

- a) **DOV/16/00442 - Erection of nine dwellings, change of use and conversion of the existing public house into a single residential dwelling, creation of vehicular access, parking area and associated works – The Three Tuns, The Street, Staple**

**Reason for report:** Number of contrary views.

- b) **Summary of Recommendation**

Planning permission be refused.

- c) **Planning Policies and Guidance**

Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant listed building consent the local planning authority “*shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses.*”

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the planning authority should pay special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses.

Section 72 of the Act 1990 requires that the planning authority should pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

#### Core Strategy (CS) Policies

- CP1 – Part of the application site falls within the Village of Staple where the tertiary focus for development in the rural area suitable for a scale of development that would reinforce its role as a provider of services to its home and adjacent communities.
- DM1 - Development will not be permitted outside the settlement boundaries
- DM4 – Reuse or conversion of Rural Buildings will be permitted for structurally sound, permanent buildings within Local Centres for commercial, community or private residential uses
- DM11- Location of development and managing travel demand
- DM13- Parking provision
- DM15- Protection of the countryside
- DM24 – Retention of Rural Shops and Pubs. Permission will only be granted for the change of use of a rural shop or pub if its loss would not harm the economic and social viability of the community that it serves or, if such harm would occur, it has been adequately demonstrated that the use is no longer commercially viable and genuine and adequate attempts to market the premises for retail purposes or as a pub have failed.

#### Land Allocations Local Plan

- Annex 1 to the Plan draws on the District Heritage Strategy in order to provide guidance on preparing heritage statements to support planning applications.
- Policy LA45 makes provision for a change to the settlement confines of Staple to deliver one or two dwellings to the end of Orchard Lea to sustain Staple’s role in the settlement hierarchy.

### National Planning Policy Framework (NPPF)

- Paragraph 14 sets out the presumption in favour of sustainable development. This is set out in full in the Overall Conclusions section at the end of this report
- Paragraph 17 sets out 12 core principles which amongst other things seek to secure high quality design and a good standard of amenity for all existing and future residents.
- Proposals should seek to be of a high design quality and take the opportunity to improve the visual quality and character of the area. Paragraphs 17, 56-59 and 64 seek to promote good design and resist poor design.
- Paragraph 28 of NPPF promotes the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.
- Paragraph 49 requires housing applications to be considered in the context of the presumption in favour of sustainable development
- Paragraphs 69-70 of NPPF seek to promote healthy and viable communities
- Paragraphs 131-134 of NPPF seek to reinforce the statutory requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 by setting out guidance on assessing the impacts of development on designated heritage assets. This is amplified in the national Planning Practice Guidance.

The Historic Environment in Local Plans; Good Practice Advice (GPA) (2015)

This document provides information to assist in implementing policies in the NPPF and the NPPG.

### The Kent Design Guide (KDG)

- The Guide provides criteria and advice on providing well designed development that takes into account context as part of the evolution of the design.

#### **d) Relevant Planning History**

DOV/91/00934 – Conversion of barn into 5 chalets. Granted 09/04/1992

DOV/07/0205 – Erection of marquee- Withdrawn 12/04/2007

09/0449 – Retrospective application for the erection of a marquee. Granted 3/07/2009.

#### **e) Consultee and Third Party Responses**

9 letters of objection and 9 letters of support have been received.

The letters of objection outline the following:

- There are quite a lot of new builds in the area
- High density housing development which is out of keeping with the surrounding area
- The Street is inadequate for the volume of traffic it carries
- The number of proposed parking spaces is inadequate
- Proposed design is out of keeping with the village
- Loss of privacy

- The Three Tuns is a landmark in staple and would be hidden behind buildings
- Part of the site falls outside the village confines
- The pub was once thriving and could once again under the right ownership
- Drainage in the village might be inadequate

The letters of support state:

- Pub is currently unsightly and underused.
- Scheme would create jobs
- Good road links to London and Canterbury
- Street scene would be improved
- Would create family housing
- Gravel car park is unsightly

Southern Gas Networks- Advise that no mechanical excavations should take place within 0.5m of a low/medium pressure system or above or within 0.3m of an intermediate pressure system.

Southern Water-advise that no development should be located within 3 metres either side of the public sewer and no new soakaways should be located within 5 metres of a public sewer.

Environmental Health Officer-has no observations to make on the application

Kent Highway Services- Raises no objections to the scheme subject to conditions which include the completion of a footway within the site and connecting to the existing footway on the south side of The Street prior to first use of the site commencing, the provision and maintenance of visibility splays.

Senior Heritage Officer- Outlines that the Three Tuns is a dominant building with significant presence in the street. Recommends that the existing hedgerow is maintained to retain the generous space around the listed building, that plots 1 and 2 with the blank side elevation do not relate to the surrounding context. Also note that the bulk, massing and architectural detailing of plots 1, 2, 5, 6 and 7 should be reworked so that they appear subservient. Considers that in its current form the proposal would compete with the listed building and would cause less than substantial harm to the Grade II listed building.

Staple Parish Council- Recommend refusal due to concerns regarding the density of the development. Request that village confines are checked which are believed to run through the site.

Principal Infrastructure and Delivery Officer- The development generates a need for 0.094 hectares of open space. She has advised that that as the site is located approximately 1 km from the play area in Staple and is not currently accessible by footpath, it would be most appropriate to provide this on site. A suitable area of open space has not currently been provided.

Senior Archaeological Officer- Advises that the site is within an area of archaeological potential and that a programme of works should be implemented if permission were to be granted.

Kent County Council Development Contributions- outline that no contributions will be sought as the development is for ten units, in accordance with advice contained in the Starter Homes Ministerial Statement of 2 March 2015.

f) 1. **The Site and the Proposal**

## Site

- 1.1 The site is an irregular shaped parcel of land on the edge of the village of Staple to the north of The Street, the main route through the village. A significant proportion of the site including the car parking area and part of the gardens lies outside the village confines.
- 1.2 The site is currently occupied by the Three Tuns, formerly used as a pub as well as a marquee, single storey outbuildings to the rear, associated gravelled parking area and garden, and associated fences and walls. The site is accessed from the Street via an access to the west of the Three Tuns. The north and west of the site are bound by dense vegetation with established conifers to the northern boundary and a deciduous hedge to the western boundary. There is a low wall to the front of the site where there is a bus stop. The eastern, and part of the front boundary is treated by a fence.
- 1.3 The Three Tuns was listed in 1979 at Grade II. It was constructed in the 17<sup>th</sup> and 18<sup>th</sup> centuries of red brick with a plain tiled roof, is two storeys with an attic with a hipped dormer with sash windows to the first floor and timber casements to the ground floor and a central projecting 20<sup>th</sup> century porch.
- 1.4 The applicant has outlined that The Three Tuns was once a thriving village pub. It was open for business as a wedding venue until March 2014 and until late 2015 traded as a B and B.
- 1.5 The outbuilding to the rear is single storey clad in dark timber and appears to have been in use for holiday accommodation.

## Proposal

- 1.6 The proposal comprises the change of use and conversion of the Three Tuns to a single dwelling house and the erection of nine dwellings together with associated access, turning head, garages and car barns. The applicant has confirmed that the plans which were submitted on 31 May and 12 May are to be considered rather than the more recently submitted set of plans.
- 1.7 The conversion of the pub would include the demolition of a single storey rear extension which currently houses a toilet block. It would also comprise a living room, dining room and kitchen at ground floor, five bedrooms, bathrooms and ensembles to the upper floors. The house would be served by a car barn with a sliding gate and have gardens surrounded by a hedge.
- 1.8 The development of the remainder of the site includes the demolition of a single storey outbuilding, referred to within the application as a chalet. This is understood to have provided holiday accommodation and to have been constructed between 1940 and 1960 as shown on historic maps. A further nine dwellings are proposed surrounding the Three Tuns.
- 1.9 Of the new build dwellings units 1 and 2 are a pair of semi-detached two storey dwellings which would be sited immediately to the west of the Three Tuns, with the side elevation of unit 1 facing the street and units 3 to 7 are two storey dwellings arranged along the northern boundary of the site and units 8 and 9 are bungalows with accommodation provided within the roof slope.
- 1.10 The proposed dwellings are varied in and would be constructed of a mix of dark timber boarding, red brick, brown plain tiling and aluminium framed glazing. Units 1 and 2 are to the west of the Three Tuns fronting the access from The Street each with attached garages. Units 3 to 7 are placed parallel to the rear

boundary of the site. Units 3 and 4 are a pair of two storey semi-detached houses which are traditional in appearance. Units 5,6 and 7 form a two storey terrace with dark timber boarding and units 7 and 8 are bungalows with rooms within the roofspace served by dormers and glazed gables to the first floor to their rear elevations. Car barns with dark timber boarding, and brown plain tiled roofs are arranged between the dwellings to serve as parking.

## 2. **Main Issues**

### 2.1 The main issues are:

- The principle of the development including the change of use from a public house to a dwelling house
- The impact of the proposals on the designated heritage assets
- The impact on the character and appearance of the surrounding area
- The impact on residential amenity
- The impact upon highway safety

### Principle

#### **Residential development of the site**

- 2.2 The starting point for considering this issue is the relevant policies in the Development Plan. The settlement boundary passes through the site so that the Three Tuns, its gardens and the single storey rear outbuilding are defined as being within the village of Staple. The remainder of the site, including the gravel car park and open area to the north and east of the site fall outside the settlement confines. Policy DM1 of the Core Strategy states that development will not be permitted on land outside the rural settlement confines as shown on the proposals map unless justified by other development plan policies or it functionally requires such a location.
- 2.3 The Core Strategy, through Policy CP1, identifies Staple as a village in the Settlement Hierarchy in recognition of its size, where the function is as the tertiary focus for development in the rural area; suitable for a scale of development that would reinforce its role as a provider of services to its home community. The issue raised by the application is whether the loss of the public house would jeopardise the role of Staple as a village.
- 2.4 Furthermore, the Land Allocations Local Plan (2015) already makes provision for a change to the settlement confines in Staple to deliver one or two dwellings at land to the west of Orchard Lea (Policy LA45), to sustain Staples role in the settlement hierarchy, while acknowledging that the opportunity for further development in Staple is limited by its rural character and the setting of listed buildings.
- 2.5 However, given the Council cannot currently demonstrate a 5 year housing land supply then the Development Plan policies concerning the supply of housing are considered to be out of date at this time, as per para 49 of the NPPF, and therefore the weight that should be afforded to them is diminished. This would apply to Core Strategy Policies CP1 and DM1.
- 2.6 Where policies are found to be out of date applications should be dealt with in accordance with para 14 of the NPPF (presumption in favour of sustainable development). So it will be necessary to demonstrate whether the proposal constitutes sustainable development or not in line with para 7 of the NPPF.
- 2.7 Whilst the current absence of a 5 year housing land supply adds weight in favour of the proposal, a number of recent appeal decisions have concluded

that small scale developments in the District would have a very limited benefit in assisting the council meet its 5 year housing land supply. Given this, when determining the application it is necessary to balance the absence of a 5 year housing land supply against other policy considerations, for example impact on the setting of the listed building, impact on the openness of the countryside, the design and layout of the site and concerns over whether the proposal constitutes sustainable development.

#### **Loss of use as public house**

- 2.8 Policy CP1 defines Staple as a village, suitable for a scale of development that would reinforce its role as a provider of services to essentially its home community.
- 2.9 The Core Strategy specifically considers the issue of the retention of rural shops and pubs under DM24
- 2.10 Policy DM24 of the Core Strategy (2010) states that “planning permission will only be granted for the change of use of a rural shop or pub if its loss would not harm the economic and social viability of the community it serves or, if such harm would occur, it has been adequately demonstrated that the use is no longer commercially viable and genuine and adequate attempts to market the premises for retail purposes or as a pub have failed.”
- 2.11 The applicant has submitted information to address Policy DM24 which includes a planning statement and evidence of the marketing exercise which has taken place. The applicant’s statement states that Staple is a relatively small village community with a small flow of traffic through the village, with very few other facilities and no significant daytime working population in the immediate area. It states that the Three Tuns was once a thriving village pub, however over the last few years custom has dwindled due to the move towards home drinking, which caused the owner to diversify by running it as a wedding venue until March 2014. Following which it operated as a bed and breakfast until late 2015, when it ceased operation.
- 2.12 When considering whether a change of use should be granted it is necessary to consider the last known lawful use of this building. We understand that The Three Tuns has not been trading as a public house for a number of years and has instead operated as a wedding venue and then most recently as a bed and breakfast, before closing permanently at the end of 2015. However these other uses are not lawful uses, as they were never granted planning permission, meaning that the last lawful use of the building was as a public house (use class A4).
- 2.13 Given this, it is questionable what harm the proposal would have on the economic and social viability of the community it serves, given that it has not been trading as a public house for at least over 2 years. Furthermore at the time of writing; only one objection to the change of use has been received.
- 2.14 The planning statement outlines that the operation of the Three Tuns was not a viable business for the owners to sustain a living and therefore they were required to diversify the trade into other uses.
- 2.15 The marketing assessment outlines that the pub was marketed for a period of 17 months with Christies. This included photo adverts being placed in the Publican’s Morning Advertiser, and the Caterer. During this time producing three offers which were significantly below the asking price. The marketing assessment has been assessed by a chartered surveyor who has considered

that the marketing undertaken meets the criteria of DM24 and that the asking price which could be considered reasonable.

- 2.16 From the information submitted, it is clear that the continued use as a public house was not viable and that genuine and adequate attempts have been made to market the premises in line with Policy DM24. Therefore the proposal is considered to be in line with DM24 of the Core Strategy.
- 2.17 Whilst the principle of conversion of the pub to a dwelling is considered to be acceptable, the acceptability of the proposal will be dependent upon the heritage impacts, impacts upon the streetscene, residential amenity and highways matters.

#### **Impact upon the character and appearance of the surrounding area**

- 2.18 It is important to assess the impact of the proposal upon the character and appearance of the surrounding area. Paragraph 56 of the NPPF outlines that planning policies and decisions should respond to local character and history and reflect the identity of local surroundings and materials. Policy DM15 requires the protection of the countryside to be considered and states that:

“Development which would result in the loss of, or adversely affect the character or appearance, of the countryside will only be permitted if it is:

- i. In accordance with allocations made in Development Plan Documents, or
- ii. justified by the needs of agriculture; or
- iii. justified by a need to sustain the rural economy or a rural community;
- iv. it cannot be accommodated elsewhere; and
- v. it does not result in the loss of ecological habitats.

Provided that measures are incorporated to reduce, as far as practicable, any harmful effects on countryside character.”

- 2.19 The site is in an edge of village location in a prominent location and The Three Tuns is an imposing building which is set within substantial grounds. The open space is considered to reflect the edge of village location and the site serves as an end stop to the village of Staple
- 2.20 Views of the site can be obtained from the east and west from The Street, Grove Road, and the countryside to the west from the surrounding countryside. Views from the open countryside to the north would be limited as a tree screen is proposed to this boundary.
- 2.21 To the east of the site along The Street residential development comprising detached bungalows and two storey dwellings which front the street and have a degree of separation between them. Bates Close to the south of The Street appears to be a more modern development of single and two storey dwellings, which are arranged around a close, set away from the main street.
- 2.22 With the exception of the demolition of the rear single storey extension no external alterations are proposed to the Three Tuns. The proposal also includes the erection of nine dwellings. Whilst these are not uniform in appearance, and include a mix of two storey and single storey dwellings which are detached and semi-detached, they are arranged in a linear fashion set back from the street along the rear boundary and units 1 and 2 fronting the access road, with a limited degree of space between them which is further reduced by the presence of car barns between the units. The number of units, and the lack of space between them is considered to give rise to a development that would appear more dense than the development in the surrounding area. The layout, density and lack of space between the dwellings are considered to be uncharacteristic of the surrounding area.

- 2.23 Units 1 and 2 front the access way and the side elevation of unit 1 and its boundary treatment facing The Street. While these dwellings would be set back from the street, the flank elevation of unit 1 is largely blank with only a window at ground floor. The submitted street scene elevation shows that the ridge heights of units 1 and 2 are almost 1 metre higher than that of the Three Tuns. Their scale and the expanse of blank side elevation is considered to result in a dominant form and the siting of these units to the west of the Three Tuns is considered to obscure the long views of the Three Tuns and the village from the west. This is considered to result in a form of development which would be at odds with the prevailing street frontage.
- 2.24 The development as proposed is considered to appear overly dense, with a lack of space between the units. The layout is relatively linear with a number of units set back from the street which appears at odds with the pattern of development in the surrounding area, and the proposed siting, scale and the blank elevation of unit 1 fronting the street would result in an urban form of development. This would result in the loss of openness which is currently afforded by the site, and the loss of the rural, edge of village character of the site. Therefore the proposal is considered to prove harmful to the character and appearance of the surrounding area and would fail to respond to local character and history and reflect the identity of local surroundings, contrary to Paragraph 65 of the NPPF. The development is considered to adversely affect the character and appearance of the countryside and there appears to be no justification in terms of allocations made within the Development Plan Document, in terms of agriculture, the rural economy or community. There is also no information that would suggest that a total of ten dwellings could not be accommodated elsewhere. The development would therefore fail to protect the character of the countryside and is considered to be contrary to Policy DM15 of the Core Strategy.

### **Heritage**

- 2.25 The Three Tuns was listed in 1979 at Grade II. It was constructed in the 17<sup>th</sup> and 18<sup>th</sup> centuries of red brick with a plain tiled roof, is two storeys with an attic with a hipped dormer with sash windows to the first floor and timber casements to the ground floor and a central projecting 20<sup>th</sup> century porch.
- 2.26 Paragraph 132 of the NPPF outlines “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...Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting”.
- 2.27 The building fronts the street and sits within substantial grounds and is an imposing feature at the edge of the village. The Council’s Senior Conservation Officer has noted that it has a significant presence in the street scene and that the generous space surrounding the building contributes to the significance of the listed building. He has noted that the orientation of plots 1 and 2 have a blank side elevation facing The Street do not relate to the surrounding context and that they would better relate to the surrounding area if they fronted the road. He has raised specific concerns relating to the bulk, massing and architectural detailing of units 1, 2, 5, 6 and 7 would need to be reworked so that they would appear subservient to the main dwelling. He is concerned that in its current form the proposal would compete with the listed building for dominance on the site. For these reasons he has stated that the proposal would result in less than substantial harm.

- 2.28 Paragraph 134 of the Framework outlines that where a development proposal will cause less than substantial harm to the significance of a designated heritage asset this harm should be weighed against the public benefits of the proposal including securing its optimum viable use. In this instance the proposal would provide 10 residential dwellings where there is a need for housing, however a number of recent appeal decisions have concluded that small scale developments in the District would have a very limited benefit in assisting the council meet its 5 year housing land supply. The contribution of the scheme to the housing supply is not considered to override the harm caused to the Grade II listed building.

### **Highways**

- 2.29 Paragraph 35 of the NPPF states that developments should be located and designed where practical to give priority to pedestrian and cycle movements and have access to high quality public transport facilities.
- 2.30 There is a bus stop to the front of the site which serves a bus route from Canterbury, Walmer and Sandwich and runs an hourly service. However there is no pedestrian link between the site and the village. Kent Highway Services have advised that a footway should be provided within the site to the south eastern corner and a short section of footway provided to continue the southern section of footpath, which currently ceases at the bus stop to the west of Bates Close. Kent Highway Services have stated that this could be dealt with by condition although details of a footway have not been indicated on the plans. The lack of footpath would mean that the site would not be accessible by pedestrians.
- 2.31 Kent Highway Services have also requested a number of conditions relating to visibility and surfacing which could be secured by condition.
- 2.32 The site is located at the edge of the village, however it is served by a regular bus route. However the proposal does not include a footway within the site and the applicant has not indicated that a section of footway would be proposed to the south of The Street. Therefore it is not considered to accord with the aims of the NPPF in this respect.

### **Impact upon residential amenity**

- 2.33 There are residential dwellings immediately to the east of the site. To the north and west appears to be agricultural land and to the south of The Street is an area of dense vegetation. The Council's Environmental Health Officer has raised no concerns regarding the scheme. The nearest residential dwelling, Cascade, is approximately 12 metres from The Three Tuns and the access is approximately 50 metres from these neighbours. Units 8 and 9 would be approximately 19 metres from the existing neighbouring bungalows Cascade and Apollo and a close boarded fence is proposed for the boundary with the existing dwellings. It is considered that the proposed development would not generate a greater number of movements to and from the site, or increased noise. Furthermore the separation distances between the neighbouring properties and the proposed dwellings and the access point are considered to mitigate noise impacts upon neighbouring property occupiers.
- 2.34 The units 8 and 9 are located to the rear of the existing bungalows at Apollo and Cascade. They are single storey with 2 bedrooms and a bathroom provided within the roof and gabled feature to the rear. These dwellings have been designed with south facing windows only at ground floor and windows in the roof and gable feature within the north elevation only.

## **Other matters**

### **Open space**

- 2.35 Policy DM27 of the Land Allocations Local Plan requires that developments that generate a need for residential development will be required to contribute towards provision of open space. The Council's Principal Infrastructure and Delivery Officer has advised that the development generates a need for 0.094 hectares of open space. She has advised that that as the site is located approximately 1 km from the play area in Staple and is not currently accessible by footpath it would be most appropriate to provide this on site. However following the Order of the Court of Appeal dated 13 May 2016, it is not considered appropriate to seek these contributions.

### **Developer contributions**

- 2.36 Kent County Council have outlined that no contributions will be sought as the development is for ten units, in accordance with advice contained in the Starter Homes Ministerial Statement of 2 March 2015.

### **Conclusion**

- 2.37 There is a need for housing in the district and the principal of the conversion of the public house to a residential unit is considered to be acceptable. However the site partly constitutes open countryside and the proposal is considered to be a dominant and urban form of development which would prove harmful to the streetscene and the significance of the Grade II listed building. The potential benefits of the proposal in providing a housing scheme are considered to be limited, and would not outweigh this harm.
- 2.38 Furthermore whilst the site is served by public transport, a pedestrian link has not been provided to ensure the development would be publically accessible to pedestrians.
- 2.39 It is recommended that permission should be refused for the reasons set out below.

### **Recommendation**

PLANNING PERMISSION BE REFUSED for the following reasons:-

(i) The proposed development, by virtue of its scale, mass, layout, design and relationship with the Three Tuns would, if permitted, result in a dominant, incongruous, unsympathetic and poorly related form of development, out of keeping with the prevailing form of surrounding development, harmful to the character and appearance of the countryside, the surrounding area, street scene, the significance of the Grade II listed building, contrary to National Planning Policy Framework Policies 60, 64, 131,132, 133 and 134 and Dover District Core Strategy Policy DM15.

(ii) The development as proposed would fail to maximise walking and cycling contrary to paragraphs 49 of the National Planning Policy Framework and Policy DM11 of the Dover District Core Strategy.

