

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 25 July 2018

(Author: David Gedney - Senior Planning Officer)

Purpose: To consider Planning Application H06-0246-18

Application Number: H06-0246-18

Date Received: 9 March 2018

Application Type: FULL

Description: Change of use from Public House to two dwellings

Location: THE CHEQUERS 3 MAIN STREET GEDNEY DYKE

Applicant: Mr G Franklin

Agent: Robert Doughty Consultancy Ltd

Ward: Gedney

Ward Councillors: Cllr J L Reynolds

You can view this application on the Council's web site at

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H06-0246-18>

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 The application raises issues that warrant consideration by Planning Committee.

2.0 PROPOSAL

2.1 Full planning permission is sought for a change of use of The Chequers to two dwellings. The application is accompanied by marketing information and financial accounts dating from September 2016. The restaurant/bar closed in December 2017.

2.2 It should be noted that Gedney Parish Council has recently nominated the building/land for listing by the local authority as an asset of community value.

3.0 SITE DESCRIPTION

3.1 The site is located on the western side of Main Street, Gedney Dyke close to the southern fringe of the village. It is occupied by a former restaurant and bar, plus an associated car parking area. Houses are situated to the north and south of the site and also opposite.

4.0 RELEVANT PLANNING POLICIES

4.1 The Development Plan

South Holland District Local Plan, July 2006

The South Holland Local Plan 2006 was formally adopted on 18 July 2006. Following a direction from the Government Office for the East Midlands under paragraph 1(3) of Schedule

18 to the Planning and Compulsory Purchase Act 2004, as of 18 July 2009 only certain Local Plan policies have been extended and continue to form part of the development plan. In the context of those saved policies referred to below, it is considered that the Local Plan was adopted in general accordance with the Planning and Compulsory Purchase Act 2004 (albeit under the transitional arrangements). Those policies referred to below are considered to accord with the thrust of guidance set out in the National Planning Policy Framework, and in the context of paragraph 215 of the NPPF should therefore continue to be given substantial weight in the decision making process.

SG1 General Sustainable Development
SG2 Distribution of Development
SG3 Settlement Hierarchy
SG4 Development in the Countryside
HS7 New Housing in the Open Countryside including Other Rural Se
SG13 Pollution and Contamination
SG14 Design and Layout of New Development
SG15 New Development: Facilities for Road Users, Pedestrians and
SG16 Parking Standards in New Development
SG17 Protection of Residential Amenity
SG18 Landscaping of New Development

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

National Guidance

National Planning Policy Framework (NPPF), March 2012

Paragraph 7 - Achieving sustainable development
Paragraph 14 - The presumption in favour of sustainable development
Paragraph 17 - Core planning principles
Section 3 - Supporting a prosperous rural economy
Section 6 - Delivering a wide choice of high quality homes
Section 8 - Promoting healthy communities
Section 12 - Conserving and enhancing the historic environment

Planning Practice Guidance (PPG), 2014

5.0 RELEVANT PLANNING HISTORY

5.1 Recent history:

H06-0718-10 - Full - Extensions and alterations to public house/restaurant (part retrospective) - Granted 15 October 2010.

H06-1212-07 - Full - Proposed change of use of public house at ground floor to be incorporated into existing first floor flat - Refused 21 November 2007.

6.0 REPRESENTATIONS

6.1 Gedney Parish Council - Object. For a material consideration Council advise that an application for an asset of community value listing is currently being prepared. The Chequers is the only pub in Gedney Dyke and has existed as such for over two centuries. There have been large scale objections to this change of use by local residents. This is not just a building but a licensed business. The claim is that it cannot be sold as a going concern at a price required by the owner. Perhaps it is over priced. If the business model has been unsuccessful this will be reflected in the value of the business. Council also draw attention to sections 70 and 28 of the National Planning Policy Framework for consideration;

Section 70 NPPF - 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.

Section 28 NPPF Promote 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.

In 2007 permission was refused (ref H06-1212-07) to turn the Chequers into domestic premises. An important and still relevant reason was "The change of use of the premises would result in the loss of an important community facility which, unless its loss was inevitable should be retained to cater for the social and community needs of the village" - This observation is little changed from the NPPF guidance in section 28 and 70.

The Parish Council believe that the market and financial information referred to is applicant biased and would question whether this information was analysed by a suitably qualified business accountant and marketing specialist.

It has since transpired that the applicant has received several offers for the purchase of the building as a pub (which, incidentally is still licensed) as detailed below. None of these offers were accepted. If the submitted market and financial information was accepted by the Planning Officer as a consideration, then the Parish Council believes that these offers also fall into the same category.

The aforementioned Asset of Community Value application was rejected on a technicality and has been re submitted. Hopefully this will be verified before the committee meeting. An approved ACV is a material consideration. There is a Chequers action group which has been formed in Gedney Dyke which offers a realistic proposal to retain the premises for the benefit of the community should the pub come onto the market again.

There have been numerous objections to this application including one from our local MP. The Chequers is the last remaining pub in Gedney Dyke. There are no other business premises in the village that may offer the opportunity of local employment. There is no church in the village. An isolated rural community with no church and no pub is generally not considered to be a village at all. The loss of the pub would effectively turn Gedney Dyke into nothing more than a hamlet.

Gedney Parish Council ask the Planning Committee to please consider its deep concerns about the loss of character to Gedney Dyke Village as well as the Parish as a whole. This is one instance where the council feel that the drive towards more domestic premises is a step that is much too far.

- 6.2 LCC Highways/SUDs - Does not wish to restrict the grant of permission.
- 6.3 Environment Agency - The FRA should aim to identify mitigation measures in line with those required for new build development of the same type, as far as this is practicable. So I think it is safe to apply this principle if it is not possible to raise FFLs. However, where possible the applicant should be referred to the document for information on flood resilience that could be incorporated into the development: 'Improving Flood Performance of New Buildings - Flood Resilient Construction' (Department for Communities and Local Government, 2007) and that future occupants are advised to register with the Floodline Warnings Direct Service.
- 6.4 John Hayes MP - Object. As you may be aware, the post office and shop has closed in the village, leaving the residents with only the village hall and the public house. I appreciate The Chequers has been closed for some months, but the residents believe that it could, once again, become the hub of the community breathing new life into the village. The loss of this amenity would have a detrimental impact on Gedney Dyke and beyond.
- 6.5 Public - 48 letters of objection received from the owner/occupiers of properties within the village and surrounding area (main points summarised):
Loss of last remaining pub within the village - previously several; Has been in the village for over 200 years; One of top pubs in region during 1990's; Loss of community/public asset; Previous refusal; Village will become a dormitory; Previously lost shop/post office; Focal/meeting point/historic social hub within the village; Pure greed; No need for additional housing; Increase in traffic on a dangerous corner; Lack of privacy; Impose on view; Would be much more successful as a traditional local pub as opposed to an a la carte style restaurant; Devaluation of property within village.

7.0 MATERIAL CONSIDERATIONS

- 7.1 The main issues in this case are:
- Whether the proposed change of use is acceptable in principle and is a sustainable form of development;
- Other material considerations, including highway safety and flood risk.
- 7.2 Principle/Sustainability
- 7.3 Paragraph 7 of the National Planning Policy Framework, 2012, states that the planning system should create "accessible local services that reflect the community's needs", whilst paragraph 17 requires planning to "deliver community and cultural facilities and services to meet local needs".
- 7.4 More specifically, Paragraph 28 of the Framework indicates that, to promote a strong rural economy, local plans should promote 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 70 also stipulates that planning policies and decisions should guard against the unnecessary loss of valued facilities and services and ensure that established shops, facilities and services are able to develop in a way that is sustainable and retained for the benefit of the community.
- 7.5 Having regard to the above, planning permission should only be granted for a change of use of the public house to residential if the LPA is reasonably satisfied that the existing public house is no longer sustainable/commercially viable.
- 7.6 CAMRA has formulated a standard, objective test to assist decision makers to make an informed judgement on the question of viability. The criteria are outlined below:
- 7.7 Local Trade - The facility is located in a small village with a relatively small catchment area. The applicant has indicated that few locals used the bar/restaurant, although objectors have argued that this was because it was run as a specialised a la carte restaurant and not as a traditional local.
- 7.8 Customer Potential - The facility is not in a well visited location and is not within a popular tourist area.
- 7.9 Competition - There are no other pubs/bars/restaurants within the village. However, there are others relatively close by; for example, within Holbeach.
- 7.10 Flexibility of the Site - The existing facility does not appear to have been underused and has been well maintained. Physically, there is scope for expansion.
- 7.11 Parking - Satisfactory parking is available on site.
- 7.12 Public Transport - There is not frequent/reliable public transport to/from the site.
- 7.13 Multiple Use - The bar/restaurant is the sole remaining facility of this nature within the village. However, there is limited scope for alternative uses such as a bed and breakfast, shop, etc, because the site is within a small village and not in a popular tourist area.
- 7.14 Partial Loss - This is not applicable in this case.
- 7.15 Competition Case Studies - There are still some remaining pubs in villages within the district. However, many seem to be struggling financially due to the general decline in the UK pub sector over recent years as a result of changing social habits.
- 7.16 The Business (Past and Present) - The applicant has indicated that they did not receive local support, although it has been argued that this was because it was not run as a traditional public house. Trading figures have been provided, albeit not for the last 4 years. The applicant

purchased the property and extended/refurbished it in 2010. The planning statement accompanying the application indicates that the business was not profitable and that the applicant was subsidising the operation out of his own pocket. The business closed on 24 December 2017. Financial accounts from September 2016 indicate that the public house was suffering a financial loss and that it was not financially viable.

- 7.17 The Sale - Various efforts have been made to sell the business as a going concern but have been unsuccessful to date. The property has been on the market since 2015 via various specialist property marketing companies. The property was put to auction in September 2017, but failed to sell. A pre-auction bid was made by a local pub operator but was well below the low reserve and was not considered to be a serious offer. The applicant has indicated that he has no knowledge of an increased offer.
- 7.18 Summarising, it is recognised that the facility is the only remaining bar/restaurant within the village and that it has not recently been used as a traditional pub/restaurant. It is also noted that a local pub operator has previously put in an offer, although it was understood to be well below a minimum valuation provided by the auctioneer/estate agent. Against these factors, the settlement is small with limited immediate population. The applicant has indicated that it was not well supported by locals. It is not within a popular tourist area and is not well served by public transport. Recent financial accounts indicate that the public house was suffering a financial loss. This reflects the general decline in the UK pub sector over recent years. Various efforts have been made to sell the business as a going concern but have been unsuccessful to date. It is considered that these negative factors outweigh other matters in favour of retaining the facility and that it is no longer sustainable/viable.
- 7.19 In terms of housing policy, the proposed development is outside a defined settlement limit within the South Holland Local Plan, 2006. Saved Local Plan Policy HS7 indicates that new housing will only be permitted in such locations where it is proven essential to meet the needs of rural workers, or the proposal is for small scale, rural exception affordable housing.
- 7.20 Neither of the above is applicable in this case. Consequently, the proposal is in conflict with Policy HS7. However, the Council does not currently have a five-year supply of deliverable housing sites. Paragraph 49 of the National Planning Policy Framework, 2012 states that relevant policies for the supply of housing should not be considered up to date if a local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 7.21 Paragraph 49 of the Framework goes on to stress that, in the absence of a five year supply, housing applications should be considered in the context of a presumption in favour of sustainable development. Paragraph 14 also states that there is a presumption in favour of sustainable development and, where the relevant policies are out of date, planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework. Paragraphs 7 and 8 explain that the three mutually dependent dimensions to sustainable development are social, economic and environmental.
- 7.22 An Economic Role - The scheme would help to ensure that there is housing available to support growth and generate jobs in the construction industry, albeit in the short term. The proposal would result in the loss of a restaurant/bar; however, its loss cannot be resisted on sustainability grounds.
- 7.23 A Social Role - The proposal would make a contribution towards the supply of housing required to meet the needs of present and future generations in a district where the supply of deliverable sites is below 5 years. Moreover, the site is within the built-up form of Gedney Dyke and is located within Gedney Dyke Settlement Limit as defined within the South East Lincolnshire Local Plan 2011-2036 (Publication Version - March 2017). The site is therefore considered to be in a sustainable location.
- 7.24 An Environmental Role - The building/site is within the existing fabric of the settlement. The proposal would involve the retention and re-use of an existing building of some architectural/historic interest. It is capable of conversion without significant alterations. It is considered that the proposal would not materially harm the character or appearance of the street scene.

7.25 In terms of amenity, the proposed use would be less intensive and have less of an impact upon the occupiers of nearby residential property in terms of noise and general disturbance.

7.26 Balance of Considerations

7.27 The proposed scheme satisfactorily complies with the three dimensions of sustainable development; namely, social, economic and environmental. They are accorded substantial weight and clearly outweigh the loss of a restaurant/bar, evidence of which has been submitted demonstrating that it is no longer viable/sustainable. It should be noted that Gedney Parish Council has nominated the building for listing by SHDC as an asset of community value. This is a material planning consideration but carries limited weight and is not sufficient reason to justify a refusal of planning permission.

7.28 Other Material Considerations

7.29 Highway Safety - The proposal would generate less traffic to and from the site. The County Highways Authority does not wish to restrict the grant of permission on highway safety grounds.

7.30 Flood Risk - The site is located within Flood Zone 3 of the Environment Agency's Flood Maps. A sequential test therefore needs to be undertaken. The South Holland Strategic Flood Risk Assessment (2017) is therefore used as a basis to apply the test. In this respect, the site is located within an area identified as no hazard.

7.31 In terms of the exceptions test it is recommended that FFLs be raised 300mm above ground level, as far as this is practicable. This is not considered to be the case in this instance because the proposal is a conversion. However, sleeping accommodation should be on the first floor. The applicant should also be referred to the document for information on flood resilience that could be incorporated into the development: 'Improving Flood Performance of New Buildings - Flood Resilient Construction' (Department for Communities and Local Government, 2007). Future occupants are advised to register with the Floodline Warnings Direct Service.

7.32 In terms of the exceptions test, the Environment Agency has recommended that no sleeping accommodation be on the ground floor and future occupants sign up to the Environment Agency's free Floodline Warnings Direct Service.

7.33 Drainage - Foul water is to be disposed of via a package treatment plant and surface water via soakaways.

7.34 Conclusion

7.35 In accordance with central government advice, planning permission should only be granted for a change of use of the public house to residential if it can be satisfactorily demonstrated that the existing public house is no longer sustainable/commercially viable. Information has been submitted satisfactorily demonstrating that this is the case.

7.36 The proposed scheme satisfactorily complies with the three dimensions of sustainable development; namely, social, economic and environmental. They are accorded substantial weight. It should be noted that Gedney Parish Council has nominated the building for listing by SHDC as an asset of community value. This is a material planning consideration but carries limited weight and is not sufficient reason to justify a refusal of planning permission.

7.37 No objections are raised to the proposal on character, amenity and highway grounds.

7.38 In terms of flood risk, the site is within an area of no hazard within the South Holland Strategic Flood Risk Assessment (2017). It therefore passes the sequential test. In terms of the sequential test, the Environment Agency has recommended a condition.

8.0 RECOMMENDATIONS

8.1 Grant Permission subject to those conditions listed at Section 9.0 of this report.

9.0 CONDITIONS

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:
1185-4 PL LP01;
1185-4 PL BP01;
1185-4 PL BP02;
1185-4 PL EL01;
1185-4 PL EL02;
1185-4 PL PL01;
1185-4 PL PL02;
1185-4 PL PL03.
Flood Risk Assessment within the Design and Access Statement.

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The following flood mitigation measures shall be fully implemented before the property is first occupied:
- Sleeping accommodation shall be on the first floor.

Reason: To ensure that the development does not increase the risk of flooding or be at risk of flooding.

This Condition is imposed in accordance with national guidance contained in Section 10 of the National Planning Policy Framework, 2012.

4. Note:

The applicant is referred to the following document for information on flood resilience that could be incorporated into the development; namely, 'Improving Flood Performance of New Buildings - Flood Resilient Construction' (Department for Communities and Local Government, 2007). Future occupants are also advised to register with the Environment Agency's Floodline Warnings Direct Service.

Background papers:- Planning Application Working File

Lead Contact Officer

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Appendices attached to this report:

Appendix A Plan A



Title: Plan A

OS Mastermap



Plan A



Planning Applications Search

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