

ITEM NO:	<u>Location:</u>	67 High Street, Whitwell, Hitchin, SG4 8AH
	<u>Applicant:</u>	Mr Coleman Haut Limited
	<u>Proposal:</u>	Change of use from Public House (Class A4) to use as a single dwelling house (Class C3); Single storey rear extension following part demolition of existing rear extension; Insertion of dormer window to rear roof slope; Single storey rear extension following demolition of existing single storey lean-to extension. Front canopy following demolition of existing front porch.
	<u>Ref. No:</u>	17/00442/ 1
	<u>Officer:</u>	Tom Rea

Date of expiry of statutory period: 27 April 2017

Reason for Delay (if applicable)

Negotiations and submission of additional information. Extension of time to the statutory period agreed until 18th September 2017

Reason for Referral to Committee (if applicable)

Councillor J. Bishop has called in this application on the grounds of public interest.

1.0 Relevant History

- 1.1 15/01183/1 Change of use from Public House (Class A4) to use as a single dwelling house (Class C3); Single storey rear extension; Insertion of dormer window to rear roof slope; Demolition of existing single storey rear extension and front porch. Withdrawn 15/9/15

15/01184/1LB Single storey rear extension following part demolition of existing rear extension; Single storey rear extension following demolition of existing single storey lean-to extension. Front canopy following demolition of existing front porch. Internal and external alterations to facilitate change of use and refurbishment of building. (As amended by drawings W601A, W602A, W603A and W606A received 13/08/2015). Withdrawn 15/9/15

2.0 Policies

- 2.1 **North Hertfordshire District Local Plan No.2 with Alterations (Saved Policies, 2007)**
- 16 - Areas of Archaeological Significance and other Archaeological Areas;
 - 26 - Housing Proposals;
 - 55 - Car Parking Standards;
 - 57 - Residential Guidelines and Standards.

2.2 North Hertfordshire Submission Local Plan 2011 - 2031

- SP10 - Healthy Communities
- ETC7 - Scattered local shops and services in towns and villages
- HE1 - Designated Heritage Assets
- HC1 - Community facilities
- Policy D3 - Protecting Living conditions

The Submission Local Plan proposes to classify the village of Whitwell (including the application site) as a Category A village and to exclude the settlement from the Green Belt.

2.3 National Planning Policy Framework

Chapter 3 - Supporting a prosperous rural economy

Chapter 7 - Requiring good design

Chapter 8 - Promoting healthy communities

Chapter 11 - Conserving and enhancing the natural environment

Chapter 12 - Conserving and enhancing the historic environment

2.4 Supplementary Planning Documents

Vehicle Parking at New Development SPD September 2011

3.0 Representations

- 3.1 **St. Pauls Walden Parish Council:** 'Objects to this proposed change of use to the premises becoming a private residence/ dwelling as it will materially alter the balance of village life and would result in the loss of a community asset'.

The reasons for our objections have not changed, and the village still regards the Maiden's Head as a AOCV. There is a clear demand for more than one pub in the village and should any further development go ahead locally, this would become an even greater need.

It is important to retain the sense of community in Whitwell and pubs are an obvious choice for societies and groups to get together. The NPPF states that pubs should be preserved for rural communities unless there is a good reason not to and the Parish Council believe that there isn't one here.

Nothing has changed since the last application and the village would still like to run it for the benefit of the community and have tried to engage with the owner on a sensible commercial basis. The price put on it by the owner bears no relation to this, and we assume is being used as a tool to say that there is no interest, and therefore change of use should be granted. **This is not the case.**

The Parish Council fully supports the village in their efforts to acquire the premises and realise the potential for some local employment, and opportunities for local food and drink producers in the area.

Please note that this letter of submission and objection should also be taken as expressing complete and formal support for the group SPPIW, and confirms that the aims and objectives of their application carry the full support of the Parish Council.

- 3.3 **NHDC Conservation officer:**

Refers to previous advice - raises no objections to the proposed change of use subject to viability testing conclusions.

3.4 **Hertfordshire County Council Highways**

No objections - recommends a Highway Informative.

3.5 **Environmental Health officer (Noise)**

Raises no objections to this proposed development within an existing residential area. The only concern relates to the demolition/construction phase and the associated potential for nuisance to the surrounding existing residents and therefore recommends an informative in accordance with the guidance in BS5228-1:2009 (Code of Practice for noise control on construction and open sites).

3.6 **Site Notice/ neighbour consultation :**

Following consultation and advertisement of the application 36 responses have been received objecting to the application and 1 in favour.

Comments against the proposal:

- There is a clear demand for more than one pub in the village
- The pub is a much needed social and community facility
- Loss of a valued local service and asset of community value
- The local community wish to run the pub for the benefit of the local community
- Significant demand exists for the pub to re-open
- A dwelling use would be contrary to the Asset of Community Value process
- The 'Society for the Protection of Pubs in Whitwell' (SPPIW) has a viable business plan to re-open the pub
- The significant membership of the Society for the Protection of Pubs in Whitwell illustrates the demand for the property to remain as a pub
- SPPIW considers that the loss of the pub is wholly unnecessary and would adversely impact on the community's needs to meet its day to day needs
- Would provide a useful outlet for local produce suppliers
- A Fair Market Value has been offered to purchase the pub
- The owners continue to market the pub at a residential value when its value should reflect its authorised use as a pub
- A submitted chartered surveyors report on behalf of SPPIW suggests the property value is £215,000 (August 2013)
- Use contrary to NPPF advice
- The pub provides local employment and useful networking space / venue
- The pub is an important part of the heritage of the village having been a pub for 240 years
- No evidence that the pub is not viable
- The Maidens Head and The Bull attracts two different markets
- Concern at amount of building work
- Damage to neighbouring property
- Removing the facility for people to wait for buses is a safety hazard
- Loss of light and privacy
- Landscaping may damage adjacent property
- Pub is beginning to deteriorate
- Pub was mismanaged by the last owners contrary to what the village wanted
- More housing in the village must be supported by local services

Comments in favour of the proposal

- Conversion to a house is preferred
- Removal of front porch and replacement with canopy would improve the front elevation

3.7 **Asset of Community Value**

North Hertfordshire District Council listed the building as an Asset of Community Value on 12th August 2015.

4.0 Planning Considerations

4.1 Site & Surroundings

- 4.1.1 67 High Street is a grade II listed building which is situated within the Whitwell Conservation Area. It was previously known as The Maiden's Head Public House. The public house closed in September 2014. There is significant garden land to the rear of the building whilst the area immediately at the front of the site is paved and has a continuous dropped-kerb between the front of the two properties either side of the site. Two detached outbuildings are situated along part of the western boundary of the site.

The listing description reads as follows:

"Public house. C18 or earlier origin, recorded as the Queen's Head in 1774, altered C19. Red brick possibly encasing a timber frame. Front roughcast with applied half-timbering to 1st floor; steep old red tile roof, main part hipped. A long 2-storeys and cellar building set back from the road facing N. Lower 2-storeys wing at E. E bay of main range has lower ground floor and 1st floor levels concealed by uniform roof. N front has central entrance up 4 steps with gabled trellis porch. 4 windows to ground floor. 3-lights small-pane casements but 2-light lower window to E bay, with a similar window over under the eaves. 2 gabled dormers on front eaves light the 1st floor. E wing has small 2-lights small-panes flush casement window to 1st floor and half-glazed 5 panels door. Cellar flap under W window of front. Interior has axial chamfered beams, large rearwall chimneys to 2 bays to E of door. Included for group value."

4.2 Proposal

- 4.2.1 Change of use of from Public House (Class A4) to use as a single residential dwelling (Class C3). Various internal and external alterations are required to enable the proposed conversion of the building into a four bedroom dwelling and this includes the following:

A) Single storey rear pitched roof extension to provide reception room. The extension will have the following measurements: width of 4.6m, maximum depth of 4.3m, eaves height of 2m and ridge height of 4.3m. Plain clay tiles are proposed for the roof of the addition whilst the walls will have a brick plinth using bricks to match the existing with dark stained feather-edged boarding above.

B) Insertion of rear dormer window at first floor level on the rear elevation. The dormer window will be of a similar design and size to the existing dormer windows on the rear of the building although the cill will be raised to avoid the existing wall plate. The dormer window is proposed to serve bedroom 1.

C) Single storey rear extension following demolition of existing linked extension/outhouse. The extension will have the following measurements: width of 2.5m, depth of 3.6m, eaves height of 1.7m and ridge height of 3m. The extension will provide a shower room for the bedroom situated at ground floor level at the east wing of the property. Plain clay tiles are proposed for the roof of the addition whilst the walls will be rendered to match that section of the existing building.

D) Demolition of existing front porch and provision of a lead roof painted timber canopy.

E) New frames in existing openings and enlarged openings on rear elevation.

F) Replacement of existing door on left-hand side of front elevation with fixed stable door with window.

G) Replacement of existing door on west facing flank elevation with openable stable door.

H Internal alterations detailed on drawing W602A.

I) Alterations to frontage to include new landscaping. Conversion of outbuilding for garaging.

4.2.2 The application is supported by a Planning & Listed Building statement and a Public House Viability Test report.

4.3 **Key Issues**

4.3.1 The key issues for consideration are as follows:

- Whether the principle of the use is acceptable
- Viability considerations
- Impact on the listed building and character and appearance of the Conservation Area
- Asset of Community Value considerations
- Living conditions
- Access and parking

4.3.2 **Principle of the use**

In the absence of a saved local plan policy the policy basis is paragraphs 28 and 70 of the National Planning Policy Framework (NPPF). Paragraph 28 encourages local planning authorities to:

"Promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship."

Paragraph 70 of the NPPF expands on this yet further:

"To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

--plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venue, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;

--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;

--ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community;"

Paragraphs 28 and 70 of the NPPF clearly put the retention of valued community facilities and services as a key aspect of planning, both in terms of policy making and decision taking.

4.3.3 The emerging Local Plan (Submission Local Plan deposited with the Secretary of State on 9th June 2017) reflects the guidance in the NPPF. Policy ETC7 states that planning permission for the loss of a facility in a village will only be permitted if a) there is another facility of a similar use available for customers within a convenient walking distance and b) the proposed replacement use would complement the function and character of the area. An exception to this will only be permitted if it can be demonstrated that the unit has remained vacant for a year or more and documentary evidence has been provided to show that attempts to let the premises have failed.

I consider that the proposed use meets a) in that there is similar facility nearby - i.e. The Bull Public House, also in the High Street. It also meets b) in that a residential unit as proposed would complement the existing residential properties in the area would not be uncharacteristic of the High Street where there are many residential properties and the use would secure the long term future of this listed building.

In planning policy and land use terms the proposed change of use is considered acceptable in my opinion.

4.3.4 **Viability considerations**

The question of the viability of the The Maidens Head is a key planning consideration - i.e. whether the business has the commercial potential to be successful and an operator could be expected to make a reasonable living. Planning Inspectors when considering a number of appeals have considered viability to be a relevant factor in deciding whether the loss of a valued local service or facility is justified (having regard to section 8 of the NPPF)

4.3.5 To support this application the applicant has submitted a public house viability report - an objective assessment about the likely future viability of the pub using the structure and principles of the Campaign for Real Ale's Public House Viability Test. The report is based on site visits to the area and in internal inspection of the pub and research into various aspects of commercial viability. It records the marketing of the property and sets out business investment appraisals based on a refurbishment / local pub with food scenario and a refurbishment/ extended/ reconfigured/ pub with quality food scenario. Both scenarios are based on Fair Maintainable Trade standards. The report concludes that on either scenario the business would not be commercially viable and unsustainable as a pub serving food. The report highlights that the limited car parking and general access and egress issues will undermine trading opportunities directly impacting on the commercial viability and sustainability of The Maiden's Head.

4.3.6 The Planning Authority has had the submitted viability report independently assessed by a chartered surveyor specialising in the retail and leisure market with considerable experience in pub estate management. This separate report is critical of a number of assumptions made in the Viability report and queries the absence of assessment of some factors. However, crucially, the independent assessment also concludes that The Maiden's Head is no longer economically viable or a sustainable business. The key reasons for this are as follows:

- The property is in need of refurbishing and redecorating requiring a substantial capital investment
- There is not the local population or sufficient local businesses to support The Maiden's Head
- There are plenty of alternative pubs and restaurants in the local area - 7 pubs being within 3 miles including the Bull Inn, Whitwell
- People's eating and drinking habits have changed in recent years
- Increased competition from supermarkets, heavy taxes on alcohol, high business rates, uncertainty over Brexit, lack of banks willing to lend finance all contribute to a declining pub sector
- The pub was suitably marketed for a reasonable period of time for pub use at a realistic guide price

4.3.7 From the submitted evidence and the independent assessment it would appear beyond reasonable doubt that to re-open The Maiden's Head would not be commercially viable.

4.3.8 The submissions made by the 'Society for the Protection of Pubs in Whitwell' are noted and it may be that insufficient effort was undertaken by the brewery to continue the apparent good service that was provided by the previous long standing tenants Mr and Mrs Jones and that this, in part, explains the decline in trade.

Nevertheless the pub is in need now of substantial capital investment and this is recognised even with the SPPIW's Community Business Plan where a repair and improvement budget of £200,000 excluding fees is estimated.

The scope for expansion to meet the number of table covers required to make it a viable commercial proposition in today's market is severely hampered by the listed building status of the property and the lack of parking facilities.

4.3.9 Impact on the listed building and character and appearance of the Conservation Area

Due regard needs to be given to the grade II listed status of the building and its position in the Whitwell Conservation Area. Paragraph 131 of the NPPF encourages local planning authorities to take account of:

*"the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
--the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality;"*

The Senior Conservation Officer has been consulted on the proposal and has responded with the following comments:

"The heritage value or significance of the area derives not only from the massing and detail of buildings in their setting but also from other aspects of individual assets such as their history and communal value to society. The central location and function of the Maidens Head within the village and the fact that the High Street is a local commercial thoroughfare, forms a valuable contributor to understanding the fabric and evolution of the place. For this reason, the proposed change of use could be seen as eroding the village's cultural heritage value. Given the development value that would attach to the building in residential use, it is extremely unlikely that in the event of conversion, a return to pub use would occur.

A large part of the building's architectural and historic interest derives from its traditional use as a pub. Many internal features are not original or have been replaced. It is noted that level access to the building is problematic as is the rather fragmented, split level arrangement of rooms on the ground floor. The proposed change of use would introduce significant changes, including a new staircase and ground floor cloakroom in what would be a new hallway entrance. It has not been shown that the change of use is necessary to preserve the building, which is considered to be in overall reasonable condition. If one takes the view that part of the building's special character is its historic use then a case could be made that the change of use would cause harm. If, on the other hand, one accepts that the current use is non-viable then a case could be made that re-ordering the interior to facilitate a change of use to residential, would perhaps safeguard the building's long term future.

Although I am prepared to support a slightly reworked single-storey, rear extension, it is questionable as to whether this increased ground floor footprint would provide sufficient cover space for a potentially improved food offer should the conversion to residential be refused - this, however, is not a matter for the conservation officer to judge.

The building is in need of some modernisation which require investments; the concern is that this would also have an impact upon the viability. Although mainly a commercial decision, there is no documentary information to show the nature or scale of the necessary work and potential costs. In the absence of a structural survey, and on face value, it did not appear to me that the building was in need of significant or extensive refurbishments. There is no evidence to suggest that the current condition of the building is totally unsuitable for the PH to operate from."

The key issue pertains to the viability or otherwise of the public house. The first bullet point in paragraph 131 of the NPPF encourages LPA's to sustain heritage assets by putting them to viable uses consistent with their conservation. I do not consider that converting this building to residential would necessarily result in any significant harm to the heritage asset itself, indeed if evidence supports the assertions made in the PS then it would be beneficial to grant planning permission and safeguard the long term future of the listed building. That said, as the Senior Conservation Officer has pointed out in his comments, the value or significance of an area derives from other aspects of individual assets such as their history and communal value to society. As previously pointed out, at the time of listing part of the building was operated as a public house and this use has continued for many years since. However, it is difficult to argue that the use of the building as a public house has significant historic value in the Whitwell Conservation Area.

In summary, I consider that the uncertainty regarding the viability or otherwise of the public house is key. Safeguarding the future of the listed building is a vital consideration and, based on the information submitted, the trends appear to show a declining public house. I therefore consider that the proposal would be compliant with paragraph 131 of the NPPF.

- 4.3.10 The Senior Conservation Officer has made detailed comments regarding the proposal on listed building application 15/01184/1LB. For the purposes of this planning application, he has concluded as follows:

*"The single-storey rear extension, insertion of dormer window to rear roof slope, single-storey rear extension following demolition of existing single storey lean-to extension and front canopy following demolition of existing front porch, will not harm the special character of the listed building or harm the character or appearance of Whitwell Conservation Area. I, therefore, raise **NO OBJECTION** on the basis that the scheme satisfies the provisions of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and as supported by the aims of Section 12 of the NPPF."*

4.3.11 **Asset of Community Value considerations**

It is noted that the building was registered as an Asset of Community Value. However, this process has not resulted in the building being acquired successfully by a local community group. It is therefore considered that very limited weight can be given to the issue that the building has been registered as an Asset of Community Value in the consideration of this change of use planning application. The ACV process did not result in its purchase by the protected party and continued management as a public house as the legislation enables.

4.3.12 **Living conditions**

The majority of the physical alterations required to convert the building to residential are internal. However, single storey extensions and a rear dormer window are proposed for the rear of the property. The proposed extensions are fairly modest and would be set away from the nearest neighbouring properties. The dormer window would face into the rear garden and would not result in a loss of privacy for neighbouring properties.

The proposals include soft landscaping for part of the front hardstanding and concerns have been raised by the adjacent occupier over potential to an adjoining wall. This is largely a civil matter between the two parties.

In my view the proposed physical alterations to the building would not result in any harm to the living conditions of the neighbouring properties.

The proposed change of use and extensions would provide a good standard of accommodation for a future residential occupier. More than adequate amenity space is provided at the rear of the building and sufficient off-street car parking is provided. Noise and disturbance from the High Street is not excessive and no

objections are raised from the Council's environmental health officer in terms of the location adversely affecting the living conditions of a prospective residential occupier. In summary I consider that living conditions would be acceptable.

4.3.13 **Access and parking**

Hertfordshire County Council Highways have been consulted on the proposal and have not raised any objections on Highway safety grounds. There is space for several cars to be parked to the front of the former public house whilst it is also proposed to use an existing access in order to utilise the existing garaging at the rear of the main building. The site provides ample car parking to serve the proposed development.

4.4 **Conclusion**

- 4.4.1 Whilst I am sympathetic to the view of local residents, the Parish Council and the Society for the Protection of Pubs in Whitwell, the commercial viability of re-opening The Maidens Head is a key factor. There is little doubt that over the last 15 years the trading position of the pub had suffered a steady decline - even under the tenancy of an established previous landlord, Mr Jones. This has been compounded by the general change in drinking and eating habits of the population, the availability of other pubs and restaurants in the area and the significant capital investment required to bring this pub back into use.

In summary, given the viability and marketing evidence submitted, together with the presence of another public house in the vicinity as well as other community facilities and meeting places, I am not convinced that the permanent loss of this public house would be significantly harmful to the provision of community facilities in the village.

With regards to this specific scheme I am satisfied that the proposal would not result in any harm to the living conditions of proposed or neighbouring properties, the special character of the listed building or the character or appearance of the Whitwell Conservation Area. Moreover, the proposal would satisfy paragraph 131 of the NPPF in that it will sustain and enhance the significance of the heritage asset and would put it to a viable use consistent with its conservation.

With due consideration to all of the information I have seen, it is my view that there are no material planning grounds to object to the proposal and my recommendation is that planning permission be **GRANTED**.

5.0 Legal Implications

- 5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

6.0 Recommendation

- 6.1 That planning permission be **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

3. The approved details of landscaping shall be carried out before the end of the first planting season following either the first occupation of any of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced during the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to vary or dispense with this requirement.

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no development as set out in Class (es) A, B, C, D, E of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority.

Reason: Given the nature of this development, the Local Planning Authority considers that development which would normally be "permitted development" should be retained within planning control in the interests of the character and amenities of the area.

Planning Informatives:

Highway Informative: Hertfordshire County Council (HCC) recommends inclusion of the following highway informative / advisory note (AN) to ensure that any works within the public highway are carried out in accordance with the provisions of the Highway Act 1980:

Storage of materials AN) Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website <http://www.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047.

Environmental Informatives:

During the change of use phase the guidance in BS5228-1:2009 (Code of Practice for noise Control on construction and open sites) should be adhered to.

During the change of use phase no activities should take place outside the following hours: Monday to Friday 08:00-18:00hrs; Saturdays 08:00-13:00 hours and Sundays and Bank Holidays: no work at any time.

Prior to the commencement of demolition of the existing buildings, a survey should be undertaken in order to identify the presence of asbestos containing materials. Any asbestos containing materials should be handled and disposed of appropriately. Where necessary this should include the use of licensed

contractors and waste disposal sites licensed to receive asbestos.

Proactive Statement

Planning permission has been granted for this proposal. The Council acted proactively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Council has therefore acted proactively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.