DELEGATED DECISION REPORT

SMD/2018/0690 **Valid 21/11/2018**	**WINDY HARBOUR HOUSE** **ELLASTONE ROAD** **CAULDON LOW**	**CHANGE OF USE CARE HOME C2 TO DWELLING HOUSE C3** **(FULL - MINOR)**

THE APPLICATION

The applicant has a purchaser who wishes only to use the property as a single dwellinghouse (C3 of the Use Classes Order). However, recently, in 2016, it was claimed and demonstrated that the lawful use of the property was that of a 'residential institution/care home' (C2 of the Use Classes Order). Regardless of how the property might have been used in the past or whether it has previously had the benefit of a 'dwellinghouse' planning permission, the change now from 'Care Home' to a 'dwellinghouse' will be a 'material change of use' and an act of development that requires planning permission.

The property was originally built before the mid 19th Century as the 'Green Man' public house. In 1997 a planning permission was granted for the property to be used as a single dwellinghouse after it had been operating at a loss and was unsuccessfully marketed as a commercial interest. However, it wasn't long before the property was purchased by Horizon Care in 2001. The point at which they began to use it for purposes materially different to those of a dwellinghouse, is a matter that could perhaps be opened to some debate. When planning permission was granted in 2006 for a two storey rear extension, the case officer reasoned that while care was being provided for a small number of children, the nature and scale of that care use had not necessarily resulted in a material change of use at that time.

Nevertheless, with an application in 2016 the applicant claimed and demonstrated, to the satisfaction of the Council, that the property had been used for the previous 10 years in a materially different way to that of a dwellinghouse, as a care home/residential institution (C2 of the Use Classes Order), and that was certified as being its last and most recent lawful use.

The application seeks permission for the entirety of the ownership which includes the building, an old pub car park and wider areas of open undeveloped land to the south west and south east that has the character and appearance of rougher grazing or paddock land.

MAIN ISSUES

- Would the provision of the dwelling be acceptable in this 'other rural location'
- Would it be sustainable development?
- Other considerations character and appearance of area

DESCRIPTION OF SITE

Stone public house building with a largely linear form that runs parallel with the roadside. The building sits in a rather exposed and isolated rural location adjacent to a staggered cross roads. The south-east facing side elevation is screened and given a sense of enclosure, from the exposure of the road junction, by a belt of relatively mature trees and bushes. The roadside frontage of the building is lined with a traditional dry stone wall, which to the side of the building provides an opening and a highway access.

Immediately to the rear and side of the building there is land that provides obvious areas of curtilage, beyond that to the south west of the building there is a large pub car park, while the land beyond that and to the south east has the character and appearance of rough grazing or paddock land.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Core Strategy Development Plan Document (Adopted 2014)

S01 Spatial Objectives
SS1 Development Principles
SS1a Presumption in Favour of Sustainable Development
SS6 Hierarchy of Settlements
SS6c 'Other Rural Areas' Strategy
DC1 Design Considerations
DC3 Landscape Character and Appearance

National Planning Policy Framework (July 2018)

Paragraph(s) 7 Sustainability, 11 Presumption in Favour and outdated Development Plan, para 79 isolated homes in the Countryside, para 170 Protecting the natural environment.

Emerging Local Plan

SS10 'Other Rural Areas' Strategy
DC3 Landscape Character and Appearance

At the time of writing the emerging local plan had been through final examination and the Inspector had made his formal response.

For the purposes of determining this application there are no consequential differences between the two 'Other Rural Area' Strategies set out in SS6c and SS10. In respect of policy DC3 of the emerging local plan it is only development that leads to prominent intrusion /significant adverse impact rather than just being 'harmful' or 'detrimental'.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

The property was originally built as the 'Green Man' Public House before the mid 1800s.

79/06647/OLDDC	conversion of store into lounge and new boiler room. Approved.
80/08546/OLDDC	Construction of pub car park. Approved.
97/00740/OLD	Change of use to private dwelling. Approved.
01/00599/FUL	New garage and driveway. Approved (not implemented)
06/00865/FUL	Two storey rear extension. Approved.
SMD/2016/0044	Certificate of lawfulness for C2 use. Approved.
SMD/2018/0556	Certificate of lawfulness for return to C3 use. Withdrawn.

CONSULTATIONS

Publicity

Site Notice expiry date: 4th July 2019

Public Comments

1 Objection has been received. The respondent objects because they do not understood what the applicant is applying for.

The description of development on the notice is considered to be satisfactorily clear, and the officer has emailed the objector to try and add an additional layer of explanation.

Town / Parish Comments

Cotton Parish Council: No Objection

OFFICER COMMENTS

Principle of Development/Policy Context

The vacant former care home is in the countryside in an 'Other Rural Area' which means that it is outside any of the 'towns, larger or smaller villages' listed at SS5 or SS6 of the Core Strategy (CS). The Core Strategy's 'Other Rural Area' strategy SS6c places restriction on the provision of new homes in these areas. However, currently the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer) and therefore, development plan policies affecting the supply of housing should be considered out of date. In these circumstances paragraph 11 of the NPPF requires planning permission to be granted unless policies in the NPPF protect areas or assets of particular importance and provides a clear reason for refusing the development; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when weighed against the policies in the NPPF taken as a whole. A clear benefit of the development would be a contribution toward housing supply.

While the property occupies an isolated location in the countryside and paragraph 79 of the NPPF protects such locations from the development of new homes, where that

development amounts to the re-use of a redundant or disused building it is provided for by one of the policy exceptions and should not be considered to be a protected area or asset.

'Other Rural Areas' strategy policy SS6c of the CS only provides for the residential re use of a rural building subject to compliance with policies R1 and R2 which require it to be first demonstrated that commercial use is not viable or suitable. The applicant has not carried out that exercise, but these are housing policies that do not comply with the NPPF and must be considered out of date. I attach very limited weight to the policy and the business or employment potential of the property is limited by the nature of the building (its residential layout and proportions) and its remote rural location – these were factors that before 1997, caused the public house to close as an unprofitable business and made it difficult to sell as a commercial interest. There is no harm here that would weigh against the benefit of the proposal and the presumption in favour of the development.

Would the provision of the new home be sustainable development?

The new home would be quite isolated and the occupants entirely dependent on car bourn journeys to reach the nearest facilities, settlements and commercial centres, which are some distance away. To this extent the development would not be in the most sustainable of locations. However, this would not amount to a level of harm that would significantly and demonstrably outweigh the benefits. This is with particular consideration for the planning history of the site and its previous use as a public house and a care home, both uses had considerably more potential to generate car journeys.

Landscape and the character and appearance of the area

The applicant has applied for the change of use to be carried out across the whole of the ownership. This includes fairly extensive property – a large pub car park, land that has the character of more rough grazing land, and a belt of tree planting to the east of the building.

The development presents an opportunity to make improvements to the character and appearance of the area and to retain and protect features that already make contribution – e.g. existing trees and hedgerow and the dry stone wall to the front

To the rear there is a rather large car park that harms the character and appearance of the property and the area, it was provided for the pub in 1980. It occurs that on balance the car park was only provided and that harm tolerated to support an ongoing business concern. If the property becomes used as a dwelling there would be no longer justification for the car park and there is opportunity with the development to remove the car park and return the land to grass.

I have considered the extent of land which should be covered by the planning permission and in effect included or designated as the dwelling's curtilage. The area of ownership that is applied for is quite vast and includes areas that are rougher in character and provide margin and transition between the building and the wider countryside landscape beyond. I conclude that the permission should relate to a

more limited area that includes only those areas that have the character, appearance and physical relationship of obvious curtilage – this includes a generous parking area to the side of the building, an apron of land to the rear and a modest square of lawn.

I am also guided by the extent of curtilage allocated with past permissions – the 1997 permission kept curtilage to a tight strip to the rear of the building; a 2001 permission for a garage gave a little more to the rear to provide for a new drive, but that permission was not implemented; and in 2006, the last and most recent permission granted for a rear extension, the area allocated included the old pub car park.

In my assessment this permission should follow the lines of that 2006 consent and the area of permitted curtilage allocated for the permission should take in the old car park. Effectively, that provides the applicant with a generous area that could be lawned and used as private garden, preferable to the car park's wide open area of hardstanding, it also provides opportunity for hedgerow and boundary treatment to the edge of the car park land, giving it a sense of enclosure and placement within the landscape – this was actually a condition of the 1980 planning permission but it does not appear as though it was ever complied with.

CONCLUSION / PLANNING BALANCE

There is benefit because the development would supply a home within an existing building that lends itself to that use. It would also provide opportunity to protect and introduce positive contribution to the character and appearance of the area. There is no level of harm that would significantly and demonstrably outweigh those benefits.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Ben Hurst
Recommendation Date: 08/01/2019

X B.J. Haywood

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council