostly 19th century although some post medieval fabric is present inside. It was once an importance coaching inn on a historic highway between Sevenoaks and Tonbridge although its heritage value has been diminished by the loss of its associated stables and modern interventions in the building.
- 5.14 The proposal to convert the building would largely retain its existing character and appearance, with minimal external changes, particularly from the front elevation where its appearance is mostly unchanged, save for the addition of two 20th century bay windows. To the rear the works would reflect the existing lean to extensions, and the important character features of the building like the distinctive double pitched Dutch hip roof, the chimneys and sash windows would be retained.

The internal sub division of the building would result in loss of the existing layout, but this has already been altered and is not of any consequence.

- 5.15 Overall, it is considered that the proposal would be sympathetic to the character of the building and largely preserve in perpetuity its value as a non-designated heritage asset. It would still be recognisable as a former pub but secured in a viable use. Associated works to the rear including the formation of the private gardens would not harm the character and appearance of the area. As such, the development would comply with policy CP24 of the TMBCS and SQ1 of the MDEDPD, as well as paragraph 197 of the NPPF.
- 5.16 Due to the separation provided by the existing access road neighbouring amenity would not be impacted by reason of an overshadowing or overbearing effect caused by the external extensions to the rear. For the same reasons no loss of privacy is considered to occur, particularly as new window insertions are minimal and the building already benefits from a lawful use.
- 5.17 In terms of noise, the Council's environmental health officer is satisfied on balance that mitigation measures can be provided to ensure acceptable internal noise levels. This will need to be balanced against any unsympathetic alterations to the building and therefore details of this must be secured by condition and reviewed by the Council prior to installation. This would comply with policy SQ6 of the MDEDPD.
- 5.18 The applicant has provided ecology surveys which indicate good potential for roosting bats within the loft voids. Whilst ordinarily further survey work would be required to confirm if bats are present and what mitigation measures might be required, as the building already exists, and no work is proposed within the loft void, it is considered in the circumstances of this case that these additional surveys can be secured by condition. No objections are raised under policy NE3.
- 5.19 The site already benefits from a lawful extant use as a pub, which would attract far higher numbers of vehicle movement from patrons and deliveries than two dwellings. Accordingly, the development is likely to have a net reduction in vehicle movements. Parking for 4 cars would be laid out to the rear and some space would be available for visitors. This would be reached via an established access point. Whilst third party comments on the loss of parking on site are noted, the whole site appears to be privately owned and any historic agreement for use of the pub's car park for public parking does not guarantee it can also be used. The owners could shut the site off for parking irrespective of whether planning permission was granted and this would not constitute a valid reason to withhold permission. Accordingly the development would be considered acceptable on parking and highways impacts and no objections are raised under policy SQ8 of the MDEDPD.
- 5.20 Overall the proposal would represent the appropriate re-use of a building in the Green Belt. No harm would arise to the character and appearance of the area,

highways safety or to the building's local heritage value. The loss of the pub as a community facility is also justified based on submitted evidence confirming it is no longer viable. Subject to conditions addressing noise, landscaping and protected species, the application is recommended for approval. A condition removing permitted development rights is also considered reasonable and necessary to prevent overdevelopment of the site and preserve the heritage value of the building.

6. Recommendation:

6.1 Approved in accordance with the following submitted details:

Location Plan P01 received 03.03.2020, Site Plan P02 Proposed received 03.03.2020, Proposed Floor Plans P03 received 03.03.2020, Proposed Elevations P04 received 03.03.2020, Site Plan P05 received 03.03.2020, Existing Floor Plans P06 received 03.03.2020, Existing Elevations P07 received 03.03.2020, Proposed Plans and Elevations P08 Refuse and Cycle Store received 03.03.2020, Ecological Assessment received 03.03.2020, Planning Statement received 03.03.2020, Viability Assessment received 26.03.2020, Plan Area map received 26.03.2020, Other Appendix1 received 26.03.2020, Location Plan P 01A received 01.05.2020, Location Plan P 50 received 01.05.2020, Site Plan 51 A Proposed received 01.05.2020, /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 pursuance of Section 91 of the Town and Country Planning Act 1990.
- 2 All materials used externally shall match those of the existing building.

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.
- 3 The dwellings hereby approved shall not be occupied until the area shown on the submitted layout for vehicle parking has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown (other than the erection of a garage or garages) or in such a position as to preclude vehicular access to this reserved parking space.

Reason: To ensure that parking is provided and maintained in accordance with the Council's adopted standards.

- 4 Before the development hereby approved is occupied a detailed scheme of landscaping and boundary treatment shall be submitted to and approved by the Local Planning Authority. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate.

Reason: In the interests of visual amenity.

- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Class A, B, C, D or E, of Part 1; of Schedule 2 of that Order.

Reason: To prevent overdevelopment of the site and preserve the character of the area and the non-designated heritage asset.

- 6 No development shall commence until further surveys and any required mitigation measures in accordance with the recommendations in the submitted Ecology Survey dated February 2020 reference 8647.EcoAs.vf have been submitted to the Local Planning Authority and approved in writing. The development shall be carried out in strict accordance with their recommendations and all required mitigation measures.

Reason: to ensure the development proceeds with regard to protected species and provides a net gain to biodiversity.

- 7 Before the development hereby approved is occupied full details of noise mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The details should consider the levels cited in BS8233:2014 and how these will be achieved, namely:

1. for gardens and other outdoor spaces, in particular those in para 7.7.3.2 which states a desirable limit of 50dB LAeq,16-hour, and a maximum upper limit of 55dB LAeq,16-hour; and
2. to at least secure internal noise levels no greater than 30dB LAeq, 8-hr (night) and 35dB LAeq, 16-hr (day) in bedrooms, 35dB LAeq, 16-hr (day) in living rooms and 40dB LAeq, 16-hr (day) in dining rooms/areas (ref para 7.7.2). Particular attention is drawn to the notes accompanying Table 4 in para 7.7.2 and that these levels need to be achieved with windows at least partially open, unless satisfactory alternative means of ventilation is to be provided.

Reason: To safeguard future occupants from unacceptable noise impacts.

- 8 (a) If during development work, significant deposits of made ground or indicators of potential contamination are discovered, the work shall cease until an

Officer Delegated Report

investigation/ remediation strategy has been agreed with the Local Planning Authority and it shall thereafter be implemented by the developer.

(b) Any soils and other materials taken for disposal should be in accordance with the requirements of the Waste Management, Duty of Care Regulations. Any soil brought onsite should be clean and a soil chemical analysis shall be provided to verify imported soils are suitable for the proposed end use.

(c) A closure report shall be submitted by the developer relating to (a) and (b) above and other relevant issues and responses such as any pollution incident during the development.

Reason: In the interests of amenity and public safety.

Signed Adem Mehmet (Electronic signature)
Adem Mehmet

Endorsed By: Robin Gilbert (electronic signature)

Dated 30.6.2020