

REFERENCE NO	PARISH/WARD	DATE RECEIVED
19/03535/APP	HADDENHAM CA/LB	01/10/19
CHANGE OF USE PUBLIC HOUSE TO SINGLE RESIDENTIAL DWELLING. THE GREEN DRAGON8 CHURCHWAY HP17 8AA	The Local Member(s) for this area is/are: - Councillor David Lyons Councillor Brian Foster Councillor Mrs J Brandis	
MR JAMES COLLINS		
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1.0 The Key Issues in determining this application are:-

- a) The planning policy position and the approach to be taken in the determination of the application.**
- b) Whether, having regard to national and local policies, the proposed change of use from a public house (Class C4) to a dwellinghouse (Class C3) would be acceptable on the basis of whether the continued use of the premises as a public house is viable.**
- c) Whether the proposal would constitute a sustainable form of development.**
 - Delivering a sufficient supply of homes
 - Building a strong, competitive economy
 - Promoting healthy and safe communities
 - Promoting sustainable transport
 - Supporting high quality communications
 - Making effective use of land
 - Achieving well-designed places
 - Meeting the challenge of climate change and flooding
 - Conserving and enhancing the natural environment
 - Conserving and enhancing the historic environment

d) Impact on residential amenities.

The recommendation is that permission be **GRANTED**, subject to conditions.

CONCLUSION AND RECOMMENDATION

- 1.1 The application has been evaluated against the extant Development Plan and guidance set out in the NPPF (2019) and the report has assessed the application in the light of advice in the NPPF and whether the proposals deliver sustainable development. Paragraph 11 of the NPPF requires that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. In this case, whilst there is a neighbourhood plan, the relevant housing supply policies within it have been quashed and so a full planning balance needs to be applied. Notwithstanding this, the proposed development would still need to accord with adopted plan policy and be acceptable with regard to all other material planning considerations.
- 1.2 The proposal for a change of use from a public house to a residential dwelling has been assessed against policies HWS2 of the HNP, GP.32 and GP.93 of the AVDLP which seek to resist the loss of local services and facilities, including public houses, where there is a demonstrable need for such local facilities/services. It is considered that the public house use is not economically viable. This view is supported by the independent assessment undertaken for the Council which also found that all reasonable steps (including marketing) have been taken to retain the recent use as a viable concern.
- 1.3 It is accepted that the development would make a contribution to the housing land supply which is a significant benefit to be attributed limited weight in the planning balance, as it is tempered due to the scale of development that is proposed. There would also be economic benefits in terms of the conversion of the building to a dwelling although the proposal would also result in the loss of a local amenity/facility for the residents of Haddenham and would likely result in a loss to the local economy through its change of use. However, the proposal would secure the future use of the building as a dwelling and secure the long term maintenance of the Grade II listed building.
- 1.4 Compliance with some of the other planning principles of the NPPF have been demonstrated in terms of sustainable transport, healthy communities, natural environment, flood risk, impact upon telecommunications and residential amenity. However, these

matters do not represent benefits to the wider area but demonstrate an absence of harm and therefore have a neutral impact.

1.5 Turning to the adverse matters, the proposal would result in the loss of a local facility in Haddenham. However, there are other existing facilities that provide similar services to the existing public house use, in the area. However, in the light of the expert advice provided to the Council it is acknowledged that the retention of the pub use is not viable and the harm resulting from the loss of this facility needs to be weighed against the potential benefits of the scheme which have been set out in this report.

1.6 There are relevant development plan policies which are consistent with the NPPF and it is considered that the proposal complies with HWS2 of the HNP, GP.32 and GP.93 of the AVDLP and there are no material considerations that indicate a decision other than in accordance with the development plan. It is therefore recommended that the application be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91(1) of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. No windows other than those shown on the approved drawing Nos. U.2/07 and U.2/10 shall be inserted in the building that is the subject of this application.

Reason: To preserve the amenities of the occupants of the adjacent dwellings and to preserve the character and appearance of the grade II listed building and to comply with policy GP8 of the Aylesbury Vale District Local Plan and the National Planning Policy Framework.

3. No development shall take place on the building(s) hereby permitted until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. For hard landscape works, these details shall include; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas and hard surfacing materials. For soft landscape works, these details shall include new trees and trees to be retained showing their species, spread and maturity, planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities. These works shall be carried out as approved prior to the first occupation of the development so far as hard landscaping is concerned and the hard

landscaping shall be retained as approved thereafter, and for soft landscaping, within the first planting season following the first occupation of the development or the completion of the development whichever is the sooner.

Reason: To ensure a satisfactory appearance to the development and to comply with policy GP39 and GP35 of Aylesbury Vale District Local Plan and the National Planning Policy Framework. Details must be approved prior to the commencement of development to ensure the development is undertaken in a way which ensures a satisfactory standard of tree care and protection.

4. Any tree or shrub which forms part of the approved landscaping scheme which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved by the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development and to comply with policy GP9 and GP35 of Aylesbury Vale District Local Plan and the National Planning Policy Framework.

5. The existing signage attached to the front of the building shall be retained in situ and shall not otherwise be altered or re-sited without prior agreement in writing of the local planning authority.

Reason: To preserve the character and appearance of the listed building and to comply with the National Planning Policy Framework.

Informatives:

1. The applicant or any future owner should be aware that whilst planning permission has been granted, listed building consent has not been applied for. Any occupation of the building and resultant conversion works required, will be subject to an application for listed building consent and may also require a further application for planning permission, depending on the scale of works required for conversion.
2. In accordance with paragraphs 38 and 39 of the National Planning Policy Framework, Aylesbury Vale District Council (AVDC) takes a positive and proactive approach to development proposals and is focused on seeking solutions where possible and appropriate. AVDC works with applicants/agents in a positive and proactive manner by offering a pre-application advice service and updating applicants/agents of any issues that may arise in the processing of their application as appropriate and, where possible and

appropriate, suggesting solutions. In this case, further details regarding the marketing of the property as a public house were requested in support of the applicant's argument. The additional information provided is considered to be acceptable and so the application has been recommended for approval.

3. The applicant is advised that alteration works, whether external or internal, are likely to be subject to listed building consent. Any works carried out in the absence of listed building consent may constitute a criminal offence. It is therefore essential that an application for listed building consent is submitted and approved prior to the commencement of any building operations.

2.0 INTRODUCTION

- 2.1 The application has been brought to the Development Management Committee for determination as Haddenham Parish Council have raised material planning objections and have said that they will address the meeting.
- 2.2 Haddenham Parish Council raised objections on a number of grounds, namely that the applicant's assessment of unviability is unproven, the loss of a valued facility and service, significant heritage harm, and harm to Haddenham's sustainability as a strategic settlement and being contrary to the Draft VALP and Neighbourhood Plan.
- 2.3 These matters are all addressed in the report. In summary response, the District Council's independent assessment confirms that the public house use should not be considered as economically viable and, whilst the proposal would result in the loss of a community facility, it is recognised that reasonable steps have been taken to retain the public house as a viable concern. With regard to the harm to Haddenham's sustainability, there are other facilities within Haddenham village – pubs and cafes - that provide similar services for the local community to use. Compliance with the policies of the HNP, AVDLP and VALP have been demonstrated in this report.
- 2.4 It is therefore considered that the Parish Council has not raised issues that are sufficient to warrant refusing the application.

3.0 SITE LOCATION AND DESCRIPTION

- 3.1 The application site relates to a two storey, Grade II listed end of terrace building located on the east side of Churchway in the southern part of Haddenham. The building has been used as a public house (known as the Green Dragon) although it has been vacant since November 2018. It lies within the Haddenham Conservation Area. The building is

constructed of rubble stone and brick with a clay tiled roof. The main structure dates from the eighteenth century although there are modern extensions to the side and rear.

- 3.2 To the north, east and south are residential properties, including No.10 Churchway, The Old Vicarage No.22 Church End, and No.6 Churchway, all of which are Grade II listed buildings. To the west is Churchway with further dwellings beyond.
- 3.3 Internally, the building comprises three pub trading areas with a central bar, a large kitchen and storage room to the rear (within the extension). The first floor comprises three bedrooms, lounge/kitchenette, bathroom and toilet. There is a basement with two rooms and with delivery drop to street level at the front. Externally, there is a large tarmac surfaced car park and a large beer garden. There is also a private garden to the rear of the single storey extension.
- 3.4 The building was designated as an Asset of Community Value on 22 December 2015.

4.0 PROPOSAL

- 4.1 This application seeks full planning permission for the change of use from public house (Use Class A4) with associated residential accommodation, to a single residential dwelling (Class C3). The submitted documents indicate that the public house can no longer be operated as a viable business under a Class A4 use.
- 4.2 The proposal would involve limited external and internal changes to the property, including the removal of an industrial extractor fan. At ground floor, the central bar would be removed and a kitchen installed. Upstairs, an en-suite would be installed to serve the master bedroom. The current access and parking areas would be retained. Externally, pub signage would be removed.
- 4.3 The applicant's agent has been made aware that alterations to the building are likely to require listed building consent. No such application has been submitted at this stage, the agent indicating that the applicant intends to await the result of the current application before preparing an application for listed building consent.

5.0 RELEVANT PLANNING HISTORY

- 5.1 76/01339/AV - Improvement of bar and toilet facilities – Approved.
- 5.2 01/01176/APP - Alteration to rear entrance door –Approved.
- 5.3 01/01177/ALB - Alteration to rear entrance door, and internal alterations including turning bottom of staircase – Approved.

- 5.4 85/00925/AV – Conversion of outbuilding into function room – Approved.
- 5.5 85/00926/AV - Conversion of outbuilding into function room – Approved.
- 5.6 93/01238/AAD – Display of public house advertisements - Refused.
- 5.7 93/01642/ALB – Public House signs – Approved.
- 5.8 93/01643/AAD – Public House signs – Approved.
- 5.9 08/02382/ALB – Internal works comprising of repositioning of kitchen and roof extractor, conversion of outbuilding to staff toilet and insertion of patio doors – Approved.

6.0 PARISH/TOWN COUNCIL COMMENTS

- 6.1 Haddenham Parish Council have objected to the application, a full copy of their comments have been attached to the report as an appendix and in summary the following matters have been raised:

(a) Viability assessment – the PC believe that the applicant's assessment that the Green Dragon is unviable is unproven. Several tenants have operated successfully over the last quarter of a century. In recent years, operators have struggled, partly due to the rent review policy of the previous owner. In 2018 a community interest group was established with widespread village support to buy the pub under right to bid procedure but a bid was not submitted. A bid was made by another village group but although above the asking price this was not accepted by the present owner. It is not true therefore that there has been no interest. The sale terms are unduly onerous. The Bruton Knowles viability report concludes that the pub is likely to be attractive to a family style business with food offer, and states that it is in a good state of repair. However it makes no mention of Haddenham's 50% growth as a strategic settlement. In summary, the PC urges AVDC not to accept the non-viability arguments.

(b) Loss of valued facility and service – NPPF para 83 states that planning policies and decisions should enable the retention and development of accessible local services and community facilities, including public houses. The Neighbourhood Plan similarly resists the loss of valued facilities and services. The loss of a pub causes harm to the community and local environment through loss of a place for socialising, loss of garden to admire ambience of Church End. Loss of signage/lighting will have deadening effect on appearance of building. Loss of car park (used by St Marys School) will displace cars onto street. There were until recently 3 pubs, shops and a bank at Church End, all now closed.

(c) Significant heritage harm - Besides the loss of the pub itself, there is the impact on the Conservation Area. This is one of AVDCs foremost Conservation Areas, featuring in numerous films. Church End is the backdrop to village life, with the Green Dragon playing a

central role. Pubs in particular have always made a significant contribution to the Conservation Area at Church End. The PC urges AVDC to refuse this application because of the serious heritage harm to the conservation area at Church End. Appeal Inspectors have refused change of use of pubs in Conservation Areas due to importance to character and appearance and harm caused by loss of a valued facility (*several examples are given*).

(d) Harm to Haddenham's sustainability as a strategic settlement - The draft VALP designates Haddenham as a strategic settlement with 50% growth by around 1000 homes. This represents an increase in population from about 4,500 to around 7,000. All but one of the 3 major allocated developments are already under construction. At the time of the Settlement Hierarchy Assessment, Haddenham had 5 pubs, of which 3 were at Church End. Today just 2 of those pubs are still open, and none at Church End. One of the major development sites (Aston Road) is within easy walking distance of the Green Dragon.

(e) Contrary to Draft VALP and Neighbourhood Plan - This proposal is contrary to NPPF, to the emerging draft VALP, and to the Neighbourhood Plan by virtue of all the above issues: the viability assessment, the loss of a valued facility, significant heritage harm to the Conservation Area, and harm to Haddenham's sustainability as a strategic settlement. The application should be refused.

6.2 Ward Councillor (Cllr David Lyons) – objects, raising similar concerns to the Parish Council.

7.0 CONSULTATION RESPONSES

7.1 Buckingham & River Ouzel Internal Drainage Board – outside Board's district. In this instance the Board has no comment.

7.2 AVDC Highways - This proposal would result in fewer traffic movements than the Public House and should therefore be seen as a highway gain. There seems to be sufficient room to provide the correct number of off-street parking spaces with on-site turning. Therefore I have no highway objections or comments to make if the existing access is to be used.

7.3 AVDC Heritage Officer - No objection to the principle of the change of use. The proposal would cause no harm to the significance of the heritage asset. The plans show minimal changes and those proposed acceptable in principle, although they will require further information as a condition to any permission.

8.0 REPRESENTATIONS

8.1 Comments have been received from 147 separate persons. In addition, a representation was received from the Haddenham Village Society.

8.2 The vast majority of responses object to the proposal. The reasons given are summarised as follows:

8.3 *Loss of community facility*

- Green Dragon is a designated asset of community value.
- The loss of the pub is a serious loss to the community.
- There is strong support for its protection by the village and in the Neighbourhood Plan.
- The village only has two pubs and there is a strong need for a food based family pub.
- The village is changing out of all recognition and its identity and character is being lost.
- Church End has lost all its facilities in the last few years.
- Church End needs a pub to build community spirit, social cohesion and wellbeing. We have enough new houses.
- The area attracts many tourists who need somewhere to eat and drink.
- Application is contrary to the draft VALP and Neighbourhood Plan as these require that proposals involving loss of facilities unless no longer financially viable. NPPF requires decisions to protect and retain local facilities.

8.4 *Lack of marketing / viability issues*

- The pub was badly run by Enterprise Inn.
- Recent landlords had to endure ever increasing rents.
- If run well it has a viable future.
- There has been little attempt to market the pub as a going concern.
- This is a cynical and greedy attempt to make money by selling it as a house.
- New owner has no wish to keep it as a pub and has put a covenant on the sale making it unsellable.
- There are other parties who wish to maintain its status as a pub but the owners have terms that make this unviable.

- Bruton Knowles viability statement is superficial/flawed/contains errors and has no trading data later than 2008. It is inaccurate and biased and should be discounted as unreliable. It does not take account of growth of village.
- The CAMRA public house viability test should be used in considering this application as this takes a more balanced approach.
- The wealthy community of Haddenham can sustain these premises as a public house.
- There is a real need for this type of establishment (pub/restaurant) in Haddenham.

8.5 *Heritage issues*

- This is a hostelry with a substantial history (having served as auction rooms, courts, venue for functions) that the village should not lose.
- It is an 18th century building recognised as a Grade II listed building and conversion to a house would be a careless loss of heritage.
- It is in a conservation area in need of regeneration following recent closure of other amenities.
- Change of use would have a detrimental effect on the conservation area, due to loss of signage and well as custom.
- The upfront advice from the heritage team focused too much on the physical impact of the application and did not take into account the heritage harm that will arise from the change of use.

8.6 *Traffic/sustainability*

- The resulting traffic would cause congestion and be a danger to children going to St Marys School.
- The loss of the pub would mean loss of much needed parking spaces at school drop off and pick up times.
- If this is granted, it is only a matter of time before there is an application to develop the car park, adding to the excess of traffic and pollution.
- Should this pub not be available, residents would have to drive out of the village to an alternative venue as bus services have ceased and taxi services limited. The community requires walkable options for socialising.

- The population of Haddenham has increased dramatically. New housing (including at The Glebe) will bring in more customers. It is important to maintain facilities so that Haddenham doesn't become a dormitory town.
- Haddenham has been identified as a strategic settlement due to its sustainable transport options and access to local amenities, so closing one of these is contrary to this policy.
- With emphasis on reducing carbon footprints and climate change challenges, local facilities within the village become more vital.

8.7 *Employment issues*

- The Green Dragon gave work experience opportunities to village youth.

When last open, 90% of staff were locally based and the pub was an important employer in the village, particularly for young people.

8.8 Three representations were in support, summarised as follows:

- The pub has been shut for more than a year and efforts have been made to find a tenant to no avail. It is not viable as a pub anymore.
- It is unloved and deteriorating and would be better preserved as a residential dwelling.
- For many years it has been an unsuccessful business. In recent years there was an unacceptable level of noise with late night drinking.
- Traffic noise at closing time was considerable.

8.9 One representation was neutral, from a business person who stated that he wishes to see the property (to see if it is appropriate to make an investment) but has been unable to do so.

9.0 **EVALUATION**

The planning policy position and the principle of conversion for residential use.

9.1 Members are referred to the Overview Report before them in respect of providing the background information to the Policy. The starting point for decision making is the development plan i.e. the adopted Aylesbury Vale District Local Plan and any 'made' Neighbourhood Plan, which in the current case includes the Haddenham Neighbourhood Plan (HNP). S38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) and

the Planning Practice Guidance (PPG) are both important material considerations in planning decisions. Neither change the statutory status of the development plan as the starting point for decision making but policies of the development plan need to be considered and applied in terms of their degree of consistency with the NPPF.

The Development Plan

The Haddenham Neighbourhood Plan

9.2 The Haddenham Neighbourhood Plan was 'made' in 2015. However, Chapter 6, relating to housing matters, was quashed by the High Court on 7th March 2016 following a legal challenge and cannot be given material weight in the determination of planning applications. However, those policies contained within the remaining chapters of the plan remain in force and attract full weighting.

9.3 Relevant policies include

- TGA1 which sets out the parking standards for new housing developments.
- SRL3 which seeks to enhance, protect and provide new Natural Environment, Habitats, Trees and Hedgerows.
- HWS2 which seeks to protect community amenities, including pubs, unless it can be demonstrated that they are no longer financially viable and that (in the case of the change of use of an asset) all reasonable steps have been taken to retain the present use and community value as a viable concern.

Aylesbury Vale District Local Plan

9.4 The policy position and current housing land supply figures are addressed with the overview report that is to be read in conjunction with this Committee Report. What is of relevance, however, is that there are no up-to-date housing supply policies in AVDLP. For neighbourhood plans which are considered up to date the starting point for determining such applications is to consider in accordance with Section 38(6) of the Planning and Compulsory Purchase Act (2004) and paragraph 14 of the NPPF as set out above is also relevant. However, in this case whilst there is a Neighbourhood Plan for Haddenham, the relevant housing supply policies have been quashed and therefore it is not considered to be up-to-date. In any case it was 'made' more than two years ago and paragraph 14 of the NPPF does not apply and so it is necessary to engage paragraph 11d and apply the planning balance.

9.5 A number of general policies of the AVDLP are considered to be consistent with the NPPF and therefore up to date so full weight should be given to them. Consideration therefore

needs to be given to whether the proposal is in accordance with or contrary to these policies. Those of relevance are GP8, GP24, GP32, GP.35, GP38 – GP.40 and GP93.

Emerging policy position in Vale of Aylesbury District Local Plan (draft VALP)

- 9.6 The Council has set out proposed policies and land allocations in the draft Vale of Aylesbury Local Plan. The draft Vale of Aylesbury Local Plan was published and subject to public consultation in summer 2016. Following consideration of the consultation responses, and further work undertaken changes have been made to the draft plan. A report has been considered by the VALP Scrutiny Committee on 26 September and Cabinet on 10 October 2017 on the proposed submission plan. The Cabinet's recommendations were considered by Council on 18 October 2017. The proposed submission was the subject of consultation from, 2 November to 14 December 2017. Following this, the responses have been submitted along with the Plan and supporting documents for examination by an independent planning inspector at the end of February 2018. The examination hearing ran from Tuesday 10 July 2018 to Friday 20 July 2018. The Interim Findings have been set out by the Inspector, and consultation on modifications will be required before adoption can take place. Further to this AVDC has provided the VALP Inspector with its suggestions for the Modifications to the Plan. The Inspector set out the timetable for the formal publication of the Modifications and the accompanying consultation. Following further discussions with the Inspector the council has published for consultations the Main Modifications, which have been agreed with the Inspector, on 6 November 2019. The period for making representation ran until 17 December 2019. The adoption of the Vale of Aylesbury Local Plan is planned to be early 2020.
- 9.7 Paragraph 48 of the NPPF advises on the weight to emerging plans depending on the stage of preparation, unresolved objections and consistency with the NPPF. In view of this the policies in this document can be given some weight in planning decisions given the stage it is at, and the evidence that sits behind it can be given weight. This will be highlighted in individual reports. Of particular relevance are the Settlement Hierarchy Assessment (September 2017). The Housing and Economic Land Availability Assessment (HELAA) (January 2017) is an important evidence source to inform Plan-making, but does not in itself determine whether a site should be allocated for housing or economic development or whether planning permission should be granted. These form part of the evidence base to the draft VALP presenting a strategic picture. The policies to which the relevant weight needs to be considered in this case are BE1 (Heritage assets), BE2 (Design of new development), I3 (Community facilities, infrastructure and assets of

community value), NE1 (biodiversity and geodiversity), D7 (Town, village and local centres to support new and existing communities), NE8 (trees, hedgerows and woodlands, T6 (vehicle parking), S3 (settlement hierarchy and cohesive development) and BE3 (protection of the amenity of residents).

9.8 Policy BE3 has been the subject of objections and the Inspector has not requested main modifications so can be regarded as resolved and this policy can be given considerable weight. Where the remainder of these policies have been the subject of objections and the Inspector requested main modifications, he has confirmed that he is satisfied they remedy the objection so these can be given moderate weight. The weight to be given is considered further in the paragraphs below.

b) Whether, having regard to national and local policies, the proposed change of use from a public house (Class A4) to a dwellinghouse (Class C3) would be acceptable on the basis of whether the continued use of the premises as a public house is viable.

9.9 The Haddenham Neighbourhood Plan states, in section 9.3, that there are a number of buildings that are presently used to further the social well-being or social interests of the local community with which local people have a strong affinity. The Green Dragon public house is specifically listed as one of the buildings that would be nominated to AVDC for designation as an Asset of Community Value which would provide the community the opportunity to bid to acquire the asset if placed on the open market. It adds that development plans (proposals) that result in their loss or significant harm will be resisted.

9.10 Policy HWS2 (Protecting Community Assets) states that the retention and enhancement of local services and community facilities, including pubs, will be supported. It adds that proposals involving the loss of facilities will not be permitted unless it can be demonstrated that they are no longer financially viable whilst proposals to change the use of an asset must demonstrate that all reasonable steps have been taken to retain its present use and community value as a viable concern. Footnote 79 adds that "reasonable steps" in the case of a public house must include extensive marketing to find a suitable tenant at a rent that is reasonable given the trading potential of the premises. It adds that the failure of a Public House owner to obtain rental values out of proportion to the profitability of a village public house would not be considered as a reason for change of use under the "non-viable concern" criteria.

9.11 Saved Policy GP.32 of the AVDLP states that the Council will resist proposals for the change of use of shops, post offices and public houses for which there is a demonstrable local need. In considering applications for alternative development or uses, the Council will

have regard to the viability of the existing use, the presence of alternative local facilities and the community benefits of the proposed use. Where permission includes building conversions, conditions will be imposed so as not to exclude later resumption of the existing use.

- 9.12 The explanatory text for this policy in paragraph 4.98 states that in rural areas, it is important to protect shops, post offices and public houses, as these fulfil a local function providing local services and reducing the need to travel. This protection is particularly important where there are no alternatives available locally. Applicants will need to satisfy the Council that the existing use is no longer viable and that a genuine attempt has been made to market the enterprise as a going concern. Where development is permitted, it would be regrettable if the building works prevented the future resumption of the former, or similar activity.
- 9.13 Saved Policy GP.93 of the AVDLP states that the Council will resist proposals for the change of use of community buildings and facilities for which there is a demonstrable local need. In considering applications for alternative development or uses, the Council will have regard to the viability of the existing use, the presence of alternative local facilities and the community benefits of the proposed use. Where permission includes building conversions, conditions will be imposed so as not to exclude the later resumption of a community use.
- 9.14 Policy I3 of VALP states that the council will resist proposals for the change of use of community buildings and facilities for which there is a demonstrable local need, unless the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location. It adds that in considering applications for alternative development or uses, the council will consider the viability of the existing use, that the site/use has been marketed for a minimum period of 12 months at a price commensurate with its use together with proof there has been no viable interest, marketing of the building or facility at a price commensurate with its use, the presence of alternative local facilities and the community benefits of the proposed use. This policy is to be given moderate weight in the decision making process as the inspector has considered the proposed modifications and in agreeing them for consultation, has confirmed are reasonably satisfied that they remedy the points of unsoundness identified in the examination process so far.
- 9.15 Policy D7 of VALP states that local and village centres will be encouraged to grow and loss of essential facilities and businesses such as local shops, pubs and post offices will not be supported. This policy is to be given considerable weight as whilst there are objections to

the policy, the inspector has not requested main modifications (and as such the policy will not be changed in a material way) and therefore the objections can be treated as resolved.

- 9.16 The NPPF states (in paragraph 192) that in determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. Paragraph 195 adds that where a proposal will lead to substantial harm of a designated heritage asset, planning permission should be refused unless the substantial public benefits outweigh the harm, including there being no viable use of the heritage asset able to be found in the medium term through appropriate marketing.
- 9.17 The Planning Practice Guidance (PPG) provides further guidance with respect to viable uses for heritage assets in paragraph 15 of the section on Historic Environment. It states that it is important that any use is viable, not just for the owner, but also for the future conservation of the asset. It further states that if there is only one viable use, then that is the optimum viable use. Harmful development may sometimes be justified in the interests of realising the optimum viable use of an asset, notwithstanding the loss of significance caused provided the harm is minimised.
- 9.18 Paragraph 16 of the PPG states that appropriate marketing is required to demonstrate the redundancy of a heritage asset in the circumstances set out in [paragraph 195b) of the NPPF. The aim of such marketing is to reach all potential buyers who may be willing to find a use for the site that still provides for its conservation to some degree. If such a purchaser comes forward, there is no obligation to sell to them, but redundancy will not have been demonstrated.
- 9.19 Taking the above policy background into account, it is considered that a proposed change of use could be acceptable, subject to the proposal demonstrating a compliance with the relevant neighbourhood plan and local plan policies which are considered further in the following paragraphs. Firstly, however, the Asset of Community Value process will be outlined as it relates to this building.

Asset of Community Value

- 9.20 An asset of community value (ACV) is land or property of importance to a local community which is subject to additional protection from development under the Localism Act 2011.
- 9.21 On 15 October 2015, Aylesbury & Wycombe CAMRA nominated the Green Dragon public house (including manager's flat above) as an ACV. This nomination was accepted by AVDC and the property was designated as an ACV on 22 December 2015 under section 87 of the Localism Act 2011. The consequence of listing is that the land will remain on the

list of assets of community value for a period of 5 years from the date of this notice unless removed with effect from some earlier time in accordance with the provision of the Regulations. ACV status is a material consideration when dealing with planning applications that affect an asset.

9.22 On 6 November 2018, AVDC received a notice from the owner of the intention to sell the Green Dragon building. This triggered an interim moratorium period (six weeks) during which community interest groups were able to register an expression of interest in purchasing the property (under the Community Right to Bid). This period started on 8 November 2018 and expired on 18 December 2018. A community interest company calling themselves "Green Phoenix" was formed and registered an interest in buying the property. The full moratorium period ended on 5 May 2019 (six months after the notification to sell). In March 2019, the Green Phoenix CIC decided not to proceed with the attempted purchase of the Green Dragon building. The Parish Council's response states that another group made an offer on the building, but that this offer was turned down in favour of the bid by the present owner, who returned the property to the market in Spring 2019. It should be noted that at the end of the period, the owner may sell it to whoever and at whatever price they choose and the seller is not obligated to accept an offer.

9.23 Therefore, it is understood that the applicant (the present owner) and the previous owner have correctly complied with the requirements of the Asset of Community Value / Community Right to Bid process. However, it is still necessary to assess whether the proposal complies with relevant HNP and local plan policies with regard to viability.

Viability of existing use

9.24 In coming to a view on whether the proposals comply with policy HWS2 of the HNP and GP32 and GP93 of AVDLP, officers have had regard to the viability of the existing use. The applicant has provided a letter dated 1 October 2019 from Bruton Knowles containing an appraisal as to the viability of the property as a public house. The assessment examines factors such as likely turnover, gross profit margins, staff costs, other overheads and property costs. It states that in a best case scenario the public house could only be operated just above break-even level and the rewards would not be sufficient to justify the risks. As such, it concludes that the Green Dragon is not capable of being re-opened on a profitable basis in the foreseeable future and is therefore not viable as a public house.

9.25 The Parish Council, Haddenham Village Society and other respondents have criticised the applicant's viability assessment as being inaccurate or based on limited information. For example, the Village Society states that it does not take account of recent development in the village and the Parish Council response states that it contains limited data on past

trading. Several responses state that it contains errors or is biased and others argued that the Campaign for Real Ale (CAMRA) public house viability test should be used in considering this application as this takes a more balanced approach. It is noted, however, that the Bruton Knowles report states that they are aware of the CAMRA public house viability test.

- 9.26 The applicant's Design and Access Statement states that the Green Dragon has been extensively marketed both for sale and lease since 2017 and that this marketing will continue during this application process and if a tenant or buyer is found the application may be withdrawn. Details of the marketing material showing the pub marketed for rent of £25,000 (introductory period) from 2017-18 with Enterprise, for sale (£500,000, freehold) from November 2018 to May 2019 with Fleurets and for sales and rental (June 2019 onwards) with Sidney Phillips has been provided in Annex B. This includes a letter from Sidney Phillips dated 27 September 2019 that sets out the marketing campaign undertaken since May 2019.
- 9.27 Some respondents have also criticised the marketing of the property, stating that there has been little attempt to market the pub as a going concern and that the terms of sale make it unsellable. For example, the Haddenham Village Society stated that the terms under which the freehold is being marketed includes an overage provision of 70% of the betterment value in the event of a change of use for a period of 70 years in favour of the seller and claim that this would limit the number of parties who are able to bid.
- 9.28 The Design and Access Statement further adds that the owners have looked at other commercial uses such as restaurant, nursery, convenience store and bed and breakfast but that each of these would not be suitable, including due to the limitations on layout arising from the listing of the property. The statement adds that there are signs of damp and decay from having been empty for 12 months and that it is essential that the building is occupied soon.
- 9.29 The council instructed Savills to assess the viability and marketing report prepared for the owner to be independently verified to confirm the viability of the property as a public house and that it is and has been marketed appropriately as a going concern. This report found that the layout of the trading areas is not ideal and the kitchen is large in relation to the number of covers in the dining room. However, the property is in good condition, despite being closed for some time. With regard to the business, the report concluded that the estimated annual profit (before property costs) would be £45,200 per annum. If the operator has a lease and pays a rent of £30,000 per annum, this would leave a profit of £15,200. If the operator has the freehold, and has finance charges of £27,500, the profit

would be £17,700 per annum. These are insufficient rewards for the long hours that publicans have to put in.

- 9.30 Savills added that with regard to marketing, there was one offer put in by an inexperienced first time buyer but no deposit was offered and due to a lack of available funds the transaction did not complete. Savills contacted Fleurets, who marketed the property from November 2018 to May 2019. Enterprise Inns initially sought a tenant on free of tie terms but then sought a freehold disposal. Fleurets added that during this marketing period there were a total of nine viewings including the current owner. Most of these parties wished to retain the public house use. There was then a bidding process whereby the current owner was successful. The other bidder also wanted to retain the public house use. Since the purchase of this pub no operator has come forward through Sidney Phillips to either buy the freehold or rent as a pub. There has been no interest from multiple operators.
- 9.31 With regard to the overage issue raised by several objectors, Savills explained that this provision is usually put in place to stop someone from buying an asset and then turning a large profit by getting a change of use (for example for residential development). They added that from a pub operator point of view this should not make any difference as they would want to run a pub. Hence the inclusion of an overage provision would only put off developers and not prospective pub operators.
- 9.32 Savills also stated that whilst an operator or owner could make a profit this ignores all property holding costs such as repayment of a mortgage or loan. The type of operator is unlikely to have substantial cash reserves to undertake a large refurbishment which would include remodelling the rear kitchen area. Savills added that a drinks led operation would not survive on its own and the relatively small trading areas act as a barrier to increasing turnover. The lifestyle changes taking place over the last six years have made premises such as the Green Dragon become increasingly unviable. In addition, significant housing development in the village does not necessarily mean new residents would frequent the pub.
- 9.33 In conclusion, Savills consider that the property is unlikely to be commercially viable now and in the longer term.
- 9.34 On the basis of the available evidence, including Savills independent assessment, it is concluded that the property cannot be properly considered financially viable as a public house and that all reasonable steps (including marketing) have been taken to retain the recent use as a viable concern. VALP policy I3 requires a minimum of 12 months marketing but evidence has been provided to show that the property has been marketed

for considerably longer than this. Savills have raised no concerns in relation to the marketing.

Alternative establishments

- 9.35 In coming to a view on whether the proposals comply with the second criterion set out in the second paragraphs of policies GP32 and GP93, officers have had regard to the presence of alternative local facilities in the area.
- 9.36 Savills have stated that whilst many objections to the application suggest that there is a lack of other facilities on offer, there are other facilities within Haddenham village for the local community and business workers, including two pubs (Kings Head and Rising Sun) and eight cafes, restaurants and coffee shops. It is, however, noted that only two of these local venues (Kings Head and House of Spice) are open for food in the evening.
- 9.37 Savills add that the area surrounding the application property is residential with limited footfall and it would rely on 'destination' custom. Most of the competition premises are located in the nearby population cluster of Thame Road and are therefore in more prominent positions benefiting from passing trade. There are also similar facilities in surrounding villages and in Thame, less than 3.5 miles away.
- 9.38 Therefore it is concluded that there are other existing facilities that provide similar services to the existing public house use, in the area, including within Haddenham itself.

Community benefits of the previous and proposed uses

- 9.39 Several objectors have stated that the Green Dragon public house was (and could still be) a valued community facility for the residents of Haddenham. These respondents have argued that the Church End part of the village needs a pub to build community spirit, social cohesion and wellbeing and its loss would be harmful in this regard. Policies in the Haddenham Neighbourhood Plan (HWS2), AVDLP (GP32 and GP93) and VALP (D7 and I3) all seek to protect community facilities such as pubs where there is a demonstrable local need. It is considered that the change of use of the public house to residential would have a limited community benefit (given that there is accommodation provided above the public house as existing). The occupation of this building for residential purposes would contribute, although in a more limited way, to the local economy and further public benefits would arise from the safeguarding of a historic building. It is however acknowledged that any benefits are tempered given the current community benefit provided by the established public house that lies in the heart of the village, which would otherwise be in use and serving a local need.

Conclusions

- 9.40 Policy HWS2 of the HNP supports the retention of local services and community facilities including pubs. AVDLP GP32 states that the Council will resist proposals for the change of use of shops, post offices and public houses for which there is a demonstrable local need. In considering applications for alternative development or uses the Council will have regard to the viability of the existing use, the presence of alternative local facilities and the community benefits of the proposed use. In rural areas it is important to protect shops, post offices and public houses as these fulfil a local function providing local services and reducing the need to travel. This protection is particularly important where there are no alternatives available locally.
- 9.41 In this case, there is clearly a strong desire from many members of the local community to retain the building as a public house. However, there are alternative facilities nearby and there is independent evidence that its retention as a pub would not be economically viable. As such, it is the case that the premises is not viable within the A4use class and that, the proposed change of use should be supported. The proposal would not therefore conflict with policies HWS2 of the HNP, GP.32 and GP.93 of AVDLP and I3 and D7 of VALP. It is concluded that the loss of economic and social benefits to the local community would not significantly outweigh the potential benefits of the scheme and would also comply with the guidance of the NPPF.

c) Whether the proposal would constitute a sustainable form of development.

- 9.42 The NPPF states at paragraph 8 that there are three objectives to sustainable development: economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).
- 9.43 These objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. (paragraph 9).
- 9.44 The Government's view of what 'sustainable development' means in practice is to be found in paragraphs 7-211 of the NPPF taken as a whole (paragraph 3). The National Planning Policy Framework (NPPF) has a presumption in favour of sustainable development for both plan-making and decision-making. Paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-

date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

- 9.45 The following sections of the report will consider the individual requirements of sustainable development as derived from the Framework and an assessment made of the benefits together with any harm that would arise from the failure to meet these objectives.

Sustainable location

- 9.46 Haddenham is a large village with a population just under 4,377, situated to the south west of Aylesbury, near to Thame in South Oxfordshire. There is a good range of services, although it is recognised that some of these have been lost in recent years. It has a large number of jobs at nearby Haddenham Business Park. There is also a relatively good bus services to other urban areas, including Aylesbury, and a nearby railway station, 'Haddenham and Thame Parkway' with regular train services to London, Birmingham and Stratford-upon-Avon.
- 9.47 Haddenham is classed in the Settlement Hierarchy Assessment Report September 2017 (and Table 2 of VALP) as one of the five strategic settlements that have a substantially greater range of facilities and services in comparison to the other settlements within the district. Strategic settlements typically have a population of above 4,000 and provide the greatest range of services and facilities in the District playing an important role in supporting the smaller rural settlements. These settlements typically offer a choice of shops, a post office, a fire and/or police station, a library, and a range of employment opportunities. They are also well-served by public transport with hourly or more bus services. These settlements have all of the key services.
- 9.48 On this basis, it is therefore accepted that Haddenham is a sustainable location for residential development subject to the scale of growth that could reasonably be considered sustainable not only in terms of its impact on the localised site and surrounding but also in terms of the wider capacity of the settlement to accept further population growth, having regard to its impact on the infrastructure and local services and the community itself. The proposal, if implemented, would result in the addition of a marketable unit of residential accommodation. At present the residential element of the building is ancillary to the use as a pub.
- 9.49 Therefore, in broad sustainability terms, the provision of one new dwelling in this location which falls within the built-up area of the village is considered acceptable. However. this

proposal still has to be assessed against all other material considerations and the outcomes fed into the planning balance.

Deliver a sufficient supply of homes

- 9.50 In respect of affordable housing the scheme does not meet the thresholds for securing such provision on site as outlined in AVDLP policy GP2 which refers to the provision of 25 dwellings or more or a site area of 1ha or more.
- 9.51 Paragraphs 77-79 of the NPPF (2019) are particularly relevant to this application for rural housing. Paragraph 78 states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.
- 9.52 The provision of one net independent dwelling would add to the housing stock. There is no reason why the development will not be finalised and delivered within the next five year period making a contribution to housing land supply which be a significant benefit, tempered by the scale of the development and its limited contribution; also the Council can demonstrate a 5 year housing land supply and as such the level of positive weight to be attributed to housing in this case is considered limited in the overall planning balance.

Build a strong competitive economy

- 9.53 Consideration is given to whether the development would support the aims of securing economic growth and productivity, but also that this would be achieved in a sustainable way. Paragraph 80 states that planning policies and decisions should help to create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 9.54 Paragraph 83 of the NPPF states that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings. Part (d) in particular states that decisions should enable the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.
- 9.55 It is considered that there would be economic benefits arising from the development through the creation of employment opportunities during the conversion of the building to a dwelling itself and the resultant increase in population contributing to the local economy.

However, the proposal would result in the loss of a local business and a significant local amenity/facility for the residents of Haddenham and would likely result in a loss to the local economy through its change of use, although the proposal would contribute towards the long term viability of the building, ensuring its upkeep for the foreseeable future.

- 9.56 Some comments made referred to the economic benefits of the public house use, including employment opportunities for young people. This is noted, although the pub is currently closed and is not considered to be economically viable as a public house or suitable for another similar commercial use. Had the public house been operational it is accepted that the proposed change of use would result in a loss of economic benefits. However, it is noted that the public house is currently closed with little prospect of reopening and as such it is considered that this is a matter which would be neutral.

Promoting healthy and safe communities

- 9.57 Decisions should aim to achieve healthy, inclusive and safe places, promoting social interaction, safe and accessible development and support healthy life-styles. This should include the provision of sufficient choice of school places, access to high quality open spaces and opportunities for sport and recreation and the protection and enhancement of public rights of way, and designation of local spaces. It will therefore be necessary to consider how each scheme addresses these issues.
- 9.58 Policies GP.86-88 and GP.94 of the Local Plan seek to ensure that appropriate community facilities are provided arising from a proposal (e.g. school places, public open space, leisure facilities, etc.).
- 9.59 Policies I1 (Green Infrastructure), I2 (Sports and Recreation) and I3 (Community Facilities and Assets of Community Value) of VALP all have moderate weight and are not relevant to this planning application.
- 9.60 The development does not meet the threshold for requiring financial contributions in respect of leisure, recreation and education.
- 9.61 As stated above, Haddenham is a larger village with provision of key services. The site is within easy walking distance of these services and so there would be opportunities for the future occupiers of the new unit to interact with the local community, in accordance with the aims of paragraph 91 of the NPPF. This matter should be afforded neutral weight in the planning balance.

Promoting sustainable transport

- 9.62 It is necessary to consider whether the proposed development is located where the need to travel will be minimised and the use of sustainable transport modes can be maximised and that safe and suitable access can be achieved, taking account of the policies in the NPPF.
- 9.63 In respect of transport sustainability, the site is situated in the built up area of Haddenham and is therefore well placed in terms of accessibility for the potential occupiers of the development to access essential services on foot. Various public transport options are also available within reasonable walking distance of the site.
- 9.64 The AVDC Highway Engineer has been consulted and has stated that this proposal would result in fewer traffic movements into and out of the access than the Public House has the potential to produce and should therefore be seen as a highway gain. Therefore the Highways Officer has raised no highway objections if the existing access is to be used. The Design and Access Statement confirms that the current access would be retained. It is therefore concluded that safe and suitable access to the site can be achieved for all users in accordance with paragraph 108 of the NPPF (2019).
- 9.65 With regard to parking, Policy TGA1 of the HNP seeks to ensure that proposals meet minimum parking standards through allocated on-site car parking spaces. For a dwelling with 3 bedrooms or more, as is proposed in this case, two parking spaces plus 2 cycle spaces are required as a minimum.
- 9.66 Policy GP24 of the AVDLP requires that new development accords with published parking guidelines. SPG1 "Parking Guidelines" at Appendix 1 sets out the appropriate maximum parking requirement for various types of development. For dwellings of 4 bedrooms, it suggests that three parking spaces should be provided within the curtilage of the dwelling.
- 9.67 Policy T6 of VALP states that all development must provide an appropriate level of car parking in accordance with the standards set out in Appendix B of the plan. This policy is to be given moderate weight in the decision making process as the inspector has considered the proposed modifications and in agreeing them for consultation, has confirmed are reasonably satisfied that they remedy the points of unsoundness identified in the examination process so far.
- 9.68 For a dwelling with 4 bedrooms, 3 spaces are required. The car parking standards set out in VALP are optimum standards; the level of parking they specify should be provided within the curtilage unless specific local circumstances can justify deviating from them. Proposals for provision above or below this standard must be supported by evidence detailing the local circumstances that justify the deviation.

9.69 In this case, although limited details have been provided, there is parking space within the existing car park which would be retained. The AVDC Highways Engineer stated that there seems to be sufficient room to provide the correct number of off-street parking spaces with on-site turning. It is therefore considered that the proposal would comply with TGA1 of HNP, GP.24 of the AVDLP, policy T6 of VALP, the Council's Parking Standards and the NPPF in this regard.

9.70 This matter should be attributed neutral weight in the planning balance.

Supporting high quality communications

9.71 Paragraph 114 of the NPPF requires LPA's to ensure that they have considered the possibility of the construction of new buildings or other structures interfering with broadcast and electronic communications services.

9.72 Given the nature and location of the proposed development, and bearing in mind that this would be reusing an existing building, it is considered unlikely for there to be any adverse interference upon any nearby broadcast and electronic communications services as a result of this development, and therefore it is considered that the proposal would accord with the guidance set out in the NPPF and this factor is afforded neutral weight in the planning balance.

Making effective use of land

9.73 Section 11 of the NPPF requires that planning policies and decisions should promote an effective use of land while safeguarding and improving the environment and ensuring safe and healthy living conditions, maintaining the prevailing character and setting, promoting regeneration and securing well designed, attractive and healthy places.

9.74 Paragraph 122 of the NPPF relating to achieving appropriate densities states that in supporting development that makes efficient use of land, it should taking into account of the importance the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it.

9.75 In this instance, the proposed dwelling would be created by re-using/converting previously developed land and buildings (as defined in Annex 2) but the principle of on-site accommodation has already been established in any case as accommodation exists above the main public house service areas. It is therefore considered that this would represent an efficient use of land within a built up area. As the proposal would amount to an acceptable use in policy terms, this matter is afforded neutral weight in the overall planning balance.

Achieving well-designed places

- 9.76 The NPPF at paragraph 8, states that one of the overarching principles of the planning system is a social objective, including fostering a well-designed and safe built environment. Section 12 states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. NPPF paragraph 124 highlights that 'Achieving well designed places' is central to the purpose of the planning system and to achieving sustainable development.
- 9.77 Planning policies and decisions should ensure that developments will function well and add to the overall quality of the area over the lifetime of the development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space).
- 9.78 Permission should be refused for developments exhibiting poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides. Paragraph 127 of the NPPF states that planning policies and decisions should ensure that developments comply with key criteria.
- 9.79 Policy GP.35 of the AVDLP which requires development to respect and complement the physical characteristics of the site and the surroundings, the building tradition, ordering, form and materials of the locality, the historic scale and context of the setting, the natural qualities and features of the area and the effect on important public views and skylines. Policy GP.45 is also relevant and that any new development would also be required to provide a safe and secure environment for future occupiers of the site.
- 9.80 Policy BE2 of VALP states that all new development proposals shall respect and complement the following criteria:
- a. The physical characteristics of the site and its surroundings including the scale and context of the site and its setting
 - b. The local distinctiveness and vernacular character of the locality, in terms of ordering, form, proportions, architectural detailing and materials

- c. The natural qualities and features of the area, and
- d. The effect on important public views and skylines.

- 9.81 This policy is to be given moderate weight in the decision making process as the inspector has considered the proposed modifications and in agreeing them for consultation, has confirmed are reasonably satisfied that they remedy the points of unsoundness identified in the examination process so far.
- 9.82 In this proposal, there would be very limited changes to the external appearance of the building, with the only change at the front being the removal of the pub signage. However, the Heritage Officer has requested that one of the signs should be retained in order to acknowledge the history of the building. This can be secured through a condition. The only other external change would be the removal of an industrial extractor fan.
- 9.83 On the basis that there would be almost no change to the appearance of the building, it is considered that the proposal would have an acceptable impact on the visual amenities of the site and wider area, in accordance with policy GP35 of the AVDLP, BE2 of VALP and advice in the NPPF. It is therefore considered that in assessment of good design, the proposals should be accorded neutral weight in the planning balance.

Meeting the challenge of climate change and flooding

- 9.84 Developments will need to demonstrate resilience to climate change and support the delivery of renewable and low carbon energy.
- 9.85 This will not only involve considerations in terms of design and construction but also the locational factors which influence such factors. Development should be steered away from vulnerable areas such as those subject to flood risk whilst ensuring that it adequately and appropriately deals with any impacts arising. Paragraph 163 of the NPPF requires new development to consider the risk of flooding to the site and elsewhere.
- 9.86 The site is located within Flood Zone 1 and the development would therefore be at low risk of flooding. In addition, almost no external works are proposed as part of the change of use application. Therefore, the proposed development would be resilient to climate change and flooding and it would not increase flood risk elsewhere in accordance with NPPF.
- 9.87 As such, it is considered the proposed development would be resilient to climate change and flooding and would not increase flood risk elsewhere in accordance with the Framework. This factor should therefore be afforded neutral weight in the planning balance.

Conserving and enhancing the natural environment

- 9.88 Consideration is given to how the development proposals contribute to and enhance the natural and local environment through protecting and enhancing valued landscapes and geological interests, minimising impacts on biodiversity and providing net gains and preventing any adverse effects of pollution as required by the NPPF in paragraph 170.
- 9.89 Policies GP.35 of the AVDLP requires new development to respect and complement the physical characteristics of the site and surroundings; the building tradition, ordering, form and materials of the locality; the historic scale and context of the setting; the natural qualities and features of the area; and the effect on important public views and skylines. This policy is considered to be consistent with the NPPF. It is also reinforced by the Council's adopted supplementary planning guidance in the form of the New Houses in Towns and Villages Design Guide which encourages new development to recognise and respect landscape and local character. GP.38 states that development schemes should include landscaping proposals designed to help buildings fit in with and complement their surroundings, and conserve existing natural and other features of value as far as possible. Policies GP39 and GP40 of the AVDLP seek to preserve existing trees and hedgerows where they are of amenity, landscape or wildlife value. BE2 of VALP (moderate weight) is also material (Achieving Well Designed Places refers). NE8 (moderate weight) of VALP seeks to ensure that development enhances and expands the District's tree and woodland resource. This policy is to be given moderate weight in the decision making process as the inspector has considered the proposed modifications and in agreeing them for consultation, has confirmed are reasonably satisfied that they remedy the points of unsoundness identified in the examination process so far. Policy SRL3 of HNP seeks to enhance, protect and provide new Natural Environment Habitats, Trees and Hedgerows.
- 9.90 In this case, the site is entirely brownfield land and the proposal involves the change of use of an existing building within the built up area of the village. Although there are some trees on the site, and some protected trees to the north and east of the site, these would not be affected.
- 9.91 Paragraph 170 of the NPPF requires new development to minimise impacts on biodiversity and provide net gains in biodiversity. Emerging VALP Policy NE1, which has moderate weight, states that Internationally or nationally important Protected Sites (SACs and SSSIs) and species will be protected. As there would be almost no change to the appearance of the site, there would be an absence of harm to arise as a result of the proposed development on biodiversity.
- 9.92 Overall, it is considered that there would be no negative impact upon the natural environment. It would therefore have an acceptable impact on protected species and their

habitats and would therefore comply with policies GP38-40 of AVDLP, policy SRL3 of HNP, policies BE2, NE1 and NE8 of VALP and relevant NPPF advice and therefore should be accorded neutral weight in the planning balance.

Conserving and enhancing the historic environment

- 9.93 The National Planning Policy Framework (NPPF) recognises the effect of an application on the significance of a heritage asset is a material planning consideration. Paragraph 184 of the NPPF identifies heritage assets as an irreplaceable resource which should be conserved in a manner appropriate to their significance.
- 9.94 Paragraph 193 of the NPPF states that 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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 9.95 Paragraph 195 states that where a proposed development would lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply: the nature of the heritage asset prevents all reasonable uses of the site; no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and the harm or loss is outweighed by the benefit of bringing the site back into use.
- 9.96 Policy GP.53 of the AVDLP supports the provision of new development in and adjacent to a Conservation Area, provided that the development proposals preserve or enhance the special characteristics. However, Policy GP.53 is not entirely consistent with the 'language' of the NPPF in so far as it does not go on to comment on whether the proposal would result in substantial or less than substantial harm which would need to be outweighed by the public benefits of the scheme. In this respect GP.53 cannot be given full weight but is still a material consideration.
- 9.97 Policy BE1 (Heritage Assets) of VALP states that all development including new buildings, alterations, extensions, change of use and demolitions, should seek to conserve heritage asset in a manner appropriate to their significance, including their setting and seeking enhancement wherever possible. This policy is to be given moderate weight in the decision making process as the Inspector has considered the proposed modifications and in

agreeing them for consultation, has confirmed that he is reasonably satisfied that they remedy the points of unsoundness identified in the examination process so far.

- 9.98 Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. In this case, the building is a Grade II listed building. Several nearby buildings are also Grade II listed, including No.6 Churchway to the south, and no.10 to the north. The site is also within the Haddenham Conservation Area.
- 9.99 Several objections were made on the basis of heritage concerns, stating that the change of use would have a detrimental effect on the conservation area and on the Grade II listed building. The Parish Council highlighted that this is one of the District's foremost conservation areas, with pubs making a significant contribution to Church End. They also gave examples where appeal inspectors have refused the change of use of pubs in conservation areas due to the importance to the character and appearance of the area.
- 9.100 The Council's Heritage Officer was consulted and raised no objection to the principle of the change of use on the basis that the plans show minimal changes to the building. The officer concluded therefore that the proposal would cause no harm to the significance of the heritage asset.
- 9.101 However, a key element of the building's historic interest is its use as a public house. The conversion works would inevitably affect this character as a result of the proposed change of use, but given the very limited level of alteration, it is not considered that any material harm would result such that the application could be refused on those grounds. The Heritage Officer has stated that in order to acknowledge the history of the building as a public house, a sign should be retained.
- 9.102 Special regard has been given to the statutory test of preserving or enhancing the character or appearance of the conservation area under section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 and to the statutory test of preserving the setting of the listed buildings under section 66 of the Planning (Listed Building and Conservation Areas) Act 1990, which are accepted is a higher duty. It has been concluded that the proposals, due to the design of the development, would not preserve the character and appearance of the conservation area or the setting of the listed buildings and so the proposal would not comply with sections 66 or 72 of the Act or guidance contained within the NPPF.
- 9.103 As such the proposal would cause no harm to the significance of the heritage asset, and accords with guidance contained within the NPPF, with the aims of policy GP53 of the AVDLP and policy BE1 of VALP. This factor should therefore be afforded neutral weight.

(d) Impact on residential amenity

- 9.104 The NPPF at paragraph 127 sets out guiding design principles. One of the principles set out is that authorities should always seek to create places that have a high standard of amenity for all existing and future users.
- 9.105 AVDLP policy GP.8 states that permission for development will not be granted where unreasonable harm to any aspect of the amenities of nearby residents would outweigh the benefits arising from the proposal.
- 9.106 Policy BE3 of VALP seeks to protect the amenity of existing residents and achieve a satisfactory level of amenity for future residents. This policy is to be given considerable weight as whilst there are objections to the policy, the inspector has not requested main modifications (and as such the policy will not be changed in a material way) and therefore the objections can be treated as resolved.
- 9.107 As almost no external works are proposed, it would appear only appropriate in this instance to consider relevant factors resulting from the proposed change of use to a dwelling. However as the existing building falls within a Class A4 use (public house) it is reasonable to suggest that an operating public house would return a level of noise that is greater than could be expected compared with a single family dwellinghouse. Similarly the number of traffic movements would be expected to be fewer resulting in less potential for traffic conflicts within the immediate locality. Noise levels within the premises and outside would be anticipated to be lower as a result of the change of use. One supporting comment stated that in recent years there had been an increase in noise levels with late night drinking and another stated that traffic noise at closing time was considerable.
- 9.108 As such, it is considered that the proposal would provide some benefits in terms of reduced noise and disturbances from the continued use as a public house for the immediately adjacent existing neighbouring properties. Therefore, as there would be no adverse implications on nearby residents as a result of the change of use, the proposals are considered to comply with policy GP8 of the AVDLP, BE3 of VALP and NPPF. This factor should therefore be afforded neutral weight.

Case Officer: Bibi Motuel

bmotuel@aylesburyvaledc.gov.uk

Consultee Comments for Planning Application 19/03535/APP

Application Summary

Application Number: 19/03535/APP

Address: The Green Dragon 8 Churchway Haddenham Buckinghamshire HP17 8AA

Proposal: Change of use public house to single residential dwelling.

Case Officer: Bibi Motuel

Consultee Details

Name: Clerk Haddenham Parish Council

Address: Parish Council Office, Banks Road, Haddenham HP17 8EE

Email: clerk@haddenham-bucks-pc.gov.uk

On Behalf Of: Haddenham Parish Council

Comments

Summary

The Parish Council objects to the proposed change of use on the following grounds:

- (a) Viability assessment
- (b) Loss of valued facility and service
- (c) Significant heritage harm
- (d) Harm to Haddenhams sustainability as a strategic settlement
- (e) Contrary to Draft VALP and to the Neighbourhood Plan

Context

1. The Green Dragon is a listed building in the Conservation Area. It has also been confirmed by AVDC as an asset of community value, having been nominated both in the Haddenham Neighbourhood Plan and by CAMRA. In addition to the architectural citation in AVDCs 2008 Conservation Area review, the Green Dragon was historically also a coaching inn and home to the Manorial Court until 1924.

2. Draft VALP sets out at Chapter 8 AVDCs approach to listed buildings, conservation areas, and heritage assets. In defining the significance of heritage value VALP draws on Historic Englands Conservation Principles. Particularly relevant here are those described as evidential, historic and communal in paras 8.28, 8.29 and 8.31 respectively (see below). Draft Policy BE1 states that the Council will:

Require development proposals that cause substantial harm to, or loss of a designated heritage asset and its significance, including its setting, to provide a thorough heritage assessment setting

out a clear and convincing justification as to why that harm is considered acceptable. Where that case cannot be demonstrated proposals will not be supported unless the harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss and accord with the requirements of national guidance, and

Require development proposals that cause less than substantial harm to a designated heritage asset to weigh the level of harm against the public benefits that may be gained by the proposal, including securing its optimum viable use.

3. Haddenham Neighbourhood Plan (as amended) has been adopted by AVDC as part of its own approved development plan. The Neighbourhood Plan states at para. 9.3.1:

Combined with the statutory protection of the Conservation Area, and the ongoing focus to conserve and enhance the historic environment and heritage assets in the Parish, the function of community amenities should also be protected because of their importance to village life and enjoyment by residents of Haddenham and surrounding villages; development plans that result in their loss or significant harm will be resisted.

4. Neighbourhood Plan Policy HWS2: Protecting Community Amenities states:

The retention and enhancement of local services and community facilities including shops, pubs, food outlets and commercial services will be supported. Proposals involving the loss of facilities will not be permitted unless it can be demonstrated that they are no longer financially viable whilst proposals to change the use of an asset must demonstrate that all reasonable steps have been taken to retain its present use and community value as a viable concern.

Viability assessment

5. The PC believes that the applicants assessment that the Green Dragon is unviable is not proven. The applicants submission by Bruton Knowles admits that they had limited information on past trading. In fact several tenants have operated successfully over at least the last quarter of a century, when it has been most successful as a dining pub, in some cases winning local accolades. In the last few years operators have struggled, but not least because of the particular rent review policy of the previous owner (a pub chain) which stifled, or indeed terminated, promising initiatives.

6. The pub chain put the pub on the market in 2018. A community interest group was established with widespread village support with a view to bidding to acquire the Green Dragon for a community pub under the community right to bid procedure. Unfortunately the period of grace allowed proved insufficient to complete the legal requirements and raise the capital, and a bid was not submitted. However a bid was made by another village group for a dining pub to be led by a village-based named chef with a quality food offer. Although their bid was above the asking price, the PC understands that this offer was not accepted in favour of the bid by the present owner, who

then returned the property to the market soon after purchase in Spring 2019. Crucially, it is therefore not the case that there has been no interest for over 12 months.

7. The current application does not make clear that the terms of sale include an overage provision of 70% of the betterment value in the event of change of use for a period of 70 years in favour of the seller. The PC has had conversations with two parties potentially interested in the Green Dragon as a pub, but are not bidding because these sale terms are considered unduly onerous, particularly if seeking to raise a loan. AVDC will need to evaluate this situation, but again, it cannot be said that there is no interest.

8. The PC notes that Bruton Knowles report that market evidence is showing that the rate of pub closures and conversions to other uses is slowing, and concludes that there is more activity in the sale of freehold freehouses than in previous years, and values are slowly rising. The report goes on to suggest that the Green Dragon is likely to be attractive to a family-style business with a food offer.

9. Significantly, the viability report makes no mention of the marketing opportunity afforded by Haddenhams 50% growth as a designated strategic settlement (see below).

10. The applicant argued at our public Planning Committee meeting that change of use is needed urgently to prevent building deterioration. However the Bruton Knowles report states that The property is in a relatively good internal state of repair. Although some external repairs needed, the report says that a figure in the region of £12,500 would be sufficient for these works. AVDC will be aware that NPPF advises that fabric deterioration should be discounted when considering development of a listed building.

11. In summary, the PC urges AVDC not to accept the non-viability arguments.

Loss of valued facility and service

12. Para 83 of the revised NPPF under the section Supporting a prosperous rural economy states:

Planning policies and decisions should enable [inter alia] the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

13. The Neighbourhood Plan quoted above similarly resists the loss of valued facilities and services. The loss of activity associated with a pub in particular causes harm to the community and local environment. A place where members of the public can meet and socialise will no longer be there. A garden in which to enjoy food and refreshment and admire the special ambience of Church End will be lost to the local community. The removal of signage and lighting produces a

deadening effect on the buildings appearance. The comings and goings which give this building life will disappear. The Green Dragons car park is included in nearby St Marys School Travel Plan as parking for school drop-off and collection; today the car park gates, always previously open, are locked shut, deadening the frontage and with the cars displaced onto the street. There were until recently 3 pubs, shops and a bank at Church End; all are now closed and the services lost.

Significant heritage harm

14. Besides the loss of the pub itself, there is the impact on the Conservation Area. This is one of AVDCs foremost Conservation Areas. Besides featuring in numerous film and television productions, Church End is the backdrop to village life including the annual Mayday celebration, Haddenham fete and annual fair, with the Green Dragon for long playing a central role. Historic Englands Conservation Principles quoted in the draft VALP recognise the importance of activity as a contribution to significance, and in particular to the importance of evidential, historic and communal factors. These underline the impact a building can have in its context where it represents a communitys engagement with the wider historic environment, and contributes to a conservation areas particular character. Character derives not only from architecture and built form, but from the presence of mixed uses and activities. Change of use means yet more encroachment of the all-pervasive tendency towards residential monoculture which can so erode conservation area character. Pubs in particular have always made a significant contribution to the Conservation Area at Church End. The PC urges AVDC to refuse this application because of the serious heritage harm to the conservation area at Church End.

15. The Heritage teams advice to the applicant does not pick up on the impact of closure in terms of heritage harm. AVDC can take confidence from the following examples of appeal decisions which have refused the change the use of pubs in conservation areas because Inspectors have prioritised the importance of a pub to the character and appearance of a conservation area, and the significant harm caused to a community by the loss of a valued facility:

In July 2012 the Inspector dismissed an appeal to change the use of The Cross Keys, 1 Lawrence Street, London SW3 5NB (Appeal Ref: APP/K5600/A/12/2172342), an unlisted building in the Cheyne Conservation Area (CA) which had ceased trading. The Inspector quoted para 70 of NPPF (now para 83 in revised NPPF) noting that community facilities includes public houses, and found it is clear that, before it closed, the Cross Keys contributed to meeting the needs of the local community through provision of facilities and as a place of social interaction. The Inspector dismissed arguments that there were other premises to eat and drink in the vicinity. The appellants financial appraisal referring to problems in the previous 2 years were seen as a relatively brief period on the basis of which to judge [viability] after many years of trading. The Inspector concluded that the Cross Keys contributes positively to the character and appearance of the CA not only because of the building itself but because of its use. Its continued use as a public house is clearly an important part of its value and significance as a heritage asset and of its contribution to the CA. I conclude that the proposed change of use would have a materially harmful effect on the

value and significance of the Cross Keys as a heritage asset and on the character and appearance of the CA.

In January 2013 a different Inspector dismissed an appeal to change the use of The Phene Arms at 9 Phene Street, London SW3 (Appeal Ref: APP/K5600/A/12/2172028 & 2175522), an unlisted building also in the Cheyne Conservation Area. The Inspector summarised the two main issues as: harm to the character and appearance of the conservation area, and the unacceptable loss of a community facility.

In October 2012 another Inspector in dismissing an appeal to change the use of The Queens Head, 25-27 Tryon Street, London SW3 (Appeal Ref: APP/K5600/A/12/2177513) summarised the issues as: effect on the character and appearance of the Chelsea Conservation Area, and the effect of the loss of the public house on the surrounding community.

At the Drapers Arms, 44 Barnsbury Square, London N1 in dismissing the appeal the Inspector stated: the minimal alterations suggested by the appellants would do little to disguise its former use as a public house and the domestic activities likely to take place in and around the building would significantly change the character of the building and the impact it has on its surroundings.the reduction in activity would diminish the importance of the building as a focal point in the area.

At the Huntingdon Arms, 115 Hemingford Road, London N1 the Inspector stated: conversion of the premises to residential would, in my opinion, result in a significant change in the character of use. Not only would there be a reduced level of activity, but by its very nature the use would be more private and restrained. I find therefore that the importance of the building as a focal point within the area would diminish. I believe that such a change would detract from the character of the immediate area and from the wider Conservation Area.

At Newmarket in 2009 the Inspector said The Plumbers Arms is a pivotal building in the Conservation Area both in terms of its use as a public house as well as in its location atthe road intersection. Both the history of its use and its continued use as a pub I consider to be important factors in preserving the character and appearance of the Conservation Area....

In a Croydon appeal the Inspector said: A residential conversion would fundamentally alter a significant aspect of the character of the building; it would no longer be a publically accessible social focus and the loss of this focus would also affect the character of the conservation area

Harm to Haddenhams sustainability as a strategic settlement

16. The draft VALP designates Haddenham as a strategic settlement with 50% growth by around 1000 homes. This represents an increase in population from about 4,500 to around 7,000. All but one of the 3 major allocated developments are already under construction, so will finish in the near future; the third has been submitted for planning permission.

17. The strategic settlement designation in turn arose from a Settlement Hierarchy Assessment. One of the assessment criteria used in the audit methodology was facilities and services, which were further split between key and non-key. Pubs were classified as a key facility. At the time of the assessment, Haddenham had 5 pubs, of which 3 were at Church End. Today just 2 of those

pubs are still open, and none at Church End. One of the major development sites (Aston Road) is within easy walking distance of the Green Dragon. This should be a significant marketing opportunity, particularly taken together with the pubs historic association and prime location. Approving the change of use at this time will close a key facility and thereby harm this community's ability to meet the challenge of welcoming and absorbing so much growth in such a relatively short period of time.

Conclusion: Contrary to Draft VALP and Neighbourhood Plan

18. This proposal is contrary to NPPF, to the emerging draft VALP, and to the Neighbourhood Plan by virtue of all the above issues: the viability assessment, the loss of a valued facility, significant heritage harm to the Conservation Area, and harm to Haddenhams sustainability as a strategic settlement. The application should be refused.

The PC would like the opportunity to make representation should this proposal go to Committee or to appeal.