

**5g 3/12/1395/FP – Change of use from public house with letting rooms to residential dwelling at Kick And Dicky, Wellpond Green, Standon, SG11 1NL for Mr Aspin**

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**Date of Receipt:** 16.08.2012

**Type:** Full – Minor

**Parish:** STANDON

**Ward:** THUNDRIDGE AND STANDON

**RECOMMENDATION:**

That planning permission be **REFUSED** for the following reason:

1. The proposal would result in the loss of the public house use which provides an important local service and would thereby result in a significant reduction in the range of provision available in the locality. The applicant has failed to clearly demonstrate that it is not possible for a public house use to continue in this location as a viable business. The proposal would thereby be contrary to Policy STC8 of the East Herts Local Plan Second Review April 2007 and the policy guidance set out in the National Planning Policy Framework.

\_\_\_\_\_ (139512FP.FM)

**1.0 Background:**

- 1.1 The application site is shown on the attached OS extract.
- 1.2 The Kick and Dicky is a detached 2 storey public house with restaurant and 6 letting rooms, located within the centre of Wellpond Green. The premises fronts onto the back edge of the highway and has a car park and rear garden.
- 1.3 This application seeks planning permission to convert the existing public house into a 6 bedroom residential dwelling. The conversion would provide 6 bedrooms and a study on the first floor and a kitchen, utility room and several reception rooms on the ground floor. It is proposed to retain the existing car park which would provide space for at least 6 vehicles to park.

**2.0 Site History**

- 2.1 The only relevant site history to this planning application is LPA reference 3/11/1863/FP which sought planning permission for a change of use from a public house with letting rooms to a residential dwelling. Officers recommended that the application be refused by Committee

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Members at the Development Control Committee on the 18<sup>th</sup> April 2012. However, the applicant withdrew the application before the committee meeting.

#### **3.0 Consultation Responses:**

3.1 The Council's Environmental Health Unit does not wish to restrict the grant of permission subject to conditions.

3.2 County Highways do not wish to restrict the grant of permission.

#### **4.0 Parish Council Representations:**

4.1 Standon Parish Council object to the proposal and comment that whilst they sympathise with the owners in respect of their financial situation, the property has not been advertised for sale as a public house for a long enough period of time or to a wide enough audience to fully judge the market. The Parish Council also notes that the opening times of the pub have been severely curtailed which would have a significant impact on the accounts. They further comment that the Kick and Dicky has been a successful pub for years and that if the present owners tried, they could be successful.

4.2 Little Hadham Parish Council write in support of the objections of local communities who use this facility. They comment that once an amenity such as this is allowed to close and permitted a change of use to residential, it would be a substantial loss to the community that would be lost forever.

#### **5.0 Other Representations:**

5.1 The application has been advertised by way of press notice, site notice and neighbour notification.

5.2 Eleven letters of objection have been received which raise the following matters:

- It would not be in keeping with the rural community - the pub is a much needed facility in the village;
- Until the premises was turned into a restaurant, it was well used for village meetings;
- Banning things such as the local darts team has led to the decline in trading and alienating pre-existing clientele;
- The owner's business model was ultimately their undoing as it

- didn't provide re-assurance to the local community;
- It is contrary to Local Plan Policy, which is still relevant;
  - There is still a need for a pub/restaurant within the village;
  - It could be successful if it was managed correctly – the further reduction in opening hours since the submission of the last application is not helping matters;
  - There are lots of successful pubs in similar locations, including The Fleece, Braughing, The Sow and Pigs, Thundridge and The Sword, Westmill;
  - A number of local residents were unaware that the pub has recently been open on Tuesday and Friday nights, which had failed to have been advertised;
  - Its loss would have a harmful impact upon the village's centre;
  - The asking price is in excess of its market value and it is no surprise that it has not sold;
  - The public house has been open on very limited occasions which means revenue must have declined;
  - The pub was initially offered for sale at an unrealistic and unsustainable price of £695,000, substantially above the £550-575,000 recommended by their agents;
  - In June this year, the Wellpond Green Consortium offered to rent the facility for two years at £25,000 per annum, with an option to purchase the freehold for £500,000 to run the premises as a pub/restaurant. This offer was turned down by the owners. A recent independent valuation of the pub values it at less than the current asking price of £525,000;
  - The comparable premises for sale on the estate agents website (Fluerets) are substantially less than the price the Kick and Dicky is being marketed at.

Two letters in support of the application have also been received which outline the following:

- The LPA's planning policy to retain public houses in rural locations is out of date, inappropriate and unrealistic, particularly in light of social and economic trends during this 7 year period;
- The pub is located amongst a tiny community, with other pubs within short distances.

## **6.0 Policy**

6.1 The relevant 'saved' Local Plan policies in this application include the following:

- GBC2 The Rural Area Beyond the Green Belt
- GBC3 Appropriate Development in the Rural Area Beyond the Green Belt
- ENV1 Design and Environmental Quality
- EDE2 Loss of Employment
- STC8 Local Centres and Rural Provision
- TR7 Parking

6.2 In addition, the National Planning Policy Framework is of relevance to the consideration of the application.

## **7.0 Considerations**

- 7.1 The building is located within the Rural Area beyond the Metropolitan Green Belt. The determining issue in this case is therefore whether the proposal accords with Policy STC8 of the Local Plan. Policy STC8 of the Local Plan states that proposals that will result in the loss of a business, including a public house, that provides a local service in a rural location will not be permitted where such loss would result in a significant reduction in the level of such provision locally available. In accordance with this policy and in order to determine the significance of the loss of such a unit, the Local Planning Authority would need to consider the following:
- (a) If vacant, how long the premises have been on the market and the likelihood of another similar use being found;
  - (b) The use of the premises and its contribution to the range of provision available to the local population; and
  - (c) If there is clear evidence that it is not possible for the use to continue as a viable business.
- 7.2 Within any planning application submitted for such a proposal, the Council would therefore need to see evidence and a justification as to how and why a public house is not capable of being retained as a community facility and that other alternative uses of the site have been explored.
- 7.3 With regards to criteria a) of Policy STC8, this element requires consideration to be given as to how long the premises has been marketed. The applicant has highlighted in the submitted Design and Access Statement that, in their view, criterion a) only need be applied if the premises are vacant. Whilst it is acknowledged that this part of Policy STC8 does state that marketing is required if the premises are vacant, Officers consider that it is nevertheless an important indicator of demand for the particular use locally and whether there is a

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reasonable likelihood of another similar use being found – even where the premises is not vacant. It assists also with considering criteria c) – whether it would be possible for the use itself to continue under new ownership.

- 7.4 Prior to the submission of LPA ref. 3/11/1863/FP, the premises were marketed with Fluerets, an agency who specialise nationally and exclusively in the sale of hotels, restaurants and pubs. The property has been marketed since January 2011, initially at £675K. After three months of little interest, this price was reduced to £625K, with only two parties showing an interest in the site. Whilst such a period of time for a property to be marketed appears to be quite substantial, it is important to look at other factors before determining whether this element of the policy has been complied with. This includes the price the property has been marketed at and how it has been marketed.
- 7.5 In this case, the premises have been advertised in Fluerets magazine, on their website and also by way of email. Whilst Officers are satisfied that the pub has been advertised at an adequate level, concerns are still raised regarding the price at which the property has been marketed. These concerns were also raised in the previous Officer report to Committee and, in May of this year, the price of the premises was reduced and marketed at £525K which is still its current sale price. Whilst this figure is closer to the original marketing price suggested by Fluerets, this exercise has resulted in the property being on the market for a prolonged period of time which may, in itself, have deterred prospective purchasers. Furthermore, the amount of time the premises has been marketed at a more appropriate level is only approximately 6 months and it could be argued that this is insufficient in the current economic climate.
- 7.6 Whilst Officers acknowledge that the current £525K asking price of the premises is more realistic than when it was marketed in January 2011, March 2011 and March 2012, it is Officers understanding that the applicant has been unwilling to accept an offer of £500K. Whilst this offer is lower than the current asking price, it is not significantly so and does appear to demonstrate that there is some interest in the public house use continuing as a community facility.
- 7.7 In this case it is also important to consider an independent valuation that was recently carried out at the premises. This valuation priced the property lower than the current asking price and almost £200K less than the original asking price in 2011. The significant differences between the various prices the property has been marketed at and the independent valuation, in Officers view, may be part of the reason as to

why there has been limited interest shown in the property. Having regard to the above, and whilst acknowledging that the premises are not currently vacant, it is the opinion of officers that the previous and current asking price for the premises are likely to have impacted upon a new owner being found and it can be argued therefore that the proposal would not accord with part II (a) of Policy STC8.

- 7.8 Criteria (b) of the policy requires that the Council should consider the use of the premises and its contribution to the range of provision available to the local population. The range of provision available to the residents of Wellpond Green is limited with the Kick and Dicky being the only public house within the settlement. The nearest public houses to Wellpond Green are then found in Standon which is over a mile from Wellpond Green and Hadham Ford which is approximately 1.5 miles away. It is therefore considered that the loss of the public house would result in a significant reduction in the level of provision available to the local population. This is further evidenced by the number of third party consultation responses that have been received.
- 7.9 The applicant has argued that the use of the building as a public house is no longer viable, with trade and sales at the premises declining over the past several years. The applicant has submitted figures with the application to support their proposal. These figures show that the business (both the restaurant/pub and the bed and breakfast) as it stands is making a loss. When accounting for wages for the two owners of the property (estimated at £30,000 each), the figures show that between the period 2006-2011 (inclusively), a loss was made in every year during this six year period.
- 7.10 The viability of an individual business can of course be dependant on how it is run. The Council's role in this matter, however, is to consider whether there is sufficient evidence available to show that a viable public house use cannot be operated in this particular location (irrespective of the current management).
- 7.11 Whilst the figures submitted with the application show that the current business has made a loss for several years, Officers are mindful that this may be a result of the current management practices rather than indicative of the viability of the use itself. It should also be noted that a number of third party representations received state that prior to the applicants acquiring the public house, it was a well-used and profitable business.
- 7.12 The applicant has not submitted any further evidence to show that the business would remain unviable if it was operated in a different way.

For example, the Kick and Dicky is currently being advertised for use for functions, meetings, bed and breakfast and Sunday lunch. However, if the pub were to be re-branded as a family pub with dining, this may result in a change in the viability of the premises and may see an increase in clientele. Officers have given the applicant the opportunity to consult professional advisors with expertise in the viability of public houses to comment on the particular format/branding of this business and to provide advice as to whether any alternative format might achieve a more viable outcome. The applicant has however declined this opportunity and is unwilling to consult further on the viability of an alternative public house use in this location.

- 7.13 In Officer's view, the applicant has failed to demonstrate with clear evidence therefore that it is not possible for a public house to be continued as a viable business in this location.
- 7.14 The applicant has outlined that, despite efforts to increase customer trade, profits are still falling and the premises is now only open on Tuesday and Friday evenings in order to keep running costs down. Officers note, however, the comments from third parties regarding access and opening hours. Several residents have stated that, over time, the pub has stopped some local groups from using the pub and also outline that the opening hours for the pub and restaurant have been significantly reduced. The public house is currently only open two evenings a week which Officers consider significantly restricts the opportunity for customers to use this facility and may well be preventing the business from being viable. Whilst Officers acknowledge that profits have been falling and that the applicant has attempted to attract a different clientele to the pub and restaurant, in accordance with the above, Officers unfortunately have reason to question whether every effort has been made by the applicant to ensure that the business continues to be viable.
- 7.15 Whilst it is acknowledged that current economic conditions may make trading more difficult, taking into account all the above considerations, it is Officers opinion that the applicant has failed to demonstrate that it is not possible for a Public House use to continue as a viable business in this location. The proposed development therefore conflicts with the aims and objectives of Policy STC8 of the Local Plan.

Impact on character and appearance of the street scene/locality

- 7.10 The proposal would only require internal alterations to accommodate its conversion to a dwellinghouse. Therefore as no external alterations are proposed, Officers are satisfied that the proposal would not have a

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harmful impact upon the character and appearance of the immediate street scene or the wider locality.

#### Parking

- 7.11 With regards to access and parking provision for the proposed dwellinghouse, it is noted that the proposal would provide 6 allocated off - street parking spaces sited to the north eastern elevation of the existing pub. No alterations to the existing access or parking facilities would be required. The Vehicle Parking Standards, as set out in the East Herts Local Plan requires a maximum of 3 spaces per 4 or more bedroom dwelling. As such, Officers are of the opinion that there is sufficient off -street parking provided and Officers raise no objections to the level of parking provision proposed or access provision in the application.

#### Impact on the amenities of neighbouring residential occupiers

- 7.12 Turning to the impact upon neighbour amenity, taking into account that the existing building retains at least 11 metres from the nearest residential property, it is Officers view that the proposal would not result in any impact on the occupiers of such properties.

### **8.0 Conclusion**

- 8.1 Having considered the above matters, it is Officers opinion that the applicant has not provided sufficient or conclusive evidence to demonstrate that the proposal complies with Policy STC8 of the Local Plan. Furthermore, Officers do not consider that there are material considerations that warrant a departure from Local Plan Policy. The applicant has not demonstrated that a residential use of the building is the only means to secure its retention and has failed to demonstrate that the public house use is no longer viable in this location.
- 8.2 For this reason Officers recommend that planning permission be refused for the reason set out at the commencement of this report.