

MC/17/0278

Date Received: 18 January, 2017

Location: The Royal Oak, 53 Cooling Road, Strood, Rochester,, ME2 4RP

Proposal: Restoration of existing building including demolition of wing extensions at ground floor level and single storey outbuildings and conversion to a 4-bedroomed dwelling and construction of a terrace of three 2-bedroomed dwellings with associated landscaping and parking

Applicant: Interesting Developments Ltd

Agent: Mr M Sahota Nicholas Taylor & Associates 31 Windmill Street
London W1T 2JN

Ward Strood Rural

Case Officer Majid Harouni

Contact Number 01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 13 June 2017.

Recommendation – Approval subject to:

- A. A S106 agreement under the Town and Country Planning Act 1990 being entered into to secure:
- i) The development is to be dealt with in phases and the first occupation of the respective dwellings can only take place once the works on that phase have been completed in accordance with the planning permission and the works carried out in accordance with the schedules of works set out in the Heritage statement prepared by Asset Heritage Consulting dated December 2016 submitted with the listed building and planning applications received on 18/01/2017 and drawings received 15/20/32, 15/20/31 Rev B, and 15/20/30 Rev A in respect of the Royal Oak's conversion to a four bed dwelling house and erection of a terrace of 3 two bed dwelling houses.
 - ii) Phase 1 must be completed before any occupation of the new terrace of 3 dwelling houses.
 - iii) The Phases are as follows:

Phase 1

Demolition of the ground floor extensions to the sides and rear of the Royal Oak building. Restoration of the internal and external aspects of the Royal Oak. Conversion of the Royal Oak to a 4 bedroom dwelling house (Drawing 15/20/32). No occupation of the Royal Oak as a dwelling house until such time that all the conversion, restoration and repair works have been completed.

Phase 2

Erection of a terrace of three 2 bedroom houses (drawings 15/20/30 Rev A and 15/20 31 Rev B) No occupation of terrace of 3 houses shall take place until such time as the works in Phase 1 have been completed.

- iv) The Second Schedule shall set out a full method statement for the repair and restoration for the Royal Oak.
- v) A management plan should be set out to ensure the long term maintenance and repair of the communal areas of the listed building comprising shared boundaries and car parking areas.
- vii) To secure contribution of £223.58 per new dwelling created towards Designated Habitats Mitigation.

B. Impose 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 Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

15/20/01, 15/20/30 Rev A, 15/20/31 Rev B, 15/20/32 received 18/01/2017.

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

- 3 No development above slab level shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The approved boundary treatment shall be completed before the occupation of the dwellings hereby permitted and shall thereafter be retained.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance

with Policies BNE1 and BNE2 of the Medway Local Plan 2003.

- 4 No development shall take place until the following details to be used externally have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.
- Submit elevations and sections at 1:20 and all joinery details 1:5 / 1:10 for new windows and doors for the approved new terraced housing.
 - Submit details / samples of all new materials above ground level for new terraced housing.
 - Submit section detail drawings at 1:20 through New Terraced Façade cutting through heads and cills of openings and eaves / soffit details.
 - Submit details of all leadwork.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification) no development shall be carried out within Class A,B,D and E of part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to control such development in the interests of amenity, in accordance with Policies BNE1 and BNE2 of the Medway Local Plan 2003.

- 6 The work of demolition herein approved shall not take place before a contract for the carrying out of works of conversion of the listed building to a residential dwelling has been made and all the relevant planning and listed building consent conditions have been discharged and as such the conversion development is capable of being implemented.

Reason: To safeguard the listed building and visual amenity of the area in accordance with Policies BNE17 and BNE1 of the Medway Local Plan 2003.

- 7 No development shall take place until details of existing and proposed levels, slab levels and building eaves and ridge heights have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed damp course level for the terraced houses, relationship of the eave and ridge height with the adjoining listed building. Development shall be carried out in accordance with the approved details.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 8 No development shall take place until the developer has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification, which has been submitted to and approved in writing by the Authority.

Reason: To safeguard the archaeological interest in the site in accordance with Policy BNE21 of the Medway Local Plan 2003.

- 9 Prior to the commencement of the development hereby permitted, a scheme of acoustic protection shall be submitted and approved in writing by the Local Planning Authority. The scheme shall include details of acoustic protection sufficient to ensure internal noise levels (LAeq,T) no greater than 30dB in bedrooms and 35dB in living rooms with windows closed and a maximum noise level (LAm_{ax}) of no more than 45dB(A) with windows closed. Where the internal noise levels will be exceeded with windows open, the scheme shall incorporate appropriate acoustically screened mechanical ventilation. All works, which form part of the approved scheme, shall be completed before any part of the development is occupied and shall thereafter be maintained in accordance with the approved details. The details shall supply the technical specifications for the glazing and the mechanical ventilation to show that it meets the standards set out in BS8233:2014.

Reason: In the interest of the residential amenities of the future occupiers of the approved dwellings and in compliance with policy BNE2 of the local plan.

- 10 No development above slab level shall take place until details of electric charging points for 4 Electric vehicle (one per dwelling) have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed within the dedicated parking space of the respective dwelling prior to the first occupation of these dwellings and thereafter maintained as such.

Reason: In the interests air quality and amenities of the local residents and in compliance with policies BNE1 and BNE 24 of local plan.

- 11 No development above ground floor slab level shall take place until details low NO_x boilers to be installed in the dwellings have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: In the interests air quality and amenities of the local residents and in compliance with policies BNE1 and BNE 24 of local plan.

- 12 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 13 to 15 have been complied

with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified in writing by the Local Planning Authority until condition 16 has been complied with in relation to that contamination.

Reason: In the interest of the residential amenities of the future occupiers of the approved dwellings and in compliance with policy BNE2 of the local plan.

- 13 A desk top study, investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, including risks to groundwater, whether or not it originates on the site. The scheme shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The desk study, investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted to and approved by the Local Planning Authority prior to the commencement of development. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes.
 - adjoining land,
 - ground-waters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;

- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: In the interest of the residential amenities of the future occupiers of the approved dwellings and in compliance with policy BNE2 of the local plan.

- 14 A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: In the interest of the residential amenities of the future occupiers of the approved dwellings and in compliance with policy BNE2 of the local plan.

- 15 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of any development (other than development required to enable the remediation process to be implemented) unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given not less than two weeks written notification prior to the commencement of the remediation scheme works.

Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and submitted to and approved in writing by the Local Planning Authority prior to the bringing into use of the development.

Reason: In the interest of the residential amenities of the future occupiers of the approved dwellings and in compliance with policy BNE2 of the local plan.

- 16 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 13, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 14, which is subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in the approved remediation scheme a verification report providing details of the data that will be collected in order to demonstrate that the works set out in condition 14 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 15.

Reason: In the interest of the residential amenities of the future occupiers of the approved dwellings and in compliance with policy BNE2 of the local plan.

- 17 Prior to the commencement of the development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall include amongst other matters details of: hours of construction working; measures to control noise affecting nearby residents; wheel cleaning/chassis cleaning facilities; dust control measures; pollution incident control and site contact details in case of complaints. The construction works shall thereafter be carried out at all times in accordance with the approved Construction Environmental Management Plan, unless any variations are otherwise first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of the residential amenities of the occupiers of the surrounding properties and highway safety and in compliance with policies BNE2 and T1 of the local plan.

- 18 The dwellings hereby approved shall not be occupied, until the area shown on the submitted layout 15/20/30 Rev A as vehicle parking space (and having regard to terms of condition no 10 of this permission) has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to hazardous on-street parking and to accord with Policy T13 of Local Plan.

- 19 The dwellings hereby permitted shall not be occupied, until the existing drop kerb along the full frontage of the application site with Cooling Road has been permanently removed and full height kerb reinstated to the satisfaction of the Local Highways Authority.

Reason: To ensure that the development permitted does not prejudice conditions of highway safety or efficiency in accordance with Policies T1 and BNE2 of Medway Local Plan 2003.

For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.

Proposal

The proposal comprises the erection of a terrace of three 2 bedroom two storey houses in the northern garden area and the conversion of the listed building to a 4 bedroom dwelling house. The internal and external works to allow the change of use to take place are:

The external works proposed include:

- The demolition and removal of the single storey modern extensions added to the sides and rear except for the lean to extension to the rear. Much of the side and rear elevations are presently concealed from view but removal of these extensions will allow the historic elevations to be restored.
- Restoration of the external walls to reflect the original core part of the building.
- Removal of hard surfaced areas to the side and rear.
- Provision of close boarded fence and brick wall to delineate the dwellings of the private gardens and the car park.
- Provision for the associated landscaping and 7 on site car parking spaces.

The internal works proposed include:

- Removal of the inferior 20th century extensions noted as not of special architectural interest. This will allow the original proportion of the ground floor rooms to be restored.
- Removal of the UPVC windows and doors are to be replaced with traditionally designed timber windows and doors. The internal layout lends itself to residential conversion without major intervention.
- Remove false beams and incongruous modern plasterwork internally, wherever possible
- Restore historical features such as fireplaces and the distinctive oculus window on the front elevation.

Site Area/Density

Site Area: 0.09 hectares (1/45 acres)

Site Density: 44 dph (17 dpa)

Relevant Planning History

MC/16/1376	Demolition of existing public house and construction of a terrace of two 3-bedroomed and four 4-bedroomed houses with associated parking and landscaping Decision Withdrawn by Applicant Decided 25 May, 2016
86/870	Proposed single storey rear extension Decision Approval with Conditions Decided 13/10/1986
86/787	Proposed alterations to the side and rear of the premises of the premises comprising of new restaurant and toilet facilities Decision Approval with Conditions Decided 26/01/1987
81/502	Single storey rear extension Decision Approval with Conditions Decided 18/08/1981

Representations

These applications have been advertised on site and in the press and by individual neighbour notification to the owners and occupiers of neighbouring properties.

Total of **110 letters of objection** have been received, **25 in respect of the planning application and 85 in respect of the listed building application**, raising the following:

- There will be greater demand for on street car parking in this already congested

area particularly in the morning when parents bring their children to the nearby school.

- Adds to the congestion on the junction of Iden Road and Colling Road.
- Pubs car park has been used by parents taking their children to the nearby school. This will be lost.
- The listed building should be protected as a community hub as this is one of few social hubs in the area.
- This should be run as a community pub.
- There has been a pub on this corner for many years and this should be protected.
- Conversion of the building to a dwelling would damage its historic internal layout.
- Additional houses are not needed more houses are being built at the old Temple school.
- More houses in the garden of the pub will result in loss of green space.
- The proposal would result in over development of the site.
- The proposed terrace housing would be out of character with the area and they are too close to the pavement.
- The proposal would result in overshadowing and possibly overlooking of houses to the rear.
- The proposal is not sustainable and not in compliance with NPPF as it would result in loss of a social facility.

Save the Royal Oak Pub Frindsbury campaign group has made the following representation:

NPPF paragraph 70 requires planning authorities to '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; The Royal Oak is clearly a valued local facility as shown by the number of objections, its ACV status and the petition. The application wrongly suggests that because there are other facilities within Frindsbury the community is still able to meet its day to day needs. The question is not whether the community will still be able to meet its day to day needs. The wording of the NPPF is primary – this requires protection against the loss of valued facilities in all cases but 'particularly' where the application 'would reduce' the community's ability to meet its day to day needs. The loss of the pub is clearly an unnecessary reduction in the community's ability to meet its day to day needs which should be guarded against.

The application's planning statement refers to the planning inspector's decision in Mapplewells Inn, Sutton APP/W3005/W/15/3134656. This is not the most recent authority and can be distinguished on the facts of the cases and is therefore not applicable to the Royal Oak. In the instant case, unlike in the Mapplewells decision, the Royal Oak is a nationally important listed building. In addition the ACV has already been granted for the Royal Oak, The Royal Oak has teams, which are not provided elsewhere. None of the other pubs cited in the application allow the community to enjoy the ambiance of the listed building of national importance. These factors create a greater difference between the Royal Oak and surrounding pubs than there was in the Mapplewells decision.

Numerous other planning inspectorate decisions like, Rose & Crown in Croydon; Dukes Head IP6, White Lion; Dog & Partridge, of which I have supplied transcripts,

state that loss of use of a listed pub is in itself harmful.

The planning inspectorate decision in Dukes Head, High Street, Coddendam, Suffolk APP/W3520/W/16/3143123 closely mirrors the application for development of the Royal Oak. This was decided in July 2016 and upheld the rejection of an application for the conversion of a listed pub to a dwelling house so is a more recent, and appropriate, authority than the Mapplewells decision which was decided in February 2016.

In the Dukes Head decision, the Inspector considered paragraph 70 NPPF stating that *'the Framework thus provides a high degree of support, albeit not absolute or unconditional, for the retention of public houses... Paragraph 70 of the Framework does not define the term "unnecessary loss". However, assessment of this clearly requires a structured assessment of relevant factors.'* He went on to hold that the council's planning guidance which had a 'structured approach of testing proposed changes of use of public houses against evidence of viability and other criteria seems to me fundamentally in accordance with the Framework'.

The Inspector went on to note that, as with the Royal Oak, the garden had been excluded when the pub was marketed, finding *'There is no obvious justification for its exclusion, and this would in my view have reduced the attractiveness of the Dukes Head to potential buyers.'* Similarly the owner of the Royal Oak has stated that he will only accept a price for the site which reflects its development value rather than its present pub use.

The Inspector in the Dukes Head went on to find: *'the appellant stated a view that offers should be accepted or rejected on the basis of residential value, and that recovery of its acquisition costs was also a relevant consideration. I do not concur. The planning purpose of marketing in the context of the proposal is to establish whether there is demand for and interest in the building as a public house, and there is no planning permission for a purely residential use. Assessment of offers for the Dukes Head should therefore have reflected its current public house use, its condition and that it is not a going concern. Taking into account also that no valuation evidence is before me, I am unconvinced that the appellant's rejection of the offers received to date has been reasonable and justified, and I conclude that the marketing conducted to date has been unacceptably deficient.'* The inspector concluded *'There is thus a realistic possibility that public house use of the Dukes Head would be successful and viable, and I conclude overall on this main issue that the proposal would result in the unacceptable loss of a valued community facility.'*

Turning to address the impact of the plans on the listed building the Inspector also went on to find that *'within the overall context of these assets, the proposal would lead to less than substantial harm to their significance. However, paragraph 134 of the Framework requires that such harm be weighed against the public benefits of the proposal and paragraph 132 requires that great weight be apportioned to the assets' conservation. Although the benefits I have identified would be public in nature, they would be minor and insufficient to outweigh my findings of harm. The proposal would therefore be contrary to the historic environment policies of the Framework.'*

Frindsbury Extra Parish Council has objected and made the following representations.

As the listed building consent application (MC/17/0193) denotes, the Royal Oak is a Grade II listed building. It is also listed as an asset of community value (ACV). As such, the building and its curtilage have a degree of protection which should be paramount in the decision on any planning application. In addition, all features of a listed building are taken into account and just because there are 20th century extensions and additions to the 18th century main building does not mean that they are not equally protected. The Parish Council feels that the listed status must be upheld and that no demolition of any part of the pub should take place. The construction of the proposed terrace of 3 houses would necessitate the demolition of one of the additions to the original building.

As an asset of community value, it is understood that there is a group of individuals who wish to purchase the pub, preferably to reinstate its use as a public house or for alternative community use. Were this to be achieved, a successful pub/restaurant or other use would be of great benefit to the community in this area. There has been a great deal of development in the parish in the 21st century, the population having grown by 21% in the decade between 2001 and 2011. Since then there has been even more residential development, including in Cooling Road itself and within a short walk there is another development of 68 dwellings nearing completion. The new residents in the parish deserve the retention of community facilities, not their removal, with the addition of more residents living in the 4 dwellings the site would provide and no community use building in their immediate area for all residents to resort to.

There are also objections on highway grounds. Cooling Road already suffers much traffic at all times of day, with indiscriminate parking. Much of this is blamed on the proximity to Hilltop Primary School and the difficulty of dropping off children in Hilltop Road. In the present day when parents often drop children off on their way to work, it is inevitable that there is much traffic generated by parents. At one time before the pub closed, parents had permission to leave their cars in the pub car park while they walked their children the rest of the way. Since the pub closed this has not been possible. Conversion to housing would prevent this help with school parking forever.

Parking for the dwellings is shown as being in the existing pub car park, with one parking space for each of the three 2-bedroomed terraced properties and two for the 4-bedroomed converted pub. There are also two extra parking spaces. Although these might be the minimum parking standards, there is little space for any additional parking for the residents. Depending on the nature of the residents and where they work, there may be at least two cars per household. The site is in an area poorly served by public transport. It is noted that access from the parking area to two of the terrace houses goes behind the new garden for the converted pub, away from the road, but access for one of the houses is provided by using Cooling Road and walking round to the parking entrance in Iden Road. This may encourage on-street parking.

Cooling Road is also used as a "rat run" for people accessing the Medway City Estate either from the B2000 or even from the A289 Wainscott by-pass, in order to avoid the severe traffic problems at all times of day at Four Elms roundabout.

It is stated that the pub is not viable. This has not been proven. It is understood that some time ago there were people who wished to buy the pub to keep it open as a pub, but their approaches were rejected. They were not given the opportunity even to try to make a success of it. Currently there is a group who would also like to buy it for benefit to the community. The pub should be preserved as such; unless or until such time as it may be shown the pub is unviable.

The Parish Council would draw the Local Planning Authority's attention to the objections of a large number of neighbours, local residents and others.

Local Member of Parliament, Kelly Tolhurst has objected to the proposals and made the following comments:

The Royal Oak has been part of the local community for over 300 years. It is an Asset of Community Value and a grade II listed building. The proposals do not make reference to how the historical features or its cultural significance will be preserved and this adds great risk to the building losing its distinguished character. Furthermore, if approved, the construction of houses would adversely affect the infrastructure along Cooling Road which is already a heavily congested build-up urban area. Members are urged to strongly consider the protected nature of the building and to recognise the great number of residential objection to this predacious and unwise proposal.

The applicant has submitted the following representation in Support of the application:

Social changes in people using public houses have seen many pubs close across the country. Whilst for many years the Royal Oaks operated as a public house in this part of Strood, a once profitable market has gradually declined, contributing to the closure and its sale by September 2015.

There are a number of alternative pubs within radius of approximately 500 to 1000m to the south, north and east of the Royal Oak.

The Strood town centre and its numerous pubs and drinking establishments are roughly 1000m to the south east. Whilst these pubs are not in the immediate vicinity they are nevertheless within easy walking distance, it is considered therefore that there is appropriate alternative provision locally.

A viability assessment has been submitted with the application and this shows that the pub trade gradually declined and lack of sufficient return stopped investment in the pub and the building require extensive investment.

The applicant has submitted a Planning Statement and a Heritage Statement.

Market appraisal in support of this application states:

- The property was extensively marketed for 2.5 years, both as a leasehold and freehold.
- The Royal Oak is not and does not have the potential to become a viable trading public house.

- Changes such as availability of cheap beer and wine from supper-markets, retails in France together with drink and drive legislation, health concerns, smoking ban, decline in licensed wet sales have led to decline of pubs.
- Decline of wet sale has encouraged diversification to food offer. We do not consider the Royal Oak suitable to develop a dining trade due to its isolated position away from the town centre and major through routes.
- The catchment area is within half a mile radius of the Royal Oak and there is limited business custom to provide opportunity for food trade.
- Pub Business demands a main Road location, a site area of 0.5 to 1 acre and customer area of at least 300sqm. on green field, on the edge of towns or close to retail parks. The Royal Oak does not meet these requirements and therefore can not be considered suitable for destination trade.
- Over recent years polarisation of trade between high volume pubs in the town centres and high volume food on the edge of towns. This has increased price competition, which has made it increasingly difficult for pubs such as The Royal Oak in the back Street locations to compete.
- The property does not enjoy the prominence or accessibility that would be required to operate successfully in the destination led business.
- There are at least 20 pubs within a mile of the Royal Oak. In addition there are other licensed premises such as restaurants, cafes and clubs.
- The following 5 pubs are within 0.5 miles radius of the Royal Oak:
 - Ship Inn, Bill Street, Strood is 0.2 miles away.
 - Sans Pareil, 245 Frindsbury Hill is 0.2 miles away
 - The Bell Frindsbury Hill is 0.3 miles away
 - Basbar 14 Cliffe Road is 0.5 miles away
 - Weston Arms 121 Weston Road is 0.5 miles away.
- No proven trading history, adding to the risk of a start up business.
- Limited return availability to an operator. Potential net profit of £10K per year, assuming a 40 hours working week (we know that the majority of licences work much longer than 40 hours) represents income of £4.80 per hour, substantially lower than minimum wage.
 - There is a need for initial investment costs of around £100K to improve the property and renew the trade inventory.
 - There are a number of trading properties on the market both leasehold and freehold in the area that would appear to offer better opportunities.

The property was marketed. This involved in addition to the estate agent's board attached to the first floor of the building also mail were sent to over 180 potential applicants; only 7 viewing took place and none were interested to run the Royal Oak as a pub.

The following viewing took place:-

- Viewing 17/08/ 2016: Interested in running as a restaurant - did not come forward with an offer.
- Enquiry from a Mr P. R – interested as a pub/restaurant – did not take it any further after viewing.

- Ms M. W viewed 24/08/2016 – interest operating as Indian restaurant - did not take it any further.
- Costa viewed 31/09/2016 – enquired about opening an Italian restaurant/ice cream desert parlour – decided wrong location for that business.
- Ms E. C viewed 15/09/2016 - interested in tea room – didn't take it any further.
- A well known Supermarket operator viewed 2/11/2016 – interested and made informal offer - would require substantial extensions, not proceeding for moment given new listed status and alterations required.
- Mr. H enquired in January 2017 - interested in a Joint Venture (JV) and profit share arrangement as a restaurant – vendor not agreeable to JV arrangement

Historic England has made the following comments:

The Royal Oak public house, Strood is a 17th century grade II listed building and has seen several phases of extension and alteration. However its original single pile, two bay configuration remains legible with the rear outshot extension, central stack and staircases contributing to our understanding of its intended circulation of space and room function. Its detailed listing description provides clear guidance as to which elements form part of the building's special interest.

The 2015 Direction, Circular Arrangements for Handling Heritage Applications, details the circumstance by which Historic England is consulted on matters related to historic assets. Our principal interest lies in determining if any proposed alteration, addition or demolition is likely to impact on the building's significance. In this case we don't think the proposed change of use would be harmful to the building's significance.

The elements proposed for demolition are later additions that encase the building's historic core and, as highlighted by the listing description, are not of special architectural or historic interest. As the current application does not propose to alter this historic core, we consider that the scheme in its current form would not be harmful to the building's significance.

We note that there is historic precedent for street fronting houses on Cooling Road. On this basis we think that the proposed new houses will respect the historic street line and the established pattern of development and in this way would not be harmful to the building's significance.

We are therefore content for the application to be determined in line with local and national planning policy and on the advice of your in-house conservation specialist.

Historic England provided the following additional comments on 17/03/2017:

We do not wish to change our previous advice; however, it may be helpful if to provide some additional clarification on the main points at issue.

Although the alterations proposed under this scheme are principally to the building's exterior, there are some minor works proposed to the historic core of the building. The heritage statement explains that false beams and incongruous modern plasterwork internally would be removed (para 3.9), and we agree that this would have a positive effect on the significance of the building. That statement also indicates that other

positive changes to the building, over and above removal of the later extensions, would also include re-instatement of fireplaces, traditional windows and the oculus window to the frontage (paras 3.8 & 3.10). These positive changes should be secured as conditions of any consent.

The heritage statement indicates at para 3.13 that buildings formerly existed on the beer garden where a new terrace of houses is now proposed. We understand that this point has particularly been debated by local objectors. Plate 2 of the Heritage Statement appears to show a terrace of houses close to the north of the pub, but historic plans indicate that it may have been set further from the pub than is currently proposed. However, it is clear to us that historically the pub was not as separated from the buildings around it as it is now. That same photo (plate 2) shows a terrace closer to the south of the pub than any existing development and broadly where the junction with Iden Road is currently located. Historic development around the pub was characterised by its position against the pavement and a much greater sense of enclosure to the road than currently exists. The proposed removal of the existing extensions and the position of the proposed development fronting the road would not in our view be either contrary to the character of the area or result in the listed building appearing more hemmed in than has generally been the case historically. The net effects of the scheme on the significance of the listed building would in our view be positive. We have not commented on the proposed change of use of the building because there is very little we are able to say within the scope of listed building legislation on that matter.

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2012 and are considered to conform.

Planning Appraisal

Background

The property is a detached three storey building with single storey late additions to the sides and rear. There is also a garden area to the rear and north side and a car parking area to the south side. The Royal Oak is situated on the junction of Iden Road with Cooling Road and has a vehicular access from Iden Road. Directly opposite the public house is a large garage/ MOT centre. To the rear and north sides are residential properties.

The Royal Oak ceased trading as a pub in September 2015 and was marketed by the original owners, Enterprise Inns PLC, in March 2015. The property was marketed for sale, as a freehold. According to the estate agent details it was marketed for £300K and was sold at an auction for £275K +VAT =£330K.

The new owner submitted a planning application under ref MC/16/1376 for the demolition of the building and erection of a terrace of 6 houses with associated car parking. During the assessment of the application, the Council received a petition with

1000 signatures from the local residents and a request from, "Save the Royal Oak Frindsbury" campaign group seeking nomination of the Royal Oak as an Asset of Community Value (ACV).

The application for ACV was granted by the Council in April 2016.

Historic England was asked to consider listing the building. In May 2016 Historic English designated the building as a grade II listed building.

Following the listing of the Royal Oak as ACV and its listing as a grade II listed building, MC/16/1376 application was withdrawn.

The purpose of designating a building/public house as an Asset of Community Value (ACV) under the Localism Act 2011 is to give the community the right to bid to purchase the public house, if and when the owner decides to dispose of it. It is not the purpose of such a designation to prevent the redevelopment or change of use of an ACV in perpetuity.

Community Right to Bid: Non- statutory advice note for local authorities states that;

The first part of this window is a 6 week interim period, which will apply in all cases; from the point when the owner notifies the Local Authority. This will allow community interest groups to make a written request to be treated as a potential bidder. If none do so in this period, the owner is free to sell their asset at the end of the 6 weeks. If a community interest group as defined in regulation 12 of the Regulations (referring to the bodies in paragraph (1) (d) to (g) of regulation 5) does make a request during this interim period, then the full 6 month moratorium (again from the point the owner notifies the Local Authority) will operate. During this period the owner may continue to market and negotiate sales, but may not exchange contracts (or enter into a binding contract to do so later). There is one exception. The owner may sell to a community interest group during the moratorium period. After the moratorium period – either the 6 weeks if there has been no community interest, or the full 6 months – the owner is free to sell to whomever they choose and at whatever price, and no further moratorium will apply for the remainder of a protected period lasting 18 months (running from the same start date when the owner notified the local authority of wishing to sell). The process and lengths of the moratorium periods are contained in section 95 of the Act.

According to the Council's records, on 26 September 2016 the owner of the Royal Oak gave notice to the Medway Council that pursuant to section 95(2) of the Localism Act 2011 he intends to dispose of the property by way of a 25 years lease arrangement.

It is relevant to note that to comply with the Act, a "relevant disposal" is a sale of the freehold or the assignment/grant of a lease of at least 25 years

The advert details, referred to the particulars of the property for lease to comprise the ground floor and cellar part of the pub building, the rear garden area and the associated car parking area at £25K per annum. The advert stated that the self contained 2 bed flat in the upper floors may be available by separate negotiation. The applicant has confirmed that the garden land to the north of the pub building may also be available by separate negotiation.

The applicant has stated that the purpose of dividing the Royal Oak in three separate parcels is to make the pub element more affordable.

Accordingly the Royal Oak was advertised and made available for any community interest group(s) to register their interest in bidding for the property. Such a request was required to be made by the end of the interim 6 weeks moratorium, (7/11/2016). Once a bid is submitted then six months moratorium period will apply (until 26/03/2017).

The applicant has stated that an expression of interest to bid was received from the Save the Royal Oak Campaign group within the 6 weeks moratorium period.

Save the Royal Oak campaign group also asserted that separation of the beer garden land from the pub would detract from its character and diminishes its viability.

In March 2017 Save the Royal Oak Community campaign group made an offer of £355K to the owner for the freehold of the property (an increase of £25K over the original purchase price).

The owner rejected the Save the Royal Oak Campaign group offer and informed the group that a much higher offer from a retail company has also been rejected.

As by 26/03/2017, during the moratorium period, no sale took place, the owner is now free to sell the property on the open market.

Evidence submitted with the planning application is that the property had been marketed by a specialist commercial agent and that the agent has made reasonable efforts to attract interest.

The information provided by the applicant shows a low and declining level of trading and annual profits at a level which would be unlikely to sustain any business. They have stated that Enterprise Inn which is the largest pub company in the UK (with over 5000 pubs) sold the Royal Oak because it was no longer viable in view of the changes in people drinking habits, isolated location of the pub and competition from other better located nearby pubs that were able to offer better service at more profitable prices (see above, applicant's supporting representation).

Some third party representations have suggested that the business has been deliberately run down by the previous owner and that the last manager was interested in purchasing the pub but his offer was declined by Enterprise Inn PLC. No evidence has been submitted to support this assertion.

The Royal Oak was sold at an auction where anyone could have purchased the property. Also the previous manager could have come forward with a bid for the pub during the six weeks moratorium.

In view of the importance attached by the government to assets of community value, the ACV listing of the property is a material consideration in the consideration of planning applications.

Main Issues

- Loss of community asset
- The principle of loss of use as a public house,
- Change of use of public house to a dwelling, erection of new houses and impact on the heritage assets,
- Amenity
- Highway and parking,

Loss of community asset

The starting point for considering this issue is the relevant policies in the Medway Local Plan. Policy S1 says that the Council's development strategy for the plan area is to prioritise re-investment in the urban fabric. This will include the redevelopment and recycling of under-used and derelict land within the urban area.... Policy S2 says the implementation of the development strategy set out in policy S1 will focus on:

- i) maintaining and improving environmental quality and design standards,
- ii) a sustainable approach to the location and mix of new development, to provide local communities with a range of local facilities.

Policy CF1 says that development which results in the loss of existing community facilities will only be permitted where it can be demonstrated that exceptional circumstances exist such that it would be beneficial to redevelop sites.

Although policy CF1 does not specifically refer to a pub as a community facility, never-the-less the Council has over the years assessed applications involving demolition or change of uses of a pub against this policy and has given weight to the public house's importance to the community that it serves. Permission for change of use will not be granted if the community would be left without any alternative local facilities unless it can be established that a pub use is no longer commercially viable.

As mentioned above the planning application is accompanied by a report on the viability of the premises by Greensand Asset Management Chartered Surveyors who are specialists in the valuation and sales of licensed premises. That report concludes that the future of the site as a public house is not viable for the reasons referred to in the applicant's supporting representation (see above in the representation section).

The applicant has also in support of his case referred to the following appeal case;

Mapplewells Inn, Alferton Road, Sutton in Ashfield, Nottinghamshire, APP/W3005/W/15/3134656.

...Change of use of existing public house to Class A1 convenience store....

The Planning Inspector allowed the above appeal on 6th March 2016 and in relation to the particular of the case made the following comments:

1. Mapplewells Inn is located less than a mile from the town centre and at the time of his visit was in commercial use as Mapplewells Inn,

2. It was very clear from the evidence provided that Mapplewells Inn is held in high regard by those who use it.
3. Although the property's nomination and potential designation as an ACV does not preclude its change of use following permission, it is indicative of the strength of local feeling as to the pub's value as a local facility.
4. There are a number of other public houses in the vicinity of the appeal site.... Four are within around half a mile of Mapplewells Inn. Whilst I accept that they may to some degree serve different segments of the market, and may not be the preferred choice of those who favour the appeal premises, they nonetheless provide a good choice of drinking establishments sufficient to serve the needs of the same local community that include those who currently use the Mapplewells Inn.
5. Although I note the comments expressed ...that some customers of Mapplewells Inn would be unable to walk to other pubs in the area, I do not consider the relative distances of these alternatives to be prohibitive for most residents. Neither have I been provided with any convincing evidence that the other local pubs in the area were in any way deficient. Furthermore, based on the evidence presented to me, the appeal premises does not appear to fulfil any wider community function other than that normally associated with a local pub, to which I can attribute any weight. Although it is relatively large it does not function as a shared space with other users and is not regularly used by other organisations. Therefore, although the property is valued by its clientele, and plays a strong social role for them, its loss would not reduce the ability of the wider community to meet its day to day needs.
6. The viability of the enterprise was discussed at length. The pub was trading during my visit but it was evident that little investment in the property had taken place for some time. Customers consider this has contributed to a decline of the business.... Be that as it may, and whatever the reason for the pub's current business position, as the loss of the facility would not cause significant harm to local services, whether or not the pub has a long-term viable future appears to not be a key factor in this case.
7. This leads me to the view that notwithstanding support for the pub's retention, the proposal would not leave the local community underserved by such facilities or significantly reduce its ability to meet its day-to-day needs in this respect. I therefore find no conflict with guidance in the Framework which seeks to ensure that sufficient community and cultural facilities and services are available to meet local needs.

Save Royal Oak Campaign group have stated that the appeal case of the Mapplewells Inn relied upon by the applicant in support of the planning application is not similar to the Royal Oak case and referred to the Dukes Head, High Street, Coddendam, Suffolk, APP/W3520/W/16/3143123 . Change of use from public house to with living accommodation to dwelling.

The Inspector in dismissing the appeal on 21 July 2016 gave weight amongst other things to the community value of the pub and made the following comments:

- 1 The Dukes Head fronts directly onto High Street in the centre of Coddendam.
- 2 The Dukes Head closed in October 2014. It is the only public house in the village.

- 3 Coddensham Country Club which is located on High Street a short distance away from the Dukes Head. The Club operates as a private members' club. It would not be as attractive as a public house for spontaneous or occasional use, but the Club is welcoming to new members, membership is in practice available to all in the village, and that membership fees are low. The private membership operation of the Club thus causes me only limited concern.
- 4 the opening hours of the Club are limited... there is no garden, the only outdoor facility being a very small veranda.
- 5 The circumstances of the Club and the Dukes Head are such that, overall, I consider that the former would not provide an adequate substitute for the latter. Nor would the village hall or the very limited café facilities offered by the village shop.
- 6 I note that village residents have formed the Save The Dukes Head Group (the SDHG). Although the SDHG does not yet have a formal constitution, the evidence before me of its activities to date demonstrates considerable commitment, determination and organisation in the furtherance of its aim of securing the retention of public house use of the Dukes Head.
- 7 The SDHG has also been active in pursuing attempts to purchase the Dukes Head, although no finalised business plan is yet in place.
- 8 The SDHG has been instrumental in a successful application to include the inclusion of the Dukes Head on the Council's list of Assets of Community Value.
- 9 I conclude that the evidence before me provides an ample demonstration that the Dukes Head is a valued community facility.
- 10 Paragraph 69 of the National Planning Policy Framework (the Framework) emphasises the important role of the planning system in facilitating social interaction and creating healthy, inclusive communities, and paragraph 70 states that to deliver 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. Moreover, the objectives of paragraph 28 in supporting a prosperous rural economy include promotion of the retention and development of local services and community facilities in villages, including public houses. The Framework thus provides a high degree of support, albeit not absolute or unconditional, for the retention of public houses in rural communities. This is a matter of considerable importance to my assessment in the absence of any development plan policies which deal specifically with proposals which would involve the loss of community facilities.
- 11 I note that despite a large number of expressions of interest there have been few offers. However, the garden has been excluded from the sale.
- 12 The garden forms part of the Dukes Head's curtilage and the evidence before me is that was formerly used as a beer garden and for various village events. As such it has potential for providing an attractive and valuable facility. There is no obvious justification for its exclusion, and this would in my view have reduced the attractiveness of the Dukes Head to potential buyers.
- 13 No asking or guide price has been provided, and in this context the basis on which the appellant has assessed the acceptability of the offers made by the SDHG and others is of considerable significance. At the hearing, the appellant stated a view that offers should be accepted or rejected on the basis of residential value, and that recovery of its acquisition costs was also a relevant consideration. I do not concur. The planning purpose of marketing in the context of the proposal is to establish whether there is demand for and interest

in the building as a public house, and there is no planning permission for a purely residential use.

- 14 Various other matters relevant to viability have been raised before me by the parties and interested persons, although no formal study or technical analysis has been provided. As a drinking establishment, the Club would present some competition to the Dukes Head, but the two co-existed successfully in the past for many years. Given the differences in opening hours and facilities which I have identified, there is clear potential for the Dukes Head to develop in ways which would differentiate its offer, and overall I do not consider that the Club would pose a compelling barrier to the viability of the Dukes Head. Although there are a number of other public houses within a short drive time of Coddendam, there are also nearby settlements which have no public house and would offer potential customers.
- 15 Taking account of all the matter raised before me, it is clear that re-establishing the Dukes Head as a successful public house would present substantive challenges. However, I am not convinced that these could not be overcome by an effective and enthusiastic operator who had acquired the premises at a reasonable price. I have identified trading potential in various respects and clear opportunities to improve it. There is thus a realistic possibility that public house use of the Dukes Head would be successful and viable, and I conclude overall on this main issue that the proposal would result in the unacceptable loss of a valued community facility.

Having outlined the particulars of the above two appeal cases, it is clear the key argument is whether the loss of an ACV will reduce the community ability to meet its day-to-day needs. In circumstances like Coddendam where Dukes Head is the only pub in the village and there is no similar alternative facility, significant weight is given to the protection of the pub, as it is a vital and valued facility to enable the community to meet its day-to-day needs. Whereas in an urban or a larger village location where there are a number of other pubs or similar facilities within reasonable distance like Mapplewells Inn, Sutton in Ashfield, the community would be able to continue to meet its day to day needs.

Bullet point 2 of Paragraph 70 of the NPPF states that 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.

The Royal Oak has been closed since September 2015 and it has been established that it is not the only pub in this part of Strood. As mentioned above there are a number of other pubs within walking distance of the Royal Oak and there are more similar facilities in the Strood town centre, which is about a mile away.

Having regard to the above it is considered that loss of the Royal Oak as a public house would not significantly diminish the provision of local services and facilities or reduce the community's ability to meet its day-to-day needs. Therefore, there would be no conflict with the NPPF that seeks to ensure that sufficient community and cultural facilities and services are available to meet local needs. It is therefore considered that the proposal would not be in conflict with policy CF1 of the Local Plan nor paragraph 70 of the NPPF.

Change of use of public house to a dwelling, erection of new houses and impact on the heritage assets

The application site is within Strood urban area and the principle of new dwellings under policy H4 of the local plan is considered to be acceptable.

It is specifically set out in s.16 and s.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 that the Council must have special regard to the desirability of preserving the listed structures, their settings or any features of special architectural or historic interest which they possess. The main issues for consideration here is the impact of the proposal on the fabric, character, appearance and setting of the listed building.

The NPPF in paragraphs 132 and 133 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'. Clear justification needs to be given if an asset is to be degraded as once lost the harm cannot be undone.

The introduction of a terrace of three houses on the northern side of the listed building sets challenges in terms of achieving a design that safeguards the setting of the listed building and the character of the area generally.

With regard to this aspect of the proposal the Conservation Officer and Historic England have respectively stated the followings:

"Historic photographs indicate that buildings previously existed on this site in the form of a gabled single-story building in c. 1900 and a terrace of houses in the 1930s. Tight-knit terraced development of this type is very much part of the distinct urban character of Cooling Road and the houses have been designed to respond positively to and reinforce the character of their context. Roof levels have been kept as low as possible and the front elevations have been slightly set back from the pavement so that they do not compete visually with the listed building. As a result, the development will have a neutral impact on the setting of the listed building will fit in well with its urban context."

"We note that there is historic precedent for street fronting houses on Cooling Road. On this basis we think that the proposed new houses will respect the historic street line and the established pattern of development and in this way would not be harmful to the building's significance".

It is considered that the scale, design and siting of the new-terrace dwellings are appropriate and will not result in harm to the setting of the listed building, character of the wider area or the street scene which is generally semi detached and terrace housing.

Turning to the impact of the removal of the 20 century single storey extensions to the listed building, it is considered that the removal of unsympathetic single storey elements, the various proposed alterations together with internal restoration works and the introduction of a new viable use for the building as a single dwelling house

would improve its internal and external conditions and character of the listed building and comply with policies BNE17 and BNE18 of the Local Plan.

Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. The application site is located in an urban area with key essential facilities and services nearby. Accordingly, it is considered the provision of new open market dwellings in this location is sustainably acceptable.

Overall, it is considered the proposed conversion of the building to use as a single dwelling would improve the overall character and appearance of the building, which in turn would lead to an improvement to the character and appearance of the locality and the street scene. In addition the construction of a terrace of 3 dwellings would respect the setting of the Listed Building and the street scene and character of the area. The proposal therefore complies with policies H4, BNE1, BNE17 and BNE18 of the Local Plan.

Amenities.

The proposed terraced houses have been positioned and designed so that there would be no significant loss of outlook, light or privacy to any neighbouring property. There would clearly be no loss of light or outlook due to the degree of separation/distance between the existing surrounding properties and the proposed terrace houses. On the pub conversion, there would be no change to the last use of the upper floors of the pub for residential use. With regard to overlooking of the properties to the rear, removal of the existing single storey extension will open and improve the back to back sense of space of the listed building with the properties to the east.

The pub has the potential to generate a significant level of noise and disturbance to local residents, often at unsociable times of the day. In that respect, residential amenity would be likely to improve as a result of the scheme as the dwellings are unlikely to generate the same 'comings and goings' from vehicles and pedestrians, noise from amplified music and use of the beer garden which is adjacent to the garden of the properties to the east and north.

It is therefore considered that significant amenity improvement would result to the neighbouring properties in respect of noise levels and other general disturbance. Having regard to all of the above, it is considered that the development would comply with the paragraph 17 of the Frameworks and policy BNE2 of the local plan.

It is also necessary to consider whether adequate habitable space would be provided for the future occupier of the proposed dwelling houses in compliance with the Technical housing standards - nationally described space standards March 2015.

The tables below show minimum gross internal floor area expected against the proposed dwellings floor areas.

	Number of bedrooms	Number of bed spaces(person)	3 storey dwellings m2
standard	4b	6p	112
Proposed converted pub to a detached house	4b	6p	180

	Number of bedrooms	Number of bed spaces(person)	Two storey dwellings m2
standard	2b	3p	70
Proposed terrace of 3 two bed houses	2b	3p	79

Having regard to the above, the proposed dwellings also comply with the Technical Housing Standards March 2015, with respect to bedrooms, lounge and kitchen size areas. It is therefore considered that the proposed new dwellings would provide a satisfactory living space for the future occupiers.

In summary, the proposed development would be a potential improvement on the amenity of neighbouring properties in respect of noise levels and other general disturbance. Having regard to all of the above it is considered the development complies with paragraphs 17 and 57 of the NPPF, policies BNE1 and BNE2 of the local plan.

Furthermore, the provision of additional homes on the site also adds further public benefits, especially in light of the significant shortfall with regard to the 5 years housing land supply.

Land Contamination, air quality and traffic noise

The application has been accompanied by a desk top study report that states the site is affected by off site sources of contamination. Environmental protection team has recommended that appropriate conditions be imposed to deal with related issues.

Furthermore, the site is close to Central Medway Air Quality Management Area and to assist with air quality, it has been recommended that a condition be imposed requiring that provision for electric vehicle charging point per dwelling be provided.

The application site also fronts a noisy road and an MOT centre, to ensure that the future residents of the new dwellings are not adversely affected from the surrounding noise, it is recommended that a condition be imposed requiring measure to minimise noise level inside the dwellings.

Subject to the imposition of the recommended conditions no objection is raised.

Highways and parking

The proposals involve the retention and use of the existing car park area and the provision for 7 on site car parking spaces. This would represent one car parking space for each of the terraced houses and 2 spaces for the 4 bed detached house and further 2 spaces for visitors.

Local residents have raised concern that the proposed level of car park is inadequate and there would be adverse impact on the adjoining highway.

The pub, if open, could potentially generate a significant volume of traffic and, it is considered that the proposed 4 dwellings would be likely to generate significantly less car traffic than that and certainly less commercial vehicle visits. Consequently the scheme would not have any negative impact on the safe and free flow of traffic on the public highway or cause congestion on the local highway network.

Having regard to the above it is considered the development complies with paragraphs 32, 35 and 39 of the NPPF, and policy T13 of the local plan.

Bird Mitigation

As the application site is within 6km of the North Kent Marshes SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in-combination, on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest.

Natural England has advised that an appropriate tariff of £223.58 per dwelling (excluding legal and monitoring officer costs, which separately total £550) should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries. The strategic measures are in the process of being developed, but are likely to be in accordance with the Category A measures identified in the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) produced by Footprint Ecology in July 2014.

The interim tariff stated above should be collected for new dwellings, either as new builds or conversions (which includes HMOs and student accommodation), in anticipation of:

- An administrative body being identified to manage the strategic tariff collected by the local authorities;
- A memorandum of understanding or legal agreement between the local authorities and administrative body to underpin the strategic approach;
- Ensure that a delivery mechanism for the agreed SAMM measures is secured and the SAMM strategy is being implemented from the first occupation of the dwellings, proportionate to the level of the housing development.

The applicant has agreed to pay this tariff and has submitted a unilateral undertaking.

No objection is therefore raised under Paragraph 118 of the NPPF and Policies S6 and BNE35 of the Medway Local Plan 2003.

Local Finance Considerations

None

Conclusions and Reasons for Approval

For the reasons set out in the report, it is considered that the loss of the pub/community asset is acceptable in this location and that the conversion of the pub and construction of the new terrace would enhance the appearance of the listed building and be in keeping with the street scene. The proposal is also acceptable in amenity and highways grounds. The proposal is considered acceptable and in compliance with policies S1, S2, S6, CF1, H4, BNE1, BNE2, BNE17, BNE18, BNE35 and T13 of the local plan.

The application would normally fall under Officer delegated powers for determination, but is being reported to Committee due to the number of representations received expressing a view contrary to the recommendation.

This application was considered by Members at the Planning Committee on the 10 May 2017 when it was determined to defer the application in order for further advice to be provided on possible ways forward for the community and the implications of refusing the application on the basis of the property having been included on the ACV register.

Legal Comments

The ACV process allows the community an opportunity to purchase an asset before it is sold to a purchaser outside of the community. If the owner of an ACV wants to sell the asset they are required to inform the Council of their intention to sell the property and then a community interest group has 6 weeks to register an interest. If within that 6 week period there is no community interest then the owner is free to dispose of it. If there is community interest, as there was in this case, then the community has 6 months to purchase the asset. During this time the owner is not able to sell the asset to anyone other than the community group. If within this time the property is not sold to the community then the owner has 18 months from the date they informed the Council of their intention to sell the asset to sell it on the open market.

The Applicant informed the Council of his intention to sell the property on 26 September 2016. An expression of interest was received however the property was not sold to the community group within 6 months therefore the Applicant is now able to sell the property on the open market until 26 March 2018 after which time the position is reset.

Going forward there is nothing to prevent the community from purchasing the property on the open market, they do not need to wait until the 18 month period is up. The only protection the process provides is to prevent the owner of an ACV from selling the asset other than to the community group within the prescribed period there is no

obligation on the owner to sell the asset to a community group or give a preferential price.

In relation to the implications of refusing this application on the basis that the property is included on the ACV register, the fact that the property is on the ACV register is a material planning consideration.

As stated above in the report it is considered that the loss of the community asset is acceptable in this location due to the fact that there are other public houses within close proximity and the fact that the Royal Oak does not provide anything that could be said to be different to other public houses in the area therefore any refusal on the basis of the ACV registration is unlikely to be upheld at appeal in these particular circumstances. Whilst it has been upheld as a reason for refusal in some appeals this has generally been where the loss was of a unique offer that could not be found elsewhere in the community.

There were discussions during the committee meeting on 10 May 2017 regarding the viability of the Royal Oak were it to revert to a public house. In the appeal case of Maplewell Inns as referred to above the viability of the public house was discussed at length the inspector decided that whether or not the pub was viable in the long term was not a key factor given that the loss of the facility would not cause significant harm to local services.

Background Papers

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess.medway.gov.uk/online-applications/>