

<b>ITEM NO:</b>	<u>Location:</u>	<b>The Cabinet, High Street, Reed, Royston, SG8 8AH</b>
	<u>Applicant:</u>	<b>Mr R Newman</b>
	<u>Proposal:</u>	<b>Change of use from A4 (Public house) to C3 (single dwelling)</b>
	<u>Ref. No:</u>	<b>16/02113/ 1</b>
	<u>Officer:</u>	<b>Anne McDonald</b>

**Date of expiry of statutory period:** 27 October 2016

### **Reason for Delay**

The application statutory date has been extended to allow time for the applicant to submit a viability report and for this to be independently assessed and for information regarding other possible 'uses' of the building to be investigated.

### **Reason for Referral to Committee**

The application has been called into Planning Committee by Cllr Morris in the wider public interest, due to the number of objections received on the application.

### **1.0 Relevant History**

- 1.1 There is an extensive planning history for this property, given that it is a listed building and has been in public house use. Of relevance are listed building consent application nos. 16/02129/1LB and 17/01542/1LB, which is the associated listed building application for the works associated with the change of use proposed in this application.

### **2.0 Policies**

- 2.1 The relevant policies are:
- 2.2 North Hertfordshire District Local Plan no.2 with Alterations 1996:
- 6 - Rural Areas beyond the Green Belt;
  - 16 - Areas of Archaeological Significance and other Archaeological Areas;
  - 25 - Re-use of Rural Buildings;
  - 26 - Housing Proposals;
  - 55 - Car Parking Standards;
  - 57 - Residential Guidelines and Standards.
- 2.3 National Planning Policy Framework (NPPF):
- Achieving sustainable development - paragraphs 6 and 7;
  - 3 - Supporting a prosperous rural economy;
  - 6 - Delivering a wide choice of high quality homes;
  - 12 - Conserving and enhancing the historic environment.
- 2.4 Local Plan 2011 - 2031 - Proposed Submission - October 2016:
- SP10 - Healthy Communities;
  - ETC7 - Scattered local shops and services in towns and villages;
  - CGB1 - Rural Areas beyond the Green Belt;
  - CGB4 - Existing rural buildings.

### **3.0 Representations**

- 3.1 **Reed Parish Council** - object to the application. They consider that policies in the NPPF state that local community facilities should be retained. They object to the works being undertaken before planning permission or listed building consent were granted, and state that it was always the intention of the applicant to change the use of the public house to a single dwelling. They state that they believe that if this application is successful, it makes a fool of the planning process. It is stated:
- 3.2 *"As a Parish Council, representing strongly expressed opinion in our community, we believe that the proposal is inherently wrong, for sound planning based reasons, and that the granting of this application for a change of use will undermine confidence in the planning process. It would reinforce the belief that cynical manipulation of the rules is implicitly condoned by Officer and Members because they are busy with larger issues and are content to pass over infringements that seem to be treated as minor because they occur in a small village like Reed and not one of the towns in the District. This issue is far from minor to the residents of Reed".*
- 3.3 The Parish Council also object for the further reasons of:
- rubbish was stored in the car park area which looked unsightly;
  - the applications are retrospective;
  - unauthorized works were undertaken to the Listed Building;
  - The Cabinet PH has been part of Reed for a long time;
  - it was the village's social meeting point;
  - the village has already approved 13 houses on the Brickyard site and no further new houses within the village are required for its sustainable growth; whereas, the loss of the public house makes the village less sustainable;
  - despite the long period of closure, we have no doubt that there is commercial interest or viability in the continuing / re-opening as a pub;
  - before the property was sold at auction to the current owner, we know of at least three offers of interest in buying the property which failed to progress in obscure circumstances.
- 3.4 Following a second re-consultation the Parish Council submitted a further letter in objection. Additional points raised further to their first response include:
- the extent and depth of community support reinforces our view as a PC that The Cabinet is commercially viable as a Public House;
  - we can also report a growing interest amongst parishioners in the idea of community involvement in the ownership and running of the Cabinet as a pub, should that become a possibility in future;
  - The Cabinet could be enjoyed both as a pub but also the venue for a range of community uses, both involving existing village organisation and by groups in an informal basis;
  - we object to some of the findings in the applicant's latest study, the narrowness of the roads in Reed is a feature which does not discourage pedestrian usage and the Cabinet has an adequate car park and parking was never a problem when the public house thrived. On the occasions when patrons parked on the roads, parking on the roads has never impeded traffic or been reported as an inconvenience to residents
  - the village has not adjusted and resigned itself to the loss of its pub - it would simply like it to re-open;
  - we believe to grant these retrospective applications undermines the integrity of the planning process.
- 3.5 **NHDC Planning Policy** - this response sets out the policy context for the application. It states that paragraphs 28 and 70 of the NPPF encourages the retention and development of local services and community facilities in villages. There is no Saved Local Plan policy which supports this, but there is a policy,

ETC7, in the emerging Local Plan which does. As Full Council agreed at Committee in April that this plan can now be submitted to the Planning Inspectorate for examination, this plan and the policies within are gaining more weight. Policy ETC7 seeks to protect scattered local shops, services and facilities in towns and villages and to prevent this loss, unless there is another facility within walking distance. However, as an exception, this policy also states that the loss of such a facility will be permitted if it can be demonstrated that the unit has remained vacant for a year or more and that documentary and viability evidence has been provided, and that all reasonable attempts to sell or let the premises for a similar use in the time period have failed. This response concludes that viability information needs to be submitted for consideration.

3.6 **NHDC Conservation** - the Council's Conservation Officer has provided detailed comments both before and after the viability report was received. These are attached in full at Appendix 1 and 2.

3.7 **NHDC Waste Services** - there is sufficient off street space for the storage of bins.

3.8 **Campaign for Real Ale North Hertfordshire Branch (CAMRA)** - we object to this change of use. This is just one more example of flaunting the law to profit from valuation differences. The party that bought The Cabinet were informed at Auction that planning permission for the change of use would be necessary. We also believe the former pub could be restored and viable in the right hands.

3.9 **Local views** - over 90 responses have been received on this application, with many people responding more than once as two consultations were undertaken. All object to the application. Key points raised include:

3.10 General:

- The Cabinet was Reed's only pub and it was busy during the week and at weekends not only with locals but people would travel from further a field for excellent food and drink.
- The Cabinet is the village icon, and appears on the village sign on the green.
- It was a friendly place for young and old, families, walkers and visitors. Clubs were held there and it provided employment.
- It was a great place to go to meet up with friends.
- The Cabinet is a very important community asset and should be retained.
- We miss The Cabinet and it needs to be returned to its former use as a community hub.
- It was an attractive pub and well known around the local area as it has been a part of Reed since the 16th century.
- It has been a pub for 400 years and there is no reason why it should not still be a pub.
- The Cabinet has been a special place in this very special village for an extremely long time and it needs to be a pub again.
- If this is granted, a precedent will be set.
- All villages need a school, pub and Church.
- The change of use of the Fox & Hounds in Barley was refused, and there is another pub in that village.

3.11 Financial:

- The owners allowed it to fall into disrepair, until the current owner bought it at a much reduced price and had no intention of maintaining it as a pub.
- It has been raised that the previous landlords of the pub have not been able to make the business work and therefore it is not viable. I do not think this has been down to the lack of local support or custom. I understand that the previous owners levied an excessively high lease charge and with business rates and other running costs a profitable pub just wasn't sustainable.
- Approval was granted to extend the original building to accommodate a much larger restaurant, during the success of the 'gastro-pub' time, and the investor

behind this took his money and sold the pub for a vastly increased sum, almost quadruple what the previous owner paid. Therein lay the problem. Every tenant since the extension has had to try and service a loan of over £800,000 in an economy that is shrinking, at an interest rate far higher than today's.

- You need to look at what can be done with a local pub when the lease rates are right and you have a knowledgeable person in charge. The Fox & Duck in Therfield is thriving and winning awards.
- The only reasons for The Cabinet's demise was those of mis-management and lack of investment. It could thrive again.
- I put in an offer of £380,000 which was rejected.
- The previous tenant has a turnover of £4K per week and costs (excluding rent) were short of £3K per week. There is no reason for this pub to shut.
- It is nonsense to suggest that the village of Reed could not support the pub.
- I am sure the current owner will refer to a failed attempt to re-open the pub, stating it is no longer viable in this economic climate. Try and get a table for Sunday lunch at 1pm in the nearest pub in Therfield and tell me there isn't a demand.
- The owners of The Fox & Duck tried unsuccessfully to negotiate a tenancy for The Cabinet with the previous owners, Alban Wise, after it was closed in 2011.
- The kitchen and bar were removed, the cellar was created into a games room. He has altered it into a house in which he does not intend to live.

### 3.12 Social:

- It is the last pub in the village and it would be very detrimental to the character of the village to lose it.
- Without a pub it is difficult to create a community spirit in these busy modern times.
- Our village needs a place to socialise without having to use transport.
- There is no longer a central hub in the village, with buildings being widely spread around the green. If asked, I should find it hard to say where its centre now was. The pub previously gave the village this essential definition.
- It is shocking to see that this unauthorized conversion has progressed so far.
- It is very disappointing to see as time passed that this special building is being turned into a house.
- The feelings of the community are extremely strong, given the number of comments on the application and the number who turned up at the PC meeting.
- There is no other employer in the village outside agriculture, and for this to close denies teenagers employment within the village before they can drive.

### 3.13 Building issues:

- Listed Building consent should have been sought for these works.
- I cannot believe that The Cabinet has been allowed to be altered in this way, it would seem without any respect for the building, or the fact that it is meant to be a pub for the use of the local community and wider public.
- The owners should be forced to return it to pub use.
- Many people know of Reed and the reason is The Cabinet, the legacy that has been made by the public amenity is something that should be preserved and continued well into the future.
- I agree that this building would make a lovely house for someone, but not at the expense of depriving the community of the vital building.
- A Planning Application is for a future event, and these works have been undertaken without permission.
- These retrospective applications are a cynical method to overcome the planning application procedure and I strongly object to both applications for alterations and change of use;
- From the comments made so far, I am shocked that the NHDC Planning Officers have allegedly allowed so much unauthorized work to have been carried out to date. I hope that when the applications are rejected, all remedial steps will be made to reinstate the Cabinet to its original purpose - a public

house.

- It is very disappointing that the Council appear to be condoning and actually permitted change of use by the back door of this historic village amenity.
- It was purchased as a pub, with full knowledge that change of use had not been applied for or granted.
- Local and customers have long been under the impressions that it will re-open as a pub.
- The owner bought the property at auction, probably considerably more than its value of a pub with the clear intention of converting it into a house.
- The owner has converted it into a house in the full knowledge that this is in breach of the law. Approving retrospective application will undermine the authority of the planning system and such a decision will demonstrate total disregard to those who care about this village community and seek to maintain the public house facility within Reed.
- Should developers be allowed to get away with ignoring the regulations most of us adhere to, just to make a fast buck? Do not let this tragedy happen.
- The owner should be evicted and the building forced back to being a pub.

3.14 **Save the Cabinet Action Group (SCAG)** - A 51 page Statement has been submitted along with many appeal statements and appendices setting out a possible business plan for the public house and stating that if the pub could be run as a viable enterprise. The Statement, Viability Appraisal and appendices are available to view on the Council's website.

3.15 In summary this Statement sets out that SCAG consider:

- there are additional works that have been undertaken to the listed building that are not detailed within the applications;
- criticise the Council for accepting the application without a fully detailed statement of building works;
- state that they consider the viability information put forward in support of the application is incorrect. (Officer note - this claim was made whilst the viability reports were still be classed as confidential. The applicant only recently decided to release the viability information).
- state that there were two people who made offers to buy the public house before it was presented to Auction for sale, but offers were ignored or refused to seek a higher price as a potential dwelling at Auction;
- claim that the pub business is viable based in a proposed business plan dated 2012/13 and on the basis that all the cost of returning the building to a public house is met by the applicant and that the cost of the business is undertaken by a community group or Parish Council on a loan from the Public Works Loan Board;
- raise concern that there may have been harm to the pond and wildlife within it and concern that trees have been felled from the grounds.

3.16 Further to the viability reports being made public, the SCAG has submitted a further statement commenting specifically on the viability reports. In summary this is:

- very critical of the report prepared by Mr Culverhouse, stating that the findings are flawed and that the report does not take into account other forms of viability - such a social - and only looked at the pub on the basis of either 'wet trade' or 'food led', as instructed by the Council;
- this is less critical of the report prepared by Mr Lawson, but states that they consider that some of his figures, such as wages, are too high which results in his conclusion of the pub not being viable;
- Ms Ingram states that viability assessments can be considered to 'break down' when they assess the business based only on a commercial business model and make no allowance for other ownership and operation models. Such alternatives include:
  - 'a White Knight' purchaser where a wealthy individual or group are willing to acquire the freehold on behalf of the community under (for example) an Enterprise Investment Scheme with no expectation of a commercial return

- on their investment in the short term;
- the Parish Council buys the pub with a loan from the Public Works Board where they undertake the cost to refurbish the pub and then let it to a tenant as a Free House where the rent only has to cover the cost of the loan;
- a Community Interest Company purchase funded by grant, soft loans and community share.

## **4.0 Planning Considerations**

### **4.1 Site & Surroundings**

4.1.1 The Cabinet is a two storey, timber clad building located on the east side of the High Street, adjacent to the village pond. The building is wide, although relatively shallow in depth, and sits fairly close to the lane frontage, with a car park and rear gardens. There is a change of levels at the front, with steps up and a patio area in front of the building.

### **4.2 Proposal**

4.2.1 The application is a full planning application, seeking the retention of the change of use of the public house (use class A4) as a single dwellinghouse (use class C3). To facilitate the change of use, internal alterations have been carried out, and these are a matter of the associated Listed Building application, 16/02129/1LB and 17/01542/1LB (both applications seek retrospective listed building consent for all works that have been undertaken which require listed building consent in the premises). These applications will be determined at a later date once the principle of this change of use application has been determined by this Committee. Officers cannot come to a view on either of these listed building consent applications until the associated planning application has been determined.

4.2.2 To support the application, a Design and Access Statement, Viability Report, assessment of the site being an Asset of Community Value (ACV), a Change of Use Assessment and QC opinion have been submitted. In summary these state:

#### **4.2.3 Design and Access Statement (DAS):**

- The Cabinet was marketed from July 2011 but received only limited interest for A3 use, none of which were successfully concluded.
- There were 27 viewings, with those interested in it for pub use, developers and restaurateurs.
- The property was then put up for sale by Auction in October 2015.
- The applicant was the only bidder, despite the Parish Council being given a first option under a license scheme.
- The property was purchased by the applicant on the assumption that the only sustainable use for it was as a dwelling.
- Granting the change of use to a dwelling will secure the long term future of the building and remove the risk of it being left vacant, lacking maintenance for years to come until a commercial user can be found for it.

#### **4.2.4 Viability Report - Prepared by S. G. Culverhouse - dated 22/11/16**

This report is now public and can be viewed in full on the Council's website. The report assessed the viability of The Cabinet operating as both a fine dining / gastro-pub, or as wet trade only. It assumed that the property is fully equipped and sufficiently set up as a public house with a bar and catering facilities and that it would be operated by a 'hands on' couple with at least 5 years relevant experience. As the public house has not been trading since 2011, national figures have been used to work out more recent trading patterns. Both options concluded that the business would be trading at a loss, resulting in the pub being unviable and unsustainable at the present time and in the long-term future.

4.2.5 Change of Use Appraisal - Prepared by S. G. Culverhouse - dated 18/04/17

(This full report can be viewed on the Council's website)

This document reviews the sales and marketed undertaken on the property and explores the possibility of the building being used in other community type uses. With regards to marketing, it states that the property was marketed nationally and regionally for 2.5 years by Davis Coffey Lyons (who is a leisure agent in the south east) and independent commercial agent Mulluck Wells. Both agents agreed that asking price offers in excess of £495,000 were appropriate for that time, and sales particulars were circulated to pub companies, brewers, restaurateurs and independent pub operators via the agents' comprehensive databases and on affiliated website platforms. Coverage was extended by offering the property for alternative community D1 type uses, nurseries and medical groups as well as B1 offices. A 'for sale' board was erected on site, marketing brochures were widely circulated and the building was advertised 14 times in media publications, which were both regional and national. There were 27 viewings. Mulluck Wells stated that the most interested parties found the property location, Grade II Listing and internal lay-out too challenging and start up costs when compared to projected income were prohibitive. The property was eventually withdrawn for sale and put to auction, where it was purchased by the applicant.

4.2.6 The report then goes on to list other public houses, shops, cafes, community groups, churches, childcare facilities, leisure facilities and other users and groups within close proximity of Reed. It sets out that due to the listing of the building combined with the internal layout, it is not practical or commercially viable to convert the building into one of these uses, and that the local area is well served for most of these functions. This report concludes: *"We contend that the public house is proven as being unviable, there being no prospective purchasers willing to continue the current use and there is no realistic or sustainable alternative community use for the building. So as to protect the special historic interest of the listed building the proposed change of use to a dwellinghouse is the more reasonable way forward"*.

4.2.7 Advice note prepared by Douglas Edwards QC

This sets out that it is not a requirement of the NPPF to require the consideration of other community uses ahead of the change of use to a dwellinghouse when the change of use from the public house is considered. North Hertfordshire District Council does not have a saved Local Plan policy which requires this either. In the recent appeal decision regarding the White Lion Public House, St Leonards, Bucks, other community uses had to be considered before the change of use to a dwellinghouse, because Saved Policy GB24 of the Chilterns Local Plan required it, not the NPPF.

4.2.8 Cabinet Public House ACV Listing - Prepared by S. G. Culverhouse - dated 24/11/16

- The building was nominated by Reed Parish Council, and was listed as an ACV on 2nd April 2014. At the time the building was not trading and was owned by Albanwise Limited.
- The intention of the listing process is to alleviate the potential loss of a community facility by providing the local community adequate opportunity to bid for the property should it be made available for purchase.
- The Act requires owners of the building to inform the Local Authority of their intention to sell the building, and the Local Authority has to inform the body who nominated the building that it is to be sold. The nominating body then are allowed six weeks in which to decide to purchase the property. If they decide to purchase it, they are then given six months in which to purchase it. Alternatively, if they decide not to purchase it within the initial six weeks, or fail to purchase it within the six months, the owner can sell it to who they like.
- The nominating body or community group have no control over the asking price of the property.
- The owner informed NHDC on the 13th July 2015 of their intention to sell. The

- Parish Council declined to make an offer of a bid within the six week timeframe.
- The ACV process has been followed according to the Asset of Community Value Regulations 2012. There has been sufficient opportunity for a community group or other body to bid for the property prior to Mr. Newman's acquisition.
  - The ACV process ran its course but failed to generate a community group willing to put together a bid for the property during the exclusive period. Therefore, we conclude that the ACV listing is of no benefit to the future safeguarding of the building and that the ACV listing should be set-aside.

#### 4.3 Key Issues

4.3.1 The key consideration is whether the change of use of the public house is acceptable or whether there would be harm from the change of use sufficient to justify the refusal of the application.

##### 4.3.2 Policy consideration

The NPPF section 3 sets out the guidance for rural areas. Bullet 4 of this guidance states that to promote a strong rural economy local plans should promote the retention of local services and community facilities in villages, such as public houses.

4.3.3 The existing North Hertfordshire Local Plan 1996, pre-dates this NPPF advice, as the NPPF was published in 2012. However, this advice is reflected in the emerging Local Plan 2011 - 2031 in Policy ETC7. This policy states that planning permission for the loss of a facility in a village will only be permitted if there is another facility of a similar use available for customers within a convenient walking distance. 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.

##### 4.3.4 Viability

The critical consideration in this case is the viability of the public house, especially as it was the only public house in the village. The public house stopped trading in 2011. It is noted that third parties making representations on the application have made claims that the public house is viable, and that it failed as a public house business due to poor management. As set out above, to support the application the applicant has submitted a Viability Report. This concludes that based on either a food dining offer, or as a drinking / wet trade pub only, the business is not viable.

4.3.5 The Council had this report independently assessed by Trinity Solutions Consultancy Ltd. Prepared by Mr Michael Lawton on 12/12/16. This concludes that the Applicant's viability report does adequately deal with the relevant matters regarding options for viability and that the conclusion that the public house is no longer viable is fair and reasonable. Furthermore, that this conclusion is supported by evidence and reasonable expert opinion.

4.3.6 Page 11 of the Trinity Solutions Report states:

***"2. The Applicant's (The Report) conclusions that the public house is no longer viable is fair and reasonable. Whilst some of the methodology used in the Report lacks veracity, the overall conclusion arrived at is consistent with the conclusions of the Trinity Solutions Consultancy Ltd Investments appraisals and is fair and reasonable".***

4.3.7 The Trinity Solutions Report also concludes that there are a number of critical factors that contribute to the conclusion that the public house is not viable. These include:

- Reed is a small village, population of 310, and this is not a sufficient population base for a local pub to be viable. To have any potential to be viable, The



- Cabinet would need to operate as a food led destination pub;
- Reed is made up of a network of narrow roads with no recognisable village centre;
- there are few pavements and no street lights;
- the lack of lit footpaths is likely to deter both locals and visitors from attending The Cabinet on foot;
- The Cabinet is located on a narrow lane, where there is going to be little passing trade;
- the car park can only accommodate 20 cars safely and is unlikely to be sufficient to allow The Cabinet to trade at peak times;
- on street parking is limited and severely restricted by the narrow lane;
- the capacity of the dining room is 52 covers plus the bar area. This is at the lower end of capacity for a food led operation to be viable and limits the ability to optimise trade at peak times, which is further compounded by the car parking limitations.

4.3.8 It is Policy ETC7 which states that if the facility is no longer attractive to the market, has remained vacant for at least one year and evidence is provided proving it is unviable, that an exception to the retention of the facility within the village can be given. In my view considerable weight can be given to Policy ETC7 the emerging Local Plan is at an advanced stage of preparation (submitted to the Secretary of State for Examination following Full Council resolution on 9 June 2017). Moreover, the NPPF advice, set out above, has to be considered in the context of viability in my view. And given that the application sets out that the public house stopped trading in 2011 and that the business is not viable as an immediate or long term business within the village or Reed, significant weight has to be given to this in the consideration of the application. This conclusion has been arrived at by the Council's independently appointed consultant.

4.3.9 Turning to the matters raised by the SCAG, given that the viability of the public house business has been independently assessed by the Council appointed Trinity Solutions, and found to be unviable (in this expert's opinion), the claims of SCAG expressing a desire to run the public house as a social or community funded social enterprise need to be considered in a realistic economic context. According to the history of the premises and its ACV status there appears to have been opportunity for local purchase and management of the premises to be run as a public house in the recent past. Moreover, given the SCAG is stating that the pub could be viable on this basis, in my view, this further supports the findings that the pub is not viable for it to be run as a commercial enterprise. Emerging policy ETC7 does not require for a public house to be run on a community basis to prevent its loss, and in the example of The Cabinet, the Parish Council were given the opportunity to purchase the pub under the ACV scheme before it went to Auction. Whilst I sympathise with local residents who wish to see the return of the public house and are now wishing to support it as a community venture, in this instance, it appears that they have missed their opportunity to run it on this basis. I therefore do not conclude that these findings overturn or outweigh the recommendation to grant planning permission for this change of use in this instance.

#### 4.3.10 Location and impact on the character of the Conservation Area

The village of Reed can be described as a village that is dispersed in nature, without a defined central point. The Cabinet, whilst being located on the High Street, is in reality on a narrow rural lane, with no pavements or street lighting in an area surrounded by other domestic properties. Reed does not have an obvious village centre, with a shop, green, church and public house all grouped together. The Council's Conservation Officer has expressed concern that the loss of a public house function from the village is harmful to the wider character of the Conservation Area, when the 'use' of the public house is taken to inform 'character', as well as the design and setting of physical building. However, he concludes that viability out ranks use in this instance, and that to secure the long term occupation of the building in a viable use to ensure its protection and retention is more

important than the retention of the public house use per se. On this basis he concludes that the harm to the character of the Conservation Area is less than substantial, as it is outweighed by viability, and he raises no objection to the change of use to a dwellinghouse on this basis. This conclusion is in accordance with NPPF paragraph 134 guidance.

4.3.11 I support the conclusion of the Council's conservation officer and add that due to the loose knit character of Reed, where the public house is located on a small side lane and not within an obvious central point of the village, the loss of the pub use from the village can not be demonstrated to be so harmful to the overall or wider character of the village as to justify the refusal of this application for this reason, given the viability information that has been provided and independently assessed. The building itself is retained, and when passing by the site there is little or no change to the feel of the area. Furthermore, given that the pub stopped trading over six years ago, it can be argued that the character of Reed today has already adjusted.

#### 4.3.12 ACV Consideration

It is noted that the building was registered as an Asset of Community Value. However, as outlined above, this process has run its course and not resulted in the building being bought 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.

#### 4.3.13 Other Potential Community Uses

Paragraph 28 of the NPPF seeks to promote the retention of local services and community facilities in villages and paragraph 70 of the same document seeks to 'guard against the unnecessary loss of valued facilities and services'. In my view if our independently appointed consultant had concluded in his expert opinion that to manage these premises as a public house was viable then to allow its change of use to a dwelling would be an unnecessary loss of the facility. As is explained above his conclusion on this point is that to manage these premises as a public house is not viable so on that basis I can only conclude that its change of use to a viable alternative is necessary.

4.3.14 However, considering the NPPF emphasis on saving community facilities such as meeting places, local shops and other facilities officers asked the applicant to also undertake an assessment of the feasibility of running the premises as alternative community facilities rather than simply accepting the default and only feasible / viable alternative to a public house is a residential use. And whilst the applicant's QC as quoted above has argued that such an analysis is unnecessary as there is no local plan policy that requires it, I am of the view that the NPPF requirements are of sufficient clarity (the NPPF being an important 'other material consideration' in of itself in the determination of planning applications) to require this assessment. As well as providing the QC opinion the applicant also submitted an assessment of other potential uses in any event. Paragraph 4.2.6 set out above summarises the applicant's analysis on alternative uses.

4.3.15 As part of this assessment of alternative uses the application has set out that during the marketing campaign for the sale of the public house, it was offered for potential other uses including community uses, nursery, medical applicants and B1 offices. However, due to the location of the building, its internal layout and that it is a listed building making internal alterations difficult, it was not attractive to these uses. Furthermore, the application sets out existing public houses, cafes, shops, churches, day care facilities, social, leisure and community groups within proximity of Reed, and concludes that the area is well served by these groups and that there is not a shortage of such groups or facilities that would seek to utilise the Cabinet building.

4.3.16 The Conservation Officer has queried whether a single dwelling house is the most optimum use of the building, once it has been accepted that public house use is not viable. In my view, given the marketing information that has been provided along with the information on existing facilities within the area, it is not reasonable to suggest that this application should be refused because a different use might be more optimum, when no other use is proposed. Given that other nearby buildings are in residential use, the residential use of this building is in my judgement the most appropriate in this context. Moreover, as other uses could give rise to conflict between the Cabinet and nearby neighbours from noise or odors, depending on what other use is proposed and other uses may require substantial alterations to the listed building itself, such as vents / duct work, etc. which could harm the fabric and character of the listed building. I therefore conclude that residential use is the best 'other use' choice once it is concluded that a public house use is not economically viable.

#### 4.3.17 Popularity

It is noted from the number of representations made by third parties that this is a very emotive application. Many of these objections have been raised on the basis that the application is retrospective and not proposed. However, the consideration of this application as a retrospective application does not change the key issues of consideration, namely, the issue of viability and the impact on the character of the Conservation Area. Members cannot refuse planning permission simply on the basis that it is retrospective, and the planning merits must be judged on the same basis as if this were a prospective application. Recognition must also be given to the impact that changing drinking patterns have had on the public house trade. For many years now supermarkets sell good quality wines and beers at low prices and the smoking ban introduced in 2007 further reduced the attraction of the public house to smokers. Whilst most public houses do offer an outdoor smoking area, these changes, combined with the importance of social media in young people's lives has meant that a trend has arisen where many people tend to choose to socialise within homes rather than at the local public house. Drinking habits in the UK have changed over recent years, and all these factors are contributory factors as to why more and more rural public houses are struggling.

#### 4.3.18 Other matters raised by SCAG

The works to the listed building are a matter for the associated listed building application, 16/02129/1LB. However, there was an email exchange between the case officer and Ms Ingram during the application, where it was pointed out to Ms Ingram that the validation of a planning and listed building application is a matter of decision for the Local Planning Authority. Furthermore, in the event that further works have been undertaken to the listed building, an additional listed building application can be submitted for the retention of these works.

4.3.19 At no time has there been any concern raised to the Council about impact on biodiversity in the pond. Finally, the Council is aware that conifer trees have been felled within the grounds of the public house, and due to the felled trees being conifers, no objection has been raised to these works.

## 4.4 **Conclusion**

4.4.1 In my opinion this change of use application should be granted as it has been demonstrated that the business of a public house in this location is no longer economically viable as a sustainable use either as a wet trade only or food led gastro pub, either today or in the long term. Furthermore, that the physical location of the public house building, on a narrow lane, with limited parking, a low number of dining covers and little passing trade further undermines its potential as a public house or any other realistic community facility. The amount of harm the loss of the use itself has had on the overall character of Reed Conservation Area is considered to be minimal, and does not outweigh the demonstrated issue that the public house business is unviable.

- 4.4.2 Given that the building is a listed building, any extension or alterations that would be permitted development on a dwellinghouse would require listed building consent it is not necessary to impose a condition removing permitted development rights in this instance. Finally, given that the change of use has already been effected, it is not necessary to impose a condition regarding the three year time limit for implementing the permission.
- 4.4.3 I recognise that these matters are difficult to determine however my recommendation has been carefully considered and is supported by an independent assessment of the applicant's viability evidence. Paragraphs 186 and 187 of the NPPF require local planning authorities to work with applicant's to help find solutions, it offers no discrimination in this requirement between applicants who have applied for retrospective or prospective applications so I make no apology for the fact that officers have been working closely with the applicant to seek to resolve matters and I do not accept such criticism in this regard. Central government require officers to work on this basis.
- 4.4.5 It is also necessary in my view to consider that by requiring issues that relate to commercial transactions to become part of an assessment of planning applications; such assessments in terms of decisions on individual planning applications are perhaps a rather blunt instrument. If Members were minded to refuse planning permission for this change of use it would not automatically follow that a viable and sustainable operation of the premises as a public house would necessarily occur and the risk is clearly there that the applicant may need to be re-housed and the premises may simply remain vacant and potentially fall into disrepair. In conclusion therefore, I recommend that unconditional planning permission be granted for the retention of this residential use of the premises.

## **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 unconditional planning permission be **GRANTED**

### **Proactive Statement**

Planning permission has been granted for this proposal. The Council acted proactively through positive engagement with the applicant 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.