

- a) **DOV/16/00442 – Erection of eight 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**

Grant Planning Permission.

c) **Statutory Requirements, Planning Policies and Guidance**

Statute

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise.

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.

Dover District Core Strategy

Policy 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.

Policy DM1 - Development will not be permitted outside the settlement boundaries.

Policy 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.

Policy DM11- Location of development and managing travel demand.

Policy DM13- Parking provision.

Policy DM15- Protection of the countryside.

Policy 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.

Dover District Council Local Plan 'saved' policies (DDLDP)

There are no saved local plan policies that are relevant to this application.

Land Allocations Local Plan (LALP)

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)

The NPPF states that at its heart is a presumption in favour of sustainable development, to be seen as a golden thread running through decision-taking. It sets out three dimensions to achieving sustainable development: economic, social and environmental. These should not be undertaken in isolation, because they are mutually dependent. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

Part 7 requires good design, which is a key aspect of sustainable development.

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.

National Planning Policy Guidance (NPPG)

Provides guidance on matters relating to the main issues associated with development.

Other Documents

The Kent Design Guide sets out design principles of development.

d) Relevant Planning History

There is planning history relevant to this planning application. This is summarised below:

DOV/91/00934	Conversion of barn into 5 chalets. Granted 09/04/1992
DOV/07/0205	Erection of marquee- Withdrawn 12/04/2007
DOV/09/0449	Retrospective application for the erection of a marquee. Granted 3/07/2009.

e) Consultee and Third Party Comments

Dover District Council Heritage Officer was consulted and made the following comments on the application on the 14 September 2016:

'The grade II listed Three Tuns Public House is a dominant building that fronts the street, which has a significant presence in the street scene, and is situated on the edge of the village surrounded by a generous garden. I am of the opinion that the current design proposal should be reworked and amendments submitted to resolve the following issues: - Recommend retaining the existing modern hedge row as it retains the generous space around the listed building which is recognised as a contributor to the significance of the setting of the listed building. - The orientation of plots 1 & 2 with a blank or side elevation viewed from the road does not relate to the surrounding context. They would better relate to the listed building if they were re orientated to face the road.

The architecture does not relate to this context, and plots 1, 2, 5, 6 & 7s bulk, massing and architectural detailing should be considerably reworked so that they appear subservient and relate to the architectural form of the listed building. In its current form the proposal would in my opinion compete with the listed building for dominance on the site. This proposal in my opinion would cause less than substantial harm on the setting of the listed building and I would recommend that this could be resolved by making the above design alterations to the scheme.'

Following the submission of amendments, additional comments were received on the 30 November 2016 which state:

'The revised scheme (dated 7th Oct) addresses previous concerns raised as follows:

- The revised layout maintains the existing modern hedge row which retains the generous space around the listed building.*
- The orientation of plot 1 now relates to the surrounding context in that it now fronts the road. I would comment that the design could be much further improved by introducing traditionally designed chimneys and a hipped rather than gabled roof form. The detailed design and materials used would be crucial in achieving a building that contributes to this setting.*
- I would reiterate my previous comments that units 5,6 & 7 (which are now units – 4,5 & 6) bulk, massing and architectural detailing should be reworked as they do not appear subservient or relate to the architectural form of the listed building. In its current form they have the potential to compete with the listed building for dominance on the site.*

This proposal in my opinion would impact on the setting of the listed building, however not substantial enough to be objectionable.'

Dover District Council Tree Officer was consulted and raised no objections to the proposal.

Dover District Council Housing Officer was consulted and made the following comments on the 4 May 2016:

'The development of 9 residential units would mean that the Council's Affordable Housing SPD addendum would apply as it is a development of between 5 - 14 homes. This requires either a provision of affordable housing on-site or a financial contribution to AH. The latter, does of course, tend to be the preferred option for developers. The addendum sets out the approach and how the contribution should be calculated.

It is probably also worth mentioning that Staple Parish Council has expressed an interest in the development of a rural exception site to provide affordable homes in the village. A parish housing needs survey has been carried out by Action with Rural Communities in Kent which has identified a need for 6 affordable homes. There has been some further discussion with the PC and a potential registered provider partner but we are waiting for the PCs response to proposals on how such a scheme could be progressed.'

Further comments were then received on the 15 June 2106 which set out the following:

'My previous advice on the requirement to provide a financial contribution towards affordable housing in respect of developments of 5 – 14 dwellings has been superseded by the order of the Court of Appeal dated 13 May 2016, which gives legal effect to government policy requiring that contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm. I am aware that the Council is considering seeking an exemption in respect of designated rural areas but I don't believe that Staple falls within a DRA.'

Southern Gas Networks were consulted and raised no objections.

UK Power Networks were consulted and raised no objections to this proposal.

The Environment Agency were consulted on this application and raised no objections to this proposal on the basis that it would be subject to low environmental risk.

Southern Water were consulted and raised no objection to the proposal subject to the imposition of suitable conditions relating to sewer connections which are set out at the end of the report.

Kent County Council Archaeological Officer was consulted and objected to the original proposal but have not commented on the amended proposal.

KCC Contributions were consulted but given the proposal is only for a net increase of nine dwellings, no contributions are sought.

f) The Site and the Proposal

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.
2. The site is currently occupied by the Three Tuns (a Grade II listed building), formerly used as a pub as well as a marquee, with 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.

3. The Three Tuns was constructed in the 17th and 18th centuries and was listed in 1979 at Grade II. The building is two storey, constructed of red brick with a plain tiled roof, an attic with a hipped dormer, sash windows to the first floor, timber casements to the ground floor and a central projecting 20th century porch.
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.
5. The outbuilding to the rear is single storey clad in dark timber and appears to have been in use for holiday accommodation.

Proposal

6. The proposal comprises the change of use and conversion of the Three Tuns to a single dwelling and the erection of eight dwellings together with associated parking and access.

Main Issues

7. The main issues to be considered in the determination of this application are:
 - The principle of the development including the change of use from a public house to a dwelling;
 - The impact upon the character and appearance of the surrounding area;
 - The impact of the proposals on the designated heritage asset;
 - The impact upon highway safety.
 - The impact upon residential amenity;

Principle of development

8. 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.
9. 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.
10. 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 Staple's 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.

11. However, given the Council cannot currently demonstrate a 5 year housing land supply, Development Plan policies concerning the supply of housing are considered to be out of date at this time, as per paragraph 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.
12. Where policies are found to be out of date applications should be dealt with in accordance with paragraph 14 of the NPPF the (presumption in favour of sustainable development). So it will be necessary to demonstrate whether the proposal constitutes sustainable development or not in line with paragraph 7 of the NPPF.
13. 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 a public house

14. Policy CP1 identifies Staple as a 'Village' and this seeks to ensure that the focus for any development is to ensure that it will '*reinforce its role as a provider of services to essentially its home community.*' Within the supporting text to this policy, it is stated within paragraph 3.12 that this policy will be used to inform development plan making decisions and decisions on planning applications. Therefore a consideration as to whether the loss of this facility would have a detrimental impact upon the existing residents of the village needs to be considered.
15. In addition, and aligned to this this, 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.*"
16. In addition to this policy, the supporting text sets out in paragraph 1.78 that: *The Council will also wish to see that adequate and genuine attempts have been made to market the premises for pub or shop use, as appropriate, but have failed to produce a viable offer. Marketing should be through an appropriate agent and for a period of time that fully tests demand having regard to the buoyancy of prevailing market conditions.*
17. 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.

18. The Council requested an independent assessment of the marketing information submitted. This assessment required to consider whether a property has been appropriately marketed – i.e. for an appropriate price, timescale, and also by what means.
19. The property was marketed by Christie and Co. from April 2014 to August 2015, i.e. a period of 17 months, and during this period 16 viewings were undertaken and three offers were made. Of the three offers, one went on to purchase an alternative premises, whilst the other two remained well below the asking price and were not accepted.
20. The assessment of the marketing also indicates that the proposed sales price of the building, given the facilities on site (including bedrooms, 60 covers, garden –including marquee and parking) was within the range that one would anticipate. This is assessed against the sale of three other pubs within the vicinity – the Rose Inn (Wickhambreaux) in 2010, the Prince of Wales (Maypole) in 2012 and the Dog Inn (Wingham) in 2016. The report concluded that the marketing undertaken does meet the criteria of the policy and the marketing has been undertaken at an asking price which could be considered acceptable.
21. From the information submitted therefore, it is apparent that the continued use as a public house was not viable and that genuine and adequate attempts have been made to market the property in line with Policy DM24 of the Core Strategy. It is therefore considered that the principle of converting the pub to a dwelling is acceptable, subject to all other material considerations being assessed prior to determination.

Impact upon the character and appearance of the surrounding area

22. 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.”*

23. The site is an edge of village 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 served as a focal point at the end of the village accordingly.
24. Views of the site can be obtained from both the east and the west from within ‘The Street’ and ‘Grove Road’ and from the open countryside to the west of the site. There would be limited views from the north of the site due to the tree screen along the boundary.

25. In terms of the impact upon the existing building, with the exception of the demolition of the rear single storey extension, no external alterations are proposed to the former public house. The proposal also includes the erection of eight dwellings within the grounds of the property, which would substantially erode the openness to the front and to the side of the property.
26. These properties would be set out within a relatively linear form, with one house located alongside the front of the public house, and eight running to the rear of. Access runs between the existing property and the proposed road frontage dwelling and the new dwellings.
27. Concern was previously raised with regards to the design of the development, and the impact that this would have upon the character and appearance of the locality. Amended plans were subsequently submitted to the local authority for consideration which have sought to address these concerns. These amendments include re-orientating the property at the front of the site as well as retaining the hedge around the former public house in order to retain the sense of space around this property.
28. The re-orientation of the building to the front brings about a significant improvement to the development, creating a more active frontage, and also responding to the traditional form of development within the locality. This re-orientation will also serve to ensure that the proposed access road will appear more subservient in terms of the overall development.
29. The changes to the buildings, including the reduction in ridge heights, and the alterations in materials will also create an appearance that would be more subservient. Because this is an edge of village location, and because the existing pub holds a relatively prominent position at present, it is important that this development does appear as subservient to it. Likewise, because views of the site from the west would be relatively far reaching, the buildings would need to be of a scale and form that would not appear as being too domestic.
30. Plots 2 and 3 are the largest properties proposed along the access road, but because these are set at a slightly lower level than the other properties. It will be important however to ensure that a satisfactory boundary treatment is provided along the rear boundary (western boundary) of the application site. It is therefore recommended that any landscaping here, include the provision of an indigenous hedge, as well as a suitable boundary enclosure – which should not be close boarded fence. With this in place, it is considered that the proposal would have an adverse impact upon medium to long distance views into and out of the village.
31. It is therefore considered that the development would not have an adverse impact upon the character and appearance of the locality, subject to the imposition of suitable safeguarding conditions.

Heritage

32. The Three Tuns was listed in 1979 at Grade II. It was constructed in the 17th and 18th 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 20th century porch.
33. 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".

34. The amendments that have been provided have now been assessed by the Council's Heritage Officer who is of the view that whilst there may be some further enhancements that could be made to the proposal, the development would not give rise to significant harm to the heritage asset, and as such he does not object to the proposal. When assessing any 'harm' it is important to be mindful of the public benefits of the proposal. In this instance, this would bring about new housing within a relatively sustainable location that would assist with the Council's five year housing land supply. In addition, it would also ensure the long term security of the existing listed building.
35. It is considered that the additional space afforded to the listed building, will ensure that its setting would be preserved, and that with the space to the front of the site maintained, it would retain its important presence within the street scene.
36. The scale of the proposed buildings has been reduced from that previously submitted and the use of darker stained weatherboarding will further reduce the impact of the new dwellings upon the setting of the listed former public house. These buildings would now have an appearance of being outbuildings to the public house, which is considered a more appropriate design response.
37. The proposed property fronting onto 'The Street' would be of a smaller scale than the public house, and again would be constructed using black weatherboarding and clay tiles. The plans suggest that aluminium windows be used in all properties, but it is suggested that this more traditional form of property would be better suited to having timber windows and any condition should be worded accordingly. Should suitable conditions be imposed, it is considered that this proposal would not significantly harm the setting of the listed building.
38. It is therefore considered that this proposal now accords with the requirements of the NPPF and Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 and is therefore considered acceptable from a heritage perspective.

Highways

39. 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.
40. There is a bus stop to the front of the site which serves a route from Canterbury, to Walmer and Sandwich and runs at an hourly service. However, there is currently no pedestrian link between the site and the village. Kent Highway Services have advised that a footpath should be provided within the site to the south eastern corner of the site, as well as an additional footpath that would run to the west of Bates Close on the opposite side of the road.
41. In this regard, the applicant would be able to provide a footpath along the road frontage of their site, and they have confirmed that this is to be provided as part of the proposal. It has not been agreed to extend the existing footpath as requested, however as this falls outside of the applicant's control, and because it would not be necessary to make this development acceptable I do not consider it appropriate to seek its provision in this instance.

42. Kent Highway Services have requested that a number of conditions be imposed with regards to visibility and surfacing should this application be approved, and these are suggested at the end of this report.
43. On this basis, it is considered that the proposal is now acceptable in highway terms.

Impact upon residential amenity

44. 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.
45. The units 7 and 8 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

46. Policy DM27 of the Land Allocations Local Plan requires developments 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 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.
47. Kent County Council have outlined that no contributions will be sought as the development is for less than ten units, in accordance with advice contained in the Starter Homes Ministerial Statement of 2 March 2015.

Conclusion

48. 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. The site contains a listed building and as such the proposal would ensure that the long term viability and preservation of this building is secured. This, together with the Council's current lack of a five year housing land supply are significant material considerations in the determination of this planning application.
49. The applicant has sought to address the previous concerns with regards to the layout of the development and also the lack of a footpath to the front of the site.
50. The plans are now considered to be acceptable, and to have due regard to both the character and appearance of the locality, as well as the setting of the listed building.

51. It is therefore recommended that the application should be approved subject to the imposition of the conditions as set out below.

g) Recommendation

- i. Planning permission be granted, subject to conditions set out to include, in summary; i) commencement within 3 years; ii) carried out in accordance with the approved drawings; iii) materials to be submitted; iv) details of fenestration (joinery details); v) details of roof overhangs and recessed windows (1;10); vi) details of cycle and refuse storage; vii) sample panel of brickwork; viii) any conditions requested by KCC; ix) any conditions requested by KCC Archaeology.
- ii. Powers be delegated to the Head of Regeneration and Development to settle any necessary planning permission conditions in line with issues set out in the recommendation and as resolved by Planning Committee.