

LP25	Re-use of Rural Buildings
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2.0 **Site History**

2.1 There is an extensive planning history for this property. Of relevance is application 16/02113/1 for the change of use of the public house into a single dwelling house. This application was refused and also dismissed at appeal (appeal ref. APP/X1925/W/17/3188914).

3.0 **Representations**

- 3.1 **Reed Parish Council** – objects to the application. The PC objects on the basis that the application is seeking to change the bulk of the building into a single dwellinghouse. The pub's car park is included within the dwellinghouse part of the site, which is obvious 'uplift value' as a site for a new dwellinghouse. The PC have made a bid to purchase the freehold of The Cabinet.
- 3.2 The application is an attempt to circumvent the recent appeal decision and to achieve a change of use by another means. The linked listed building application is seeking to legitimise the currently unlawful change of use works.
- 3.3 The applicant has made a proposal to Reed PC to take over the single storey part of the building (at a nominal rent) and to run it as a pub. The PC has considered but declined this offer as the PC do not consider that the portion of the building in question would be viable as a pub and accepting this offer would be contrary to the clear wishes of the Reed community for The Cabinet as a whole to be restored as a pub. At the recent Inquiry much evidence was presented on the basis of viability and all of this was on the basis of the pub being able to serve food as well as drink. If the public house part is reduced in size, there will be not enough space for toilets, kitchen and dining area and no accommodation for a manager or tenant and in those circumstance it is highly unlikely to be viable. Its commercial failure would quickly follow, leading no doubt to an application for conversion from A4 to domestic use of the pub part of the building to complete the loss of the entire pub. The community facility and value of the listed building, as cited by the Inspector, as a material reason for refusing the change of use, would be lost.
- 3.4 The PC also note that the residential part of the house would only be separated from the public house part by only a (presumably thin) internal party wall and an external fence. This would give rise to noise and other issues and could lead to friction between a future occupier of the residence and the operators of the pub. This too, would call strongly into question the longer-term viability of the small pub proposed.
- 3.5 Policy ETC7 must be read alongside the provisions of the NPPF (paragraphs 83(d) and 92 (c)). These are aimed at enabling the retention and development of community facilities including public houses and guarding against their unnecessary loss. The current applications would have the result that a viable A4 use of The Cabinet is effectively subverted by a ploy facility, that would clearly be contrary to the intention of these provisions.

- 3.6 NHDC Environmental Health** – *“The sub-division of the building to create a new dwelling house whilst retaining the public house operation could give rise to noise and have an adverse impact on the prospective occupiers of the dwelling. Where as I cannot comment on the transmission of sound via the party wall between the public house and the dwelling (Building Regulations Doc E provides the standard for this) I would like to comment on the external amenity space for the proposed dwelling.*
- 3.7** *I note that a 1.8m close boarded fence is to be constructed which will provide privacy but this will not prevent noise from activity in the external beer garden. In my opinion the occupation of the proposed dwelling should be limited to persons associated with the public house i.e. employees, owners or family members. If it is possible to impose this through a condition then this would act as a safeguard”.*
- 3.8 SCAG** – object to the application. An objection letter and 17 appendices, including several appeal decision letters have been submitted. A long letter has been submitted. Key points raised include:
- The installation of a kitchen, loos and bar area will required further works and applications for Listed Building Consent. It can therefore be concluded that the application is inadequately detailed for the purposes of both planning permission (the kitchen will need to have external venting which may require specific permission) and listed building consent. If these works are unacceptable then further consents will be withheld with the result that any permission or consent granted under these applications would not be able to be implemented.
 - No details of the sound and fire proofing have been provided. What is needed to meet building regulations may not be achieved in a listed building. Consequently the application for listed building consent must fail on the basis of insufficient evidence.
 - No details have been provided of the fence to separate / sub-divide the garden land at the front and rear and the impact this would have on the context or setting of the listed building. Furthermore, even an acoustic fence is unlikely to provide sufficient sound attenuation to protect residents from the noise of a pub garden.
 - The proposed car park is not sufficient in size and if patrons find they cannot park it will put people off from making a return trip.
 - The car park itself will harm the setting of the public house when viewed from the north side / rear.
 - The car park and its access is not sufficient for refuse and delivery vehicles, leading to collections having to be made from the road, which could lead to conflicts between delivery and refuse vehicles and pedestrians and other road users.
 - No details for the separation and storage of waste have been shown for either the dwelling or public house. The public house, given its use of casks / kegs, bottles and so on is likely to generate a fair amount of waste. This is a reason for refusal in its own right.
 - The application fails to set out any evidence that the sub-division of the listed building is necessary either to protect its use as a pub (as a community facility) or to preserve or enhance its special interest as a listed building. No evidence has been provided that the premises have been marketed, contrary to local and national planning policies.
 - The DAS sets out that the applicant has been in touch with the PC about their adoption of the retained pub unit. The PC have stated that they do not consider this size of public house is viable in this reduced form with inadequate parking, limited garden, no kitchen facility and no ancillary residential accommodation to ensure a business can be delivered.
 - The Heritage Statement does not fully details all of the works undertaken nor has it properly considered the details or specific works required to return The Cabinet to pub use and to make the proposed dwelling fit for purposes, as such.

- This is a 'Trojan Horse' application – the remaining pub use is unviable in its reduced dimensions and services and therefore will subsequently fail.
- The loss of much of the floor space as well as the ancillary living accommodation would be harmful to the ongoing use of the premises as a pub. Any economic benefit is likely to be limited in comparison with the employment opportunity of a full-service public house.
- A fence in the frontage could be harmful to the setting of Reed Conservation Area.

3.9 Campaign for Real Ale – when this pub was last operated the food offer was a major part of the trade. We believe this plan would remove the food option and limit the opportunity going forward.

3.10 The application was advertised with site and press notices and neighbour notification letters. 47 representations have been received. All object. Many of the objections raised are already listed above under the Parish Council and SCAG comments. New objections include:

- I support the village's efforts to re-start the pub as it was;
- one has to ask why someone who has gone to a lot of trouble to own a detached house with no encroaching neighbours would suggest such a compromise, unless that he knows it will only be temporary;
- to be viable any public house must meet three criteria: it must be able to attract the custom of those within a wide catchment area as well as local villagers; it must provide the amenities expected of a pub; and it must offer sufficient space for customers to survive. This proposal fails to meet these tests.
- One toilet will put customers off. Before its closure The Cabinet had separate male and female toilets.
- The DAS states that the pub is larger than before, but this is not the case as it is 40% smaller when looking at the plans.
- There appears to be a tiny garden which would not be attractive to families with children.
- The public inquiry showed that there had been at least two other buyers interested in buying and running the pub as a whole.
- The proposed sub-division of The Cabinet PH with the associated change of use for the larger part of the building is contrary to the LA's prior determination which was upheld at appeal.
- Object to the new car park opposite my driveway as it will make my access dangerous.
- The LB works seem to be trying to make the unlawful works to the house lawful.
- I sat through three days of the public inquiry so this case is very hard to understand.
- When it runs as a pub again it will need all of the space again and the car park. It is easy to understand that Mr Newman wants to re-coup his expenses, but no must mean no. These premises must remain as a pub in its entirety.
- The car park is on land which does not currently belong to the property.
- The applicant is a property developer and this move is to attempt to get residential for the whole site.
- This proposal removes the character from the building and will not make it attractive to go to as a pub.
- The pub failed due to mal-administration, not due to support. There has always been support for a pub in the village.
- The asking price is too high and the cost of the renovations to put it back to pub use will put people off.

- This application would result in the loss of a community facility and is contrary to ETC7.
- Nothing material has changed since the Inquiry and the application should be refused.
- The proposed car park would block where marquees can be erected for wedding receptions.
- It would be appalling if someone is allowed to profit from breaking the law.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.1.1 The Cabinet is a two storey, timber clad building located on the east side of the High Street, adjacent to the village pond. The building is wide, although relatively shallow in depth, and sits fairly close to the lane frontage, with a car park and rear gardens. There is a change of levels at the front, with steps up and a patio area in front of the building. A new driveway area has been laid in front of the pub next to the pond. At the rear there is a range of single storey buildings. There are photos in Anite.

4.2 **Proposal**

- 4.2.1 The application is seeking full planning permission for the sub-division of the building and site into two, with the two storey part of the building and the front and rear gardens in line with the two storey part and the land to the south, including the car parking area, to be a single dwelling-house. The single storey part of the building and the garden land both to the rear and in front of the single storey parts plus the land to the rear of the pond is to be retained as pub use.
- 4.2.2 The layout plan states at the rear there is to be a 1.8m high close boarded fence subdividing the garden area with two car parking spaces being provided to the south of the building for the 'house' and two driveway way spaces and a new car park comprising of 13 spaces to the north, rear of the pond, for the public house.
- 4.2.3 Internally plan no.16/004/A/03 shows that the 'house' is to comprise a lounge, kitchen / dining room, shower room, reception room and office at ground floor with two bedrooms and a bathroom at first floor level. The 'pub' comprises a saloon, tap room, w.c, lounge, smoking area, small cellar and fuel tank.

4.3 **Key Issues**

Relevance of planning history

- 4.3.1 Application 16/02113/1 sought permission for the change of use of the whole public house building and its grounds into a single dwellinghouse. This application was refused and subsequently dismissed at appeal. A three day Public Inquiry was held in November 2018, where there was a lot of discussion regarding the viability of the public house. Whilst figures were debated between the different parties at the appeal, all the evidence was based on the public house being able to offer both wet (drink) and dry (food) sales. In paragraph 31 of the appeal decision letters the Inspector states: *"...it appears to me that there is sufficient evidence to conclude that there are reasonable circumstances in which the use of the public house could be viable"*.
- 4.3.2 The concern with this proposal is that the amount of space being left in pub use would mean that this public house could only offer wet trade plus snacks, as there is not

space for a commercial kitchen, and if one were to be put into the building, this would leave a very small dining area. As the viability of the businesses will be dependent on both wet and dry sales, without the food element, it is very likely that a public house will not be able to operate in the long term on this basis. As a result, an objection has to be raised regarding the long term viability of a public house without a kitchen and the offer of food sales.

Applicant's case

- 4.3.3 The application does not have any supporting documents submitted with it to justify this proposal.
- 4.3.4 At the Public Inquiry Reed Parish Council stated that they had sought and been approved for a loan in order to make a bid to purchase The Cabinet. During the course of this application a copy of a letter from Reed Parish Council to the applicant offering to purchase The Cabinet in its entirety has been submitted for information. Prior to that, I have been copied in on another letter from Reed Parish Council to Mr Newman (the applicant) declining his offer for Reed PC to operate the reduced sized Cabinet, proposed here, on a nominal rent per year rent. My understanding is the Mr Newman considered that the reduced sized Cabinet would meet the desire of the PC to run and have a public house within the village. However, as stated above, Reed PC have both declined this offer, and have objected to this application, on the basis that following the Public Inquiry last year they consider that the public house needs to offer both wet and dry sales in order to be viable. As the PC have no interest to operate this reduced sized public house, I can give no weight to the applicant's hope that this would meet local needs. I therefore have to conclude that no case has been submitted in support of this proposal.

Compliance with policy

- 4.3.5 The appeal decision letter sets out the relevant policy criteria for an application to change the use of public house in such a rural setting. It states that paragraph 83(d) and 92(c) of the NPPF2 and emerging policy ETC7 are applicable.
- 4.3.6 Paragraph 83(d) states that Planning policies and decisions should enable *"the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues and open space, cultural buildings, public house and places of worship"*.
- 4.3.7 Paragraph 92(c) states that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should *"guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day to day needs"*.
- 4.3.8 Policy ETC7 states: *Planning permission for small scale proposals providing new shops and services will be granted within existing settlements to serve the day to day needs of the local community as an exception to the sequential approach set out in Policy ETC3(a) will be granted where:*
- *The site is within a defined settlement boundary;*
 - *In the case of Category B villages, the site is within the built core; or*
 - *in the case of Category C settlements, the proposed development meets the criteria of Policy CGG2b.*

Planning permission for the loss or change of use of any shops, services or facilities outside the defined retail hierarchy will be granted where:

- a. there is another shop, service or facility of a similar use available for customers within an 800m convenient walking distance; and
- b. the proposed replacement use would complement the function and character of the area.

An exception to criterion (a) above will only be permitted if it can be demonstrated that the unit is no longer required to meet the needs of the local community, including through evidence of at least twelve months active marketing, has remained vacant for a year or more, and documentary and viability evidence has been provided that all reasonable attempts to sell or let the premises for similar uses in that period have failed.

- 4.3.9 In my view, emerging Policy ETC7 is not directly relevance in this instance as the complete loss of the A4 use is not being proposed. I note that currently the public house is being marketed through Fleurets for both sale and lease as an A4 use. Therefore, the building has not been marketed for a year prior to the submission of this application, as required by emerging Local Plan policy ETC7, to justify the change of use of the whole building. However, as only part of the building is being proposed to be changed into a single dwellinghouse, I do not consider that this policy test is strictly applicable in this instance.

Details – Accommodation and amenity issues

- 4.3.10 The plans show that two openings at ground floor level between the two storey part of the building and the single storey part of the building would be closed to allow the separation to occur. In my view, the application is lacking in full details given that this is a listed building. How would the fire and sound proofing be achieved? And are the works that would be required to achieve this acceptable in terms of the historic fabric of the building? As these details have not been provided this cannot be fully assessed.
- 4.3.11 The plans shows that the public house would lose its ancillary residential accommodation. I have two objections to this aspect of the proposal. Firstly there is the concern that a single dwelling house in such close proximity to a public house, but not in association with it, would give rise to conflict between the two uses from late night noise and disturbance from the public house on the amenities of the dwellinghouse, both internally especially if music is played, and externally with noise and possibly smoking smells from the rear garden area. Public Houses are open until at least 11pm at night, and if a family were to live next door, children especially and many adults go to be bed before 11pm on most nights. These two separate uses in such close proximity together, in my view, are not compatible. The Council's Environmental Health team have also objected on this basis.
- 4.3.12 The separation of the living accommodation from the public house also gives rise to an objection on the basis that a tenant or manager of the public house will have no where to live. Traditionally public houses, especially those in rural areas, offer residential accommodation for the tenant /manager as well as the public rooms. Reed is an expensive village within commuting distance of Cambridge and London. If a tenant or manager had to rent private accommodation separately from the public house this would be very expensive, and could further negatively affect the long term viability aspects of running the public house.

Details - Parking

- 4.3.13 A new car park is being proposed on the north side of the public house. The submitted plan shows two driveway spaces in front of the pub and a further 13 spaces in the new

car park area. The Council's car parking standards 'Vehicle Parking at New Development' states that for A4 uses there should be 1 space per 3 sqm of floor space of bar area plus 3 spaces per 4 employees. Excluding the loo, cellar and smoking area, the proposed public house has a floor area of 313 sqm. Based on the Council's car parking requirements 104 parking spaces would be required for customers and more for staff. I consider this parking requirement to be completely onerous and would require the whole of the garden area to be changed to parking which would be harmful to the setting of the listed building and to the character and appearance of the Conservation Area. Furthermore, it would most likely leave the public house without a garden area which would also be objectionable in its own right.

4.3.14 Given that some of the internal space of the reduced pub area would not remain in 'bar area' this requirement may be somewhat reduced. However, it does show that the proposed car park of 300 sqm with 13 spaces, given that the two spaces on the front driveway are likely to be needed by staff, will not be sufficient for a rural public house in this area. This could result in cars being parked along the lanes, blocking access and driveways of neighbours and would in return affect the viability of the pub if people find parking to be problematic it may put people off from making return visits.

4.3.15 The existing car parking to the south of the site is 540 sqm and can hold approximately 28 cars. Much evidence was given at the Public Inquiry that parking at The Cabinet was never really an issue when the pub was operating at capacity prior to 2011. Therefore, I have to conclude that to protect the pub's long term viability, 13 parking spaces is not sufficient and the car park to the south should be retained as the car park for the pub business.

Details – bin storage

4.3.16 This is a concern brought up SCAG. No bin storage areas are shown on the plans. This is not a problem for the proposed dwellinghouse part of the site, as the rear garden and parking area to the side is large enough to store bins for refuse and recycling storage for a single dwellinghouse.

4.3.17 However, this is a much more significant issue for the pub part of the site. Due to the type of 'waste' including the storage of barrels / kegs and bottles this could result in a large land take, and no space has been allocated for the waste storage for the pub. As a result, this could either spill into the parking area, further affecting and reducing car parking provision, or on to land in front of the building, affecting the setting of the listed building and the character and appearance of this Conservation Area location.

Impact on Conservation Area and setting of the Listed Building

4.3.18 In the appeal decision letter the Inspector concludes that the change of use to residential use would result in 'less than substantial harm' to the Reed Conservation Area, and bearing in mind that the two listed building applications for the works in association with application 16/02113/1 are still outstanding, he concluded that the works would not affect the architecture of The Cabinet.

4.3.19 On this basis, I have to conclude the same with the regards to the change of use of the residential part. However, this application is also proposing new works. The works required to achieve the separation of the building in terms of fire and sound proofing are not fully detailed so the impact these would have on the listed building cannot be fully assessed.

4.3.20 The application also shows the new car park to the north of the building. In addition to this area not being large enough in size as discussed above, I have two further two issues with regards to this proposed parking area. Firstly, I consider that a new car park in principle in this location can be regarded to be less than substantial harmful to the setting of the listed building in views from the north side and in the wider character and appearance of the Conservation Area. I note that due to existing hedging and the large willow tree by the pond that views from the lane are more limited, but I consider that there would be harm to the setting of the lane and the Conservation Area from a new car parking in this location.

4.3.21 Secondly, no details or justification has been provided regarding the surface or boundary treatment of the proposed car parking area. The existing car park to the south has a rough gravel finish. A surface like grass-Crete would have less visual impact than a surface like tarmac. Even a surface like gravel could have quite a stark visual impact in this location. Again, close boarded fencing around the car park would have more visual harm than low hedges or post and rail fencing. But as these details have not been provided, a full assessment cannot be made, and as result the application can be considered to fail to comply with the requirements of emerging Policy HE1. In addition, I also consider it prudent to raise an objection to these works on the possible impact on the character and appearance the Conservation Area and the on setting of the listed building.

Driveway

4.3.22 A new driveway has been laid in front of the public house next to the pond. Whilst I have no objection to these works, planning permission for this driveway is required, and an informative has been recommended stating this.

4.3.23 I note that the neighbour roughly opposite is objecting to the driveway and new car park on the basis of safety and blocking her driveway. I cannot support this concern. The driveway is not immediately in front of the neighbour's driveway, which is more opposite the pond than the driveway, and as there are clear sight lines from the driveway at The Cabinet I cannot support the neighbour's concern that it is dangerous. Furthermore, there has been a driveway / hardstanding in this location for many years, the applicant has recently re-surfaced it.

4.3.24 As the application and proposed car park is being refused, I do not consider that there will be any new or increased issue for the neighbour.

4.4 Conclusion

4.4.1 The application is being recommended for refusal for five reasons. These are:

1. The application does not set out that a public house of this reduced size, with no commercial kitchen to allow the sale of food items, no residential accommodation to allow a manager or tenant to live at the business and without access to a reasonable sized car parking area for customers, would be able to trade successfully and could operate as a viable business. As a result the viability of the public house in the medium to long term has to be questioned, contrary to paragraph 92(c) of the NPPF.
2. Objection to the location of a new car park in principle on the north side of the building due to the less than substantial harm this would have on the setting of the listed building, contrary to paragraph 196 of the NPPF.
3. The full details and justification of the car park in terms of surface and boundary treatment are lacking, and therefore the full impact of these works on the setting of the

listed building and on the character and appearance of the Conservation Area cannot be fully assessed. This is contrary to emerging policy HE1.

4. The close proximity of a single residential dwellinghouse to a public house when they are not in association with each other, is likely to lead to friction and conflict between these two uses from the late night noise and activity associated with a public house use on the residential amenities of the single dwellinghouse, contrary to emerging policy D3.
5. The application is lacking in full details with regards to waste storage for the proposed reduced public house area. The waste storage could result in blocking access or parking spaces or spilling out into the lane, contrary and harmful to the character and appearance of the lane and Conservation Area, resulting in less than substantial harm to the character of the Conservation Area and setting of the listed building, contrary to paragraph 196 of the NPPF and contrary to the provisions of emerging policy D1.

4.5 **Alternative Options**

4.5.1 None applicable

4.6 **Pre-Commencement Conditions**

4.6.1 N/A.

5.0 **Recommendation**

5.1 **REFUSED** for the following reasons:

1. The application does not set out that a public house of this reduced size, with no commercial kitchen to allow the sale of food items, no residential accommodation to allow a manager or tenant to live at the business and without access to a reasonable sized car parking area for customers, would be able to trade successfully and could operate as a viable business. As a result, the viability of the public house in the medium to long term has to be questioned, contrary to paragraph 92(c) of the NPPF which seeks to guard against the unnecessary loss of valued local facilities.
2. Objection to the location of a new car park in principle on the north side of the building due to the less than substantial harm this would have on the setting of the listed building, contrary to paragraph 196 of the NPPF.
3. The full details and justification of the car park in terms of surface and boundary treatment are lacking, and therefore the full impact of these works on the setting of the listed building and character and appearance of the Conservation Area cannot be fully assessed. This is contrary to emerging policy HE1 of the Local Plan 2011 - 2031.
4. The close proximity of a single residential dwellinghouse to a public house when they are not in association with each other, is likely to lead to friction and conflict between these two uses from the late night noise and activity associated with a public house use on the residential amenities of the single dwellinghouse, contrary to emerging policy D3 of the Local Plan 2011 - 2031.


5. The application is lacking in full details with regards to waste storage for the proposed reduced public house area. The waste storage could result in blocking access or parking spaces or spilling out into the lane, resulting in less than substantial harm to both the character and appearance of the lane and Conservation Area and on the setting of the listed building, contrary to paragraph 196 of the NPPF and contrary to the provisions of emerging policy D1 of the Local Plan 2011 - 2031.

Proactive Statement:

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council has not acted proactively through positive engagement with the applicant as in the Council's view the proposal is unacceptable in principle and the fundamental objections cannot be overcome through dialogue. Since no solutions can be found the Council has complied with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Informative/s:

Planning permission for the front driveway next to the pond is required.

Signed  Simon Ellis Determining Officer	Development Management North Hertfordshire District Council Council Offices Gernon Road Letchworth Herts SG6 3JF
Date: 3 April 2019	