Pegasus Group

PLANNING, DESIGN AND ACCESS STATEMENT

The Blacks Head Public House, High Street, Upper Tean, ST20 4DY

SEP Properties Ltd | November 2019 | P19-2511

NOVEMBER 2019 | KP | P19-2204

PLANNING APPLICATION FOR CHANGE OF USE OF THE PUBLIC HOUSE (CLASS A4) TO RETAIL (CLASS A1) AND GROUND AND FIRST FLOOR REAR AND SIDE EXTENSION; CONVERSION OF FIRST FLOOR TO CREATE 4 NO. FLATS (CLASS C3); INSTALLATION OF PLANT AND MACHINERY; AND ANCILLARY CAR PARKING AND DELIVERY AREA

PLANNING, DESIGN AND ACCESS STATEMENT

THE BLACKS HEAD PUBLIC HOUSE, HIGH STREET, UPPER TEAN, ST20 4DY

ON BEHALF OF SEP PROPERTIES LTD

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)
PLANNING AND COMPULSORY PURCHASE ACT 2004

Prepared by: Katie Priest

Pegasus Group

First Floor | South Wing | Equinox North | Great Park Road | Almondsbury | Bristol | BS32 4QL

T 01454 625945 | **F** 01454 618074 | **W** www.pegasusgroup.co.uk

Birmingham | Bracknell | Bristol | Cambridge | Cirencester | East Midlands | Leeds | Liverpool | London | Manchester | Peterborough

PLANNING | DESIGN | ENVIRONMENT | ECONOMICS

©Copyright Pegasus Planning Group Limited 2011. The contents of this document must not be copied or reproduced in whole or in part without the written consent of Pegasus Planning Group Limited

CONTENTS:

Page No:

1.	INTRODUCTION	1
2.	THE SITE AND SURROUNDING AREA	3
3.	THE PROPOSAL	6
4.	PLANNING HISTORY	10
5.	PLANNING POLICY	11

APPENDICES:

APPENDIX 1:	NEW WHITE BULL APPEAL DECISION
APPENDIX 2:	APPEAL DECISION APP/R1845/A/14/2225496 STOURPORT-ON-SEVERN

1. INTRODUCTION

1.1 Pegasus Group is instructed on behalf of SEP Properties Ltd ("the Applicant") to submit an application for planning permission at the Blacks Head Public House at High Street, Upper Tean, ST 20 4DY in conjunction with their proposed redevelopment of the site as a convenience store for Co-operative Group Food Limited on the ground floor and 4 no. residential uses on the upper floor. The proposed development is as follows:

> *"Change of use of the public house (Class A4) to retail (Class A1) and ground and first floor rear and side extension; conversion of first floor to create 4 no. flats (Class C3); installation of plant and machinery; and ancillary car parking and delivery area."*

1.2 This Planning, Design and Access Statement provides the background to the application, including details of the site and surrounding area together with the relevant planning history, policy context and detailed design of the proposal.

1.3 The main justification section then explores whether the proposal is compliant with the policies in the Local Development Plan and considers the proposal against other material considerations including the National Planning Policy Framework.

1.4 In summary, the proposal includes the change of use of the ground floor of the property to create a Class A1 convenience store, in conjunction with rear and side extensions to the property. This will facilitate the relocation of Co-op from their existing store to the east along High Street. The proposals also include first floor rear and side extensions and the conversion of the existing first floor residential accommodation associated with the public house to create 4 no. residential properties. The proposal includes the parking and delivery area to the rear of the site.

1.5 The proposed new convince store will enable Co-op to relocate their existing store and will continue to provide for the day to day shopping needs of the local population, focusing on fresh produce (e.g. fruit, vegetables and bread). The net 3 no new residential dwellings will create much needed accommodation for the area.

1.6 This planning application is accompanied by the following:

- This Planning, Design and Access Statement prepared by Pegasus Group;
- Heritage Statement prepared by Pegasus Group;
- Plans and drawings prepared by Concept Architectural Design;
- A Viability Report prepared by Fleurets;
- A Noise Impact Assessment prepared by NSL;
- A Transport Statement prepared by Pegasus Group;
- Completed planning application forms; and
- The relevant planning application fee.

2. THE SITE AND SURROUNDING AREA

2.1 The application site is located in the centre of the village of Upper Tean. It is approximately 0.1 ha and comprises the Black Head Public House, a two-storey public house which sits at the southern part of the site and fronts onto High Street. To the east are some disused, boarded up retail units, which are within the site's boundary.

2.2 The northern part of the site is occupied by the car park currently associated with the existing public house, and a range of outbuildings within the carpark area. To the east of the site, the site car park is accessed from New Road.

2.3 The application site is located within the Upper Tean Conservation Area. Upper Tean was designated in September 1998. However, the site is not a Listed Building. There are a number of Listed Buildings near to the site. These include 14, 14A and 16 High Street opposite the site and the White Hart Public House to the west.



The existing front of the site viewed from New Road (Google Streetview Aug 2011)

2.4 The existing Blacks Head public house is two storey and fronts directly onto High Street. It comprises a 19th century public house. To its west is a single storey chiropody surgery. This is excluded from the boundary of the site. There are single storey retail units to the east of the public house. These are dilapidated and have not been used for many years. These buildings are included within the site area.



Dilapidated outbuildings to the front of the site (Google Streetview Aug 2011)

2.5 To the front of the site on High Street is a parking bay which permits parking for 30 minutes from 8am to 6pm. To the west and east of the site along High Street on either side of the site are two storey dwelling houses. Across High Street, to the south east, is the four storey former mill building associated with industry within Upper Tean.

2.6 To the east, along High Street, are a number of retail premises including the existing Co-op convenience store and Tean Post office among others. As such, the site is located within the centre of the village, close to the various services and retailers.

2.7 The rear of the site comprises a single storey extension to the pub, a number of outbuildings, a covered pub garden area and informal car parking. Vehicular access to this part of the site is taken from New Road to the east.



The existing site from the rear (Google Streetview June 2016)

2.8 The site is located within Flood Zone 1, which has the least chance of flooding.

3. THE PROPOSAL

3.1 This Statement relates to the following description of development:

> *"Change of use of the public house (Class A4) to retail (Class A1) and ground and first floor rear and side extension; conversion of first floor to create 4 no. flats (Class C3); installation of plant and machinery; and ancillary car parking and delivery area."*

3.2 The proposals involve a number of different elements to facilitate the conversion and change of use of the building to accommodate a Co-op convenience store and residential units on the upper floor.

3.3 The existing main public house building will be retained at ground and first floor fronting onto the street. This will retain the site's existing presence in the streetscene. However, it is proposed to demolish the existing single storey retail buildings to the east and redevelop this part of the site to accommodate a new one and two storey extension. This part of the site will be of modern design, using modern materials to delineate the difference between the older part of the existing Public House and the new building. The main shopfront and entrance to the ground floor convenience store will be contained within the new extension to the east.

3.4 To the rear of the site, the existing building will be extended at ground floor level to accommodate the requirements for the retail unit. This new rear extension will be located on the pub garden area and on the existing informal car park area to the rear.

3.5 The ground floor extension and change of use to Class A1 will create a retail area of 400 sqm gross floorspace. This will comprise 139 sqm back of house and 261 sqm of retail sales and lobby area.

3.6 The upper floor will be rearranged, and will include side and rear extensions to facilitate 4 no. new residential units. This will be a net gain of 3, as the existing first floor is used for residential accommodation of the public house managers currently. The proposed new accommodation at first floor level will comprise:

- Unit 1 – 2 bedroom, 85 sqm;
- Unit 2 – 2 bedroom, 58sqm;

- Unit 3 – 2 bedroom, 64 sqm; and
- Unit 4 1 bedroom, 47 sqm.

3.7 The new extensions to the front and rear at ground and first floor level have been designed using modern materials. The ground floor will comprise red multi bricks with new aluminium framed shopfront and entrance doors finished in grey. There will be a signage fascia band running along the shopfront. At first floor level, at the front, western elevation and part of the rear, the new extension will be clad with composite planks, laid horizontally in a shiplap formation for a timber effect. The first floor eastern elevation of the site and part rear of the extension will be finished with smooth monocouche render, coloured white.

3.8 On the front elevation, at first floor level, the new windows will be whit uPVC, styled to match the existing windows of the public house. The first floor windows to the side and rear elevations will also be white uPVC.

3.9 The new roof areas will comprise pre-formed metal flashing details finished in grey.

3.10 The rear pub garden and informal car parking area will be rearranged to formalise customer parking and also allow for off-road deliveries via this area. There will be 17 formal parking spaces created for the new store. 1 of these spaces will be to accommodate disabled customers. In addition, there will be an area for cycle storage for the store to the front of the new extension.

3.11 The rear car parking and servicing area will also include 3 no. parking spaces for 3 of the new residential units on the upper floor of the premises and dedicated cycle and bin storage for the residential uses.

3.12 Accordingly, including the retail and residential spaces, there will be 20 new car parking spaces within the rear area.

3.13 The proposals include the creation of a new area for plant to serve the retail unit, located to the west of the site. At this stage, full details of the plant required and proposed are not known. However, a noise impact assessment has been provided which sets out relevant noise limits that should be adhered to when plant is being designed, in order so that plant does not harm residential amenity.

4. THE CO-OPERATIVE GROUP

4.1 The proposal by SEP Properties Ltd is to facilitate the development to allow Co-op to occupy the site as a convenience store and relocated from their existing store located just to the east along High Street, to improve the facilities and offer to the local community. Co-operative Group (which includes Co-op Food) is a different kind of business. It is owned by over 4 million individual members who decide how the business is run. Unlike conventional businesses with shareholders, the Co-op re-invests its profits in its members and in local communities.

4.2 The Co-operative Group was formed in Rochdale in 1844 and now provides the following services: food retail, funeral care, insurance, legal services, and digital services. Co-op Food operates over 2,700 foodstores throughout the UK and employs over 61,000 people. It recently won the prestigious 'Retailer of the Year' at the 2019 Grocer's Awards.

4.3 Co-op Food is the only food retailer supermarket in the UK to sell 100% British meat and is the UK's leading supporter of Fairtrade. The Co-op was the first retailer to sell Fairtrade bananas in the UK, and now the entire range of Co-op own brand hot beverages are also Fairtrade. Other Co-op initiatives include a partnership with the One Foundation, which has raised £7m from sales from Co-op's Fairbourne Springs bottled water, which has supported 1.5 million people over 10 years, through water, hygiene and sanitation projects in Africa. For every litre of Fairbourne Springs bottled water which is purchased, 3p is donated.

4.4 The Co-op's Membership scheme contributes 1% from the sale of all own-brand purchases to local charities, which are selected by Members and rotated every six months. Furthermore, 5% of the cost of all own-brand purchases is returned to customers to spend on future shopping trips. As a result, the wider community will directly and indirectly benefit from a new Co-op store. So far in 2019, the Co-op has donated £19m to local causes through this Membership scheme.

A Co-op Convenience Store

4.5 The proposal is for a Co-op convenience store. The Local Shop Report 2016[1] defines a convenience store as a 'modern local shop'. A convenience store is typically characterised as follows:

[1] A report published by the Association of Convenience Stores

- Open for long hours, usually seven days a week, and not subject to restrictions under the Sunday Trading Act – this reflects current lifestyle trends and the modern expectation that people can shop early in the morning and late into the evening;
- Occupying small premises;
- Providing a 'basket' or 'top-up' shopping trip rather than 'trolley' or 'main' food shop;
- The average spend is £6.13;
- The average shopper visits their local store 3.6 times per week;
- Shoppers typically live within a quarter of a mile of their local store; and
- The majority of shoppers travel to the store by foot.

4.6 Typical products include fresh fruit, vegetables and meat; bread and other bakery products; freshly prepared ready meals; as well as a limited supply of household items (such as nappies, cleaning products; toiletries etc).

4.7 The 'convenience' nature of shopping and the limited size of store means that the turnover of produce is rapid, resulting in the need for a daily supply of fresh products.

4.8 Deliveries are normally undertaken during trading hours and can be scheduled to avoid any particularly sensitive times or nearby uses, such as schools, if necessary.

4.9 An important distinction between a convenience store and a traditional supermarket is that a convenience store does not offer a 'one-stop-shop' meaning that very often shoppers will need to go elsewhere to complete their shopping trip. In this regard, a Co-op convenience store will complement, rather than compete with, existing local traders or services, providing considerable potential for linked trips and other spin-off trade, which often are to specialist or independent retailers.

4.10 A typical Co-op convenience store employs 20-25 people in both part-time and full-time roles. However, only a small number of staff are working at any one time.

5. PLANNING HISTORY

5.1 There is limited planning history at the site. The planning history that does exist relates mainly to the redevelopment of the vacant shop units which are situated at the south west of the site fronting onto High Street. The planning history is set out below:

5.2 Planning permission **SMD/2008/1050** and associated Conservation Area Consent **SMD/2008/1051** were approved at No. 15 High Street in 2008. These permitted the demolition of the derelict retail units and the erection of three terraced houses, with a single storey extension to the public house.

5.3 In 2011, application **SMD/2011/1001** was permitted to renew the demolition of the retail units and the erection of the previously granted three terraced houses and single storey extension of the pub.

5.4 The applications listed above expired prior to their implementation. However, they illustrate that the demolition of the retail units and their redevelopment has previously been considered to be acceptable at the site.

6. PLANNING POLICY

National Planning Policy

The National Planning Policy Framework (February 2019)

6.1 The overarching policy principle applicable to the proposed development is the presumption in favour of sustainable development (the 'presumption'). This sets the tone of the Government's overall stance and operates with and through the other policies in the National Planning Policy Framework (NPPF). Its purpose is to send a strong signal to all those involved in the planning process about the need to plan positively for appropriate new development; so that both plan making and development management are proactive and driven by a search for opportunities rather than barriers for the delivery of sustainable development.

6.2 The NPPF sets out the Government's economic, environmental and social planning policies for England. Taken together, these policies articulate the Government's vision of sustainable development, which should be interpreted and applied locally to meet local aspirations. The NPPF continues to recognise that the planning system is plan-led and that therefore Local Plans, incorporating Neighbourhood Plans, where relevant, are the starting point for the determination of any planning application, including those which relate to the historic environment.

6.3 The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF sets out three 'objectives' to facilitate sustainable development: an economic objective, a social objective, and an environmental objective. The presumption is key to delivering these objectives, by creating a positive pro-development framework which is underpinned by the wider economic, environmental and social provisions of the NPPF. The presumption is set out in full at paragraph 11 of the NPPF and reads as follows:

> *"Plans and decisions should apply a presumption in favour of sustainable development.*
>
> *For plan-making this means that:*
>
> *plans should positively seek opportunities to meet the development needs of their area, and be sufficiently flexible to adapt to rapid change;*

strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

For decision-taking this means:

approving development proposals that accord with an up-to-date development plan without delay; or

where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

iii. the application policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

iv. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

6.4 However, it is important to note that footnote 6 of the NPPF applies in relation to the final bullet of paragraph 11. This provides a context for paragraph 11 and reads as follows:

"The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats;

> *designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63); and areas at risk of flooding or coastal change." (our emphasis)*

6.5 The NPPF continues to recognise that the planning system is plan-led and that therefore, Local Plans, incorporating Neighbourhood Plans, where relevant, are the starting point for the determination of any planning application.

6.6 **Paragraph 80** of the NPPF confirms that the planning system should facilitate condition in which businesses can invest, expand and adapt. It goes on to state:

> *"significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development."*

6.7 Section 7 of the NPPF relates to ensuring the vitality of town centres. Paragraph 85 confirms that in regard to town centres, policies and decisions should take *"…a positive approach to their growth, management and adaptation."*

6.8 Section 8 of the NPPF deals with promoting healthy and safe communities. This section recognizes the importance of community facilities and their role in promoting healthy, inclusive and safe communities.

6.9 At Paragraph 92 of the NPPF, it states that local authorities should plan positively for community facilities (including shops) which enhance the sustainability of communities. Point 92. d) states that local authorities should:

> *"ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community…"*

6.10 Heritage Assets are defined in Annex 2 of the NPPF as:

> *"A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the Local Planning Authority (including Local Listing)"*

6.11 The NPPF goes on to define a Designated Heritage Asset as a:

> *"World Heritage Site, Scheduled Monument, Listed Building, Protected Wreck Site, Registered Park and Garden, Registered Battlefield or Conservation Area designated under relevant legislation[2]" (our emphasis)*

6.12 As set out above, significance is also defined as:

> *"The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site's Statement of Outstanding Universal Value forms part of its significance[3]"*

6.13 Section 16 of the NPPF relates to 'Conserving and enhancing the historic environment' and states at paragraph 190 that:

> *"Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal"*

6.14 Paragraph 192 goes on to state that:

> *"In determining planning applications, local planning authorities should take account of:*
>
> *a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*

[2] NPPF Annex 2, DCLG, 2018
[3] IBID

b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

c) the desirability of new development making a positive contribution to local character and distinctiveness"

6.15 With regard to the impact of proposals on the significance of a heritage asset, paragraphs 193 and 194 are relevant and read as follows:

"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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;

b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional"*

6.16 Section b) of the above describing assets of the highest significance also includes footnote 63 of the NPPF, which states that non-designated heritage assets of archaeological interest which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.

6.17 In the context of the above, it should be noted that paragraph 195 reads as follows:

"Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

a) the nature of the heritage asset prevents all reasonable uses of the site; and

b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and

c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and

d) the harm or loss is outweighed by the benefit of bringing the site back into use"

6.18 Paragraph 196 goes on to state:

"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use"

6.19 The NPPF also provides specific guidance in relation to development within Conservation Areas, stating at paragraph 200 that:

"Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably."

6.20 Paragraph 201 goes on to recognise that *"not all elements of a World Heritage Site or Conservation Area will necessarily contribute to its significance"* and with regard to the potential harm from a proposed development states:

> *"Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 195 or less than substantial harm under paragraph 196, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole" (our emphasis)*

6.21 In summary it can be seen from the NPPF that not only does it provide a sound platform on which to promote economic growth, but a clear and demonstrable harm has to be demonstrated for a planning application to be refused.

Local Planning Policy

6.22 The adopted Development Plan comprises the Core Strategy (March 2014) and other adopted Area Action Plans and Neighbourhood Plans. There is no adopted Area Action Plan for the area in which the site is located. The site is located within Checkley Parish Council area which has a Neighbourhood Plan designation, but this Neighbourhood Plan has not yet been drafted and is therefore not in place.

6.23 In addition to the adopted Core Strategy, the Local Plan 2016-2031 is at a relatively advanced stage, having undergone examination. However, this is now subject to further consultation to modifications. As such, adoption is likely to be in spring 2020.

6.24 Therefore, the adopted development plan comprises the adopted Core Strategy, with the emerging draft Local Plan holding weight, but reduced weight in comparison to the Core Strategy.

Adopted Core Strategy (March 2014)

6.25 **Policy TCR1** seeks to protect town centres and requires the sequential test to be applied for town centre uses, outside of the three designated town centres of Leek, Biddulph and Cheadle. It is important to note that there are no designated district

or local centres within the retail hierarchy. As such, only the three named centres are designated as 'town centres'.

6.26 **Policy TCR2** relates to retailing outside of town centres. This states that in larger villages identified in Policy SS6a (which includes the village of Upper Tean), new or extended convenience stores of up to 500 sqm gross will be supported where they complement and do not adversely impact on the vitality and viability of designated town centres. This policy therefore supports the development of a new convenience store in this location.

6.27 **Policy SD1** relates to the sustainable use of resources. This policy supports proposals which are sustainably located and use previously developed land. This policy also (inter alia) supports proposals where energy use is minimised and where construction materials are reused.

6.28 **Policy H1** seeks high quality and sustainable housing within the district. The policy supports (inter alia) proposals for development which are appropriately located and of an appropriate density; which represent windfall development of up to 9 dwellings in the larger villages (such as Upper Tean); and which satisfactory address amenity and privacy levels.

6.29 **Policy DC1** relates to design considerations. This seeks well designed development which reinforces local distinctiveness. Development will be expected to be (inter alia):

- of high quality and add value to the local area;
- use materials which are appropriate to the area's character;
- be designed to respect the site and surorundigns and promote the positive sense of place;
- protect amenity;
- provide safe access and a required level of car parking; and
- provide equality of access.

6.30 **Policy C1** relates to creating sustainable communities. This seeks to resist proposals which result in the loss of community facilities unless:

i. An alternative facility of the same type is available, or can be provided in the same locality; or

ii. A viability appraisal, including a marketing exercise demonstrates there are no viability options for the continued use of the premises as a community facility and that the loss of the facility would not disadvantage local residents.

Emerging Local Plan 2016-2031

6.31 As noted above, this is at an advanced stage, and likely to be adopted in 2020. Therefore, this the emerging policies within this plan carry a degree of weight.

6.32 **Emerging Policy TCR1** is essentially the same as adopted TCR1, only identifying 3 designated town centres (Leek, Biddulph and Cheadle), and requiring the sequential test for retail proposals outside of a designated centre.

6.33 **Emerging Policy TCR3** relates to retail and town centre uses outside of designated centres at 200 sqm or more. This confirms that any proposal of more than 200 sqm (net) will require a sequential test and impact assessment.

6.34 **Emerging Policy DC1** relates to design considerations and seeks well-designed places which reinforce local distinctiveness.

6.35 **Emerging Policy DC2** refers to the historic environment. Proposals should enhance heritage assets and their setting, appropriate to their significance. This policy promotes development which sustains, respects or enhances the character or appearance of a Conservation Area.

6.36 **Emerging Policy C1** relates to creating sustainable communities. This is very similar to adopted Policy C1, although it also confirms that in the case that there is no alternative facility in the locality and the absence of a viability report, there is provision for the change of use from a community facility to another, with consideration given as to the respective benefits of both the existing and proposed community uses and their contribution to the community's ability to meet its day to day needs.

7. PLANNING ASSESSMENT

7.1 This Section of the Statement assesses the acceptability of the proposals against the following key considerations:

a) *The loss of the existing public house;*

b) *The fall-back position;*

c) *The principle of development – retail;*

d) *The principle of the development – residential;*

e) *The impact on residential amenity;*

f) *Parking and highways issues; and*

g) *Other issues.*

7.2 Each of these issues will be considered in turn.

a) <u>The loss of the existing Public House</u>

7.3 The Blacks Head is an existing public house located on High Street in Upper Tean. It is currently still trading, albeit poorly. Given that this application seeks to change the use and extend the building to enable its occupation by a convenience store and to extend the site on the upper floor to facilitate 4 new flats, the loss of the existing pubic house should be considered.

7.4 Attached at Appendix 1 is a relevant appeal decision at the New White Bull in the Broxtowe Local Authority area.

APPENDIX 1 – NEW WHITE BULL APPEAL DECISION

7.5 In the policy context in which the appeal at the New White Bull was considered, there were no policies at a local level which restricted the loss of community facilities or public houses. As such, in his consideration of the New White Bull, the Inspector considered it prudent to assess the loss of a community facility against Paragraph 70 of the NPPF. It should be noted that this reference is to a previous version of the NPPF (2012 version). Paragraph 70 of the 2012 NPPF stated (inter alia):

> *"To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should: …*
>
> - *guard against unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs…"*

7.6 The NPPF does not define what constitutes a "valued facility".

7.7 This is relevant, as Paragraph 92 of the up-to-date NPPF (February 2019) is worded almost identically to the now superseded Paragraph 70 from the 2012 NPPF. Paragraph 92 of the 2019 NPPF states:

> *"To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:…*
>
> a) *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…"*

7.8 As such, it is considered that the Inspector's comments with regard to Paragraph 70 of the 2012 NPPF can be given weight in respect of Paragraph 92 of the 2019 NPPF.

7.9 The Inspector's Decision at The New White Bull gives consideration as to whether that public house was considered to be such a valued facility. He considers submissions from the local community who consider the public house to be a well-used facility and meeting place for community groups (paragraph 13).

7.10 However, the Inspector then goes on to consider an Independent Viability Study submitted by the appellant at The New White Bull. The Inspector notes that this indicates (at paragraph 14):

> *"… that the business, which appears to have been trading as a predominantly 'wet led' public house had been struggling in recent years, due to declining beer and spirit sales and competition in the local area. This evidence, which is not disputed by the Council, therefore casts doubt on the suggestion*

that The New White Bull was in fact a well-used and valued community facility."

7.11 The Inspector weighs up the evidence of the independent viability study with regard to the value of the facility at paragraph 15 of the appeal decision. He concludes that the findings of the viability study demonstrate

"… that the value of the public house as a community asset has been in decline for some time…"

7.12 The circumstances at the Blacks Head are similar to that at the New White Bull. However, the Blacks Head is still in operation, albeit it has trading poorly for many years.

7.13 The marketplace for public houses is known to have suffered considerably in the past 12 years. The impact of the 2007 credit crunch and subsequent double dip recession has had a significant impact on the viability and trading conditions of public houses generally. The recession has led to a general difficulty in achieving finance for public houses, limiting the ability of purchasers of public houses to raise necessary finance. This is particularly the case in poorly trading and non-profit making establishments such as the Blacks Head.

7.14 Although economic conditions have improved, notwithstanding economic uncertainty of Brexit, there is still extreme caution from investors in public houses. Where there is no evidence of a sustained level of proven trade and profit, lenders will usually not provide funding unless there is an alternative security. Whereas multiple site pub/restaurant operators can trade profitably, these operators usually only pursue large sites in destinations where potential sales of at least £20,000 per week net of VAT can be achieved. The Blacks Head is a small, neighbourhood public house which is not capable of attracting a larger pub/restaurant multiple or providing the required amount of sales to be attractive to such operators.

7.15 The Inspector at The New White Bull Inn also gave consideration to alternative facilities in close proximity. In undertaking a similar exercise with regard to the Blacks Head, there are a number of alternative local facilities within walking distance. These are set out below:

- White Hart Inn, located just to the west of the Blacks Head;

- The Cross Keys, located to the north of the Blacks Head on Cheadle Road within easy walking distance;
- The Dog & Partridge in Lower Tean, c 1.1km to the south of the site;
- The Anchor Inn, c 1km to the north; and
- The Ship Inn, c1.1km to the north of the site.

7.16 Therefore, there are a number of alternative public houses and similar offering a wide choice within the local area, within walking distance. These overlap with the service previously provided by the Blacks Head and ensure this type of community facility is retained within reducing the community's ability to meet is day-to-day needs. Thus, this demonstrates compliance with Paragraph 92 of the NPPF.

7.17 Adopted Policy C1 is also relevant to this proposal at a local level. This confirms that proposals which propose the loss of community facilities will be resisted unless the following can be demonstrated:

> *"i. an alternative facility of the same type is available or can be provided in an accessible location in the same locality; or*
>
> *ii. a viability appraisal including a marketing exercise by a qualified professional demonstrates that there are no options for continued use as a community facility which are financially viable and it can be demonstrated that loss of the facility would not disadvantage local residents."*

7.18 As such, this proposal has to demonstrate either that it meets criterion i. or criterion ii. There is no requirement to demonstrate compliance with both criteria to be compliant with policy. However, this proposal can demonstrate that it is compliant with both criteria of this policy.

7.19 As set out above at paragraph 7.16 above, there are a number of alternative facilities of the same type surrounding the site. The White Hart in particular is located just to the west of the site and provides an alternative facility of the same type in the site's immediate vicinity. There are also 4 other alternative facilities in less than a mile distance from the site, providing viable alternatives.

7.20 In respect of this submission is a Viability Report is included which has been prepared by Fleurets Birmingham. This assesses the market conditions for public houses generally, as well as the specific market conditions in which the Blacks Head currently trades. The report also considers the condition of the existing building and the viability of the use as a whole.

7.21 The Viability Report does not contain current trading figures due to confidentiality and privacy concerns regarding the site's current occupancy, but does consider the wider viability considerations for the site. However, if the Council considers it necessary, the applicant can provide the current trading figures for the site on a private and confidential basis for officers to consider during their assessment of the proposals.

7.22 The Viability Report concludes that the Blacks Head does not have a credible or economically sustainable future based upon continued trading as a public house. This is due to the site's location, size, presentation and facilities, as well as its known recent trading history and external factors which are impacting on the performance of local community public houses, as well as the local competition in Upper Tean.

7.23 As such, the proposal is compliant with both criteria of adopted Policy C1 relating to community facilities.

7.24 It is noted that emerging policy C1 is very similarly worded to adopted Policy C1, albeit, this emerging policy also confirms that where there is a proposal for a change of use from one community facility to another, consideration will be given to the respective benefits of both the existing and proposed community uses and their contribution to the community's ability to meet its day to day needs.

7.25 In respect of the proposed new convenience store being a community facility, it is noted that the Inspector at Paragraph 18 of the appeal decision at the New White Bull also considers that the provision of a convenience foodstore is in itself a "valued" facility which should be taken into consideration. He acknowledges:

> *"...the appeal scheme would actually improve the level of service provision and provide a clear social benefit to the local community."*

7.26 Similarly, the wording of adopted Policy TCR2 acknowledges that the local authority will be supportive of new and extended convenience stores in the larger villages, including Upper Tean where they enable a community to meet their day-to-day needs. This policy supports development of convenience stores of up to 500sqm gross. As such this policy is supportive of such uses and acknowledges the benefits of the service that they provide.

7.27 As has been detailed above, there is only one convenience store within Upper Tean, the existing Co-op which is intended to be relocated as a result of this proposal. Given that there are five nearby public houses offering a similar service to the existing public house, it is considered that in respect of the emerging Policy C1 and the relative benefits of the community uses proposed, the relocated and enhanced convenience store will have a greater benefit for the community in being able to meet its day to day needs.

7.28 As such, effectively this proposal is continuing to use the site as a community facility albeit a different type of community facility, to facilitate the relocation of Co-op to a much improved store to enhance the offer provided for the local community. This will enhance the infrastructure and well-being of the local community. The merits of the proposed use will be considered later in this statement. However, in respect of the replacement of one community facility for another, the proposal is in accordance with paragraph 92 of the NPPF, adopted Policy C1 of the Core Strategy and emerging Policy C1.

b) The fall-back position

7.29 Given the established and lawful use of the site a public house (Class A4), the potential for this use to be continued and the implications of this should be considered as a fall-back in assessing the current development proposals. There are no known conditions in planning terms which would restrict the use of the site as a public house, or which would present constraints to the site in terms of parking, delivery hours or hours of operation. Therefore, the established lawful use of the site as a public house could operate for 24 hours a day and could receive deliveries at times which may be considered to be anti-social in the local area. This lack of restriction in terms of deliveries and operating hours remains the case if the fall-back position were to be implemented i.e. a public house which can operate without restriction for 24 hours a day without control.

7.30 On 20th January 2015, an appeal decision was issued that confirms that where a fall-back is present, significant weight must be afforded to it. The appeal decision, relating to the Squirrel Inn at Areley Common, Stourport-on-Severn is attached at Appendix 2.

APPENDIX 2 – APPEAL DECISION APP/R1845/A/14/2225496 STOURPORT-ON-SEVERN

7.31 The appeal scenario at Areley Common was for the following development on behalf of Tesco:

> *"Demolition of existing outbuildings and porch on front entrance, erection of single storey extension (189 square metres gross) to the rear of existing public house, installation of plant and enclosure, replacement shop front to front elevation and external alterations to create a Class A1 convenience store (357 square metres gross)."*

7.32 Whilst the proposals to facilitate Co-op's occupation of the Blacks Head as a convenience store are different to that for Tesco at The Squirrel Inn, the issue of a fall-back position was considered in detail by the Inspector for the Tesco appeal and this is relevant to the current proposals.

7.33 In her consideration of the impact of the appeal scheme on the amenity of local residents (the main issue for this appeal), the Inspector concluded that the proposal would have a *"significant adverse impact on the living conditions and general amenity of local residents in terms of disturbance"* with regards to (in this case) traffic impacts which would conflict with adopted policy. However, the Inspector states that she is required to take the fall-back position into account in her assessment of the appeal scheme. At paragraph 17, she states:

> *"... I am obliged to take into account, is what else can be done with the land/premises without the need for planning permission i.e. the fallback position.* ***The Courts have held that the fall back does not have to be probable, or even have a high chance of occurring****. Rather, in order to be a material consideration, a fall back only has to be more than a merely theoretical prospect. While the likelihood of the fall back occurring may affect the weight to be attached to it, that does not affect its status as a material planning consideration. Even where the possibility of the fall back position*

> *happening is very slight indeed, or merely an outside chance, that is sufficient to make the position a material consideration."* **[Our emphasis]**

7.34 At The Squirrel Inn, Tesco submitted plans demonstrating how they could occupy the site utilising the fallback position and therefore that the fallback position was a reasonable prospect. The fallback position Tesco presented included occupying the site without an extension and occupying the site with an extension once the retail use had been implemented as permitted under (the then relevant) Part 42 of Schedule 2 to The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010 and 2013.

7.35 The Inspector accepted these scenarios as demonstrating a "robust" and credible fallback alternative which could be implemented if the appeal failed. Accordingly, at paragraph 19, the Inspector states:

> *"For significant weight to be afforded to a fall back position, there needs not only to be a reasonable prospect of it being carried out in the event that planning permission was refused, but it would need to be equally or more harmful than in the scheme for which permission is sought. In this regard, the fall back arrangement would not be controlled by any planning conditions. The appellant's highways evidence demonstrates that the retail floorspace in the fall back arrangement would be likely to result in very similar two-way movements during the busiest peak hour to that associated with the proposed development. However, in the event that the appeal should succeed, a number of conditions are proposed in relation to the scheme proposed that would offer control over matters such as delivery times, delivery size and opening hours...."*

7.36 Therefore, the Inspector considered that the fall-back would give rise to harm in relation to noise and disturbance. The degree of harm was assessed to be greater than that caused by the appeal scheme, where these impacts could be mitigated. Therefore, the Inspector considered the fall-back position to have significant weight, with the appeal scheme having significant benefits when considered against the fall-back. The Inspector concludes:

> *"Having in mind well established case law, that consideration outweighs the harm in terms of noise and disturbance arising from commercial and customer vehicle movements that would be associated with development proposed."*

7.37 Accordingly, this appeal decision confirms the approach taken by the applicant, that the fall-back position in relation to the continued lawful use of the site as a public house is an important material consideration that must be assessed by the Council in considering the application before them.

c) <u>The Principle of Development - Retail</u>

<u>Retail Issues</u>

7.38 In assessing the principle of development, the most relevant policies are those contained within adopted Core Strategy 2014, in particular Policies TCR1 and TCR2.

7.39 Policy TCR1 sets out the retail hierarchy within Staffordshire Moorlands District. This policy designates only the three main town centres in the district as "town centres" as would be defined by the NPPF. These are Leek, Biddulph and Cheadle. This policy does not designate any other centres within the retail hierarchy, i.e. district or local centres. The nearest designated centre to Upper Tean is Cheadle, approximately 4km away

7.40 However, adopted Policy TCR2 relates to retailing outside of the designated town centres. This policy confirms that in the larger villages identified in Policy SS6a (including Upper Tean), the Council will be supportive of new or extended convenience stores of up to 500 sqm gross where they would not adversely impact on the vitality and viability of the town centres.

7.41 With regard to the site, the proposal is for a town centre use in what is acknowledged to be outside of a designated town centre or edge-of-centre, albeit the site is located within the centre of Upper Tean, which is designated as a Larger Village and where there are a number of town centre uses and services clustered around the site's immediate vicinity. The site is located in part of Upper Tean which effectively acts as a local centre.

7.42 The proposal is fully compliant with Policy TCR2, in that the proposal would result in 400 sqm gross Class A1 retail floorspace. TCR2 is supportive of proposals of up

to 500 sqm gross. It should be acknowledged that the proposal will create 152 sqm of additional town centre floorspace. The existing site contains 248 sqm of Class A4 and Class A1 floorspace. Therefore, this floorspace will be converted or redeveloped into the Class A1 convenience store.

7.43 The impact assessment requirement is contained at Paragraph 89 of the NPPF 2019. This confirms that for retail development in out of centre locations *"…local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m^2 of gross floorspace)".* Given that there is no locally set threshold, and the local policy defers to the NPPF, the default threshold of 2,500m^2 is applicable in this instance. The proposal is for 400 sqm (152 sqm net) town centre floorspace. As such, this is lower than the threshold where an impact assessment is required by the NPPF and as such, one is not provided. Therefore, the site is compliant with the relevant part of Policy TCR2, in that it satisfies the requirements for an impact assessment as set out by national policy and guidance.

7.44 However, it is acknowledged that emerging Policy TCR3 relates to town centre uses outside of town centres and requires an impact assessment for such uses of more than 200 sqm net. This policy has undergone consultation and examination. As such, it holds some weight for development control purposes, although less weight than adopted Policy TCR2, to which it contradicts

7.45 With regard to assessing the proposal against emerging Policy TCR3, the existing ground floor public house and attached retail floorspace is 248 sqm gross (excluding the first floor and basement). The proposals for change of use and the ground floor extension will result in retail floorspace of 400 sqm. This will comprise 139 sqm back of house and 261 sqm of retail sales and lobby area. This will be a 152 sqm increase on the existing town centre (Class A4 and Class A1) floorspace already existing at the site. Therefore, the new net town centre floorspace to be created as a result of the proposals is 152 sqm. This is less than the 200 sqm net floorspace which is the threshold for the impact assessment as set out in emerging Policy TCR3. As such, an impact assessment is not required for this proposal (notwithstanding that adopted Policy TCR2 holds more weight and is permissive of new and extended convenience floor retailing in Upper Tean of up to 500 sqm).

7.46 Whilst the proposal for redevelopment of the site falls outside of an identified Town Centre, the proposal is very small-scale and is proposed to only serve the local catchment area. The profile of customers will comprise those living nearby who will generally walk to the store to undertake their regular top-up shopping, possibly as a linked trip with nearby community or retail uses. It is considered that there are no nearby, designated retail centres that would be impacted by the proposal.

7.47 Retail issues, including a Sequential Test are considered further in the accompanying Sequential Sites Assessment document. This document demonstrates that the proposal passes the sequential test in accordance with the NPPF. As such, the proposal is compliant with adopted Policy TCR1.

Impact on local shopping facilities

7.48 The site is located adjacent to a number of local shopping and similar facilities such as hair-dressers, bakeries and take-aways which provide a service to the local community. None of these existing services are within a designated centre and therefore are not afforded any policy protection at either a local or national level. Nevertheless, it is considered that the proposed relocated and extended Co-op convenience store would have a beneficial impact on these uses, given it will provide a focus for linked-trips in the local area. The existing Co-op convenience store already provides this service and co-exists with these existing facilities.

7.49 It is noted that the appeal decision at The New White Bull Inn (at Appendix 1) considered this issue, given that the harm to viability of local shopping facilities was identified as a reason for refusal. In this respect, the Council were concerned that the proposed new convenience store would harm existing retailers due to the potential to overlap with goods sold. However, at paragraph 24, the Inspector concludes:

> *"…it has been long established that the prevention of competition between nearby retailers is not a legitimate planning objective. Whilst I appreciate that there may be a limited degree of overlap between the existing and proposed businesses, the appeal proposal could increase choice and range of goods … with the potential for linked trips with nearby shops and services…The submissions overall do not indicate any significant adverse impact on the vitality and viability of local services…"*

7.50 There is limited convenience retail provision within the site's 800m walking catchment, aside from the existing Co-operative Store which is proposed to be relocated. The shops and similar town centre services which are present within the catchment area are listed below:

- Field Funeral Directors, High Street;
- Beautiful Homes Kitchen and Bedroom Studio, Hallyard Buildings, High Street;
- S.J. Eardley Family Butcher, High Street;
- The Village Bakehouse, Cakes and Confectionaries, High Street;
- Tean Post Office, High Street;
- Shades Hair and Beauty, High Street;
- Mandy's Special Occasion Cakes, High Street;
- Ru Yi Chinese Take-away, High Street;
- Tean Pharmacy, High Street;
- The White Hart Public House, High Street;
- Tean Fish Bar, New Road;
- The Cross Keys Public House, Cheadle Road; and
- Kiosk at Tean Service Station, Draycott Road.

7.51 It can be seen from the shops and services listed above, that there is no similar offer to Co-op, other than the existing Co-op. As such, the existing Co-op is the main provider of general day-to-day convenience goods to meet the needs of the local population within the village.

7.52 The sites identified serve very different purposes to the proposed relocated convenience store. Therefore, it is considered that there will be a very limited degree of overlap in terms of catchment and provision.

7.53 As paragraph 24 of the appeal decision at Appendix 1 acknowledges "*…competition between nearby retailers is not a legitimate planning objective*", it is considered that the offer is sufficiently different and the catchment areas also different to ensure that both retailers can operate without causing harm. As such, in respect of this issue, the proposal is acceptable.

Impact on town centre viability

7.54 This is dealt with above and in the Sequential Sites Assessment accompanying this application. Given the magnitude of the development proposed and the designated catchment area, which extends to 800m from the site and encompasses the village of Upper Tean only, it is considered that the proposal is compliant with Policy TCR2 and emerging Policy TCR3 in that it will not harm the vitality and viability of nearby designated town centres and does not require an impact assessment.

7.55 The likely impact of the proposals on the designated town centres is considered to be nil.

7.56 Due to the nature of the use, and the existing specific catchment area that is served by the existing Co-op that will be relocated, the vitality and viability of the designated Town Centres within Staffordshire Moorlands District will not be impacted as a result of the proposals.

7.57 Cheadle is outside of the site's catchment area at 4km away from the site. Other designated centres within Staffordshire Moorlands are Leek, which is approximately 17km from Upper Tean and Biddulph which is approximately 21km from Upper Tean. It is not considered that these designated centres would be in any way impacted by the proposed new Co-op at Upper Tean, which is specifically designed to serve the Co-op's existing localised catchment within Upper Tean itself, of 800m.

7.58 As such, the proposal will not harm the vitality and viability of the designated town centres, in accordance with Policy TCR2.

d) The Principle of Development - Residential

7.59 The proposal also seeks permission for the change of use of the first floor, together with small side and rear extensions to the first floor to residential (Use Class C3) comprising 4 No flats. This will be a net increase of 3 no residential uses, over the existing manager's flat above the pub.

7.60 The general presumption of the NPPF is in favour of sustainable development and encouraging the delivery of homes of a high quality design. It also supports reusing previously developed land. Accordingly, residential development is considered acceptable in principle in this location, using the first floor of the public house, and utilising previously developed land for residential development.

7.61 Residential development is considered to be an appropriate use for the site, given that the surrounding area predominantly comprises a mixture of retail services, interspersed with residential dwellings, with terraced housing adjacent to the east of the site and elsewhere in the site's vicinity. The Council also is supportive of new housing delivery, evidenced by Policy H1 of the Core Strategy and emerging policies in the draft Local Plan.

7.62 Local policy H1 acknowledge that windfall residential sites of up to 9 dwellings in the larger villages (including Upper Tean) can assist with the housing delivery of the district. As such, these 4 No. new dwellings (net 3 new dwellings) will contribute to the housing requirements of the local area.

7.63 The proposed new dwellings include 3 no. 2 bedroom flats and 1 no. 1 bedroom flat. This provides a mix of housing, providing choice and suitability for a range of different occupiers. All of the new dwellings are of good size and provide a good standard of amenity and privacy for their future occupiers.

7.64 Given that this proposal is for 4 no. flats, (3 no. net), there is no required for affordable housing; this would apply for 10 or more dwellings. Therefore, no affordable housing is proposed.

7.65 It is noted that the residential accommodation has previously been approved on this site by way of applications SMD/2008/1050 and SMD/2011/1001, which permitted the redevelopment of the retail units on site to create 3 no. terraced houses. These permissions have subsequently expired. Nevertheless, they demonstrate that this is an appropriate site for residential development. It is noted that both these applications also approved an extension to the public house.

7.66 Given that the proposals for residential accommodation seek to reuse part of the existing first floor, will provide new accommodation and will be located in an area which has an existing mix of residential and retail uses, it is considered these are acceptable in principle.

7.67 As such, the proposed new residential development is acceptable in terms of planning policy.

e) The Impact on Residential Amenity

Plant and Noise

7.68 This application is accompanied by a Noise Impact Assessment which has been prepared by NSL. This assesses the proposal in terms of the potential noise from plant.

7.69 The assessment sets out noise limits that air conditioning and refrigeration should meet to ensure that plant noise from the site falls within acceptable limits.

7.70 This level of noise, which can be suitably mitigated by condition, again must be considered against the fall-back position. The existing lawful use of the site (open Class A4 public house) does not have any restrictions on delivery or noise. Therefore, the Council has no effective control on these existing operations on the site at present.

7.71 The proposal represents a significant benefit when considered against the fall-back position in respect of noise. It has been established that the decision taker must take the fall-back into consideration. Accordingly, the proposals must be considered in this context as an overall benefit on the fall-back position.

Opening and Delivery Hours

7.72 The proposed opening hours of the site are from 06:00 – 23:00. These should be considered against the fall-back of unrestricted opening hours currently available to the public house use on the site.

7.73 In respect of the Council's consideration of the opening hours, controls on delivery times (between 7:00 – 22:00) are offered as part of this application (excepting newspaper and magazine deliveries) which will ensure that noise generated on the site is strictly controlled.

7.74 Deliveries could occur around the clock and without any mitigation under the current Class A4 use. Furthermore, customer noise could be generated by visitors to the public house using the outside area adjacent to residents late in to the evening, potentially a significant source of noise disturbance, particularly during

the summer when nearby residents are more likely to have their windows opened. As such, the proposals offer the Council the opportunity to restrict the number and timings of deliveries and to ensure that those that do take place are appropriately mitigated with regard to noise.

7.75 As such, the proposals are not considered to cause any harm to residential amenity in respect of the proposed opening hours. This should also be given consideration in respect of the fallback position, taking in to account the lawful open Class A4 use which could be 24 hours a day with no control from the Council.

f) Parking and Highways Issues

7.76 The site is located in an area with good accessibility. There are safe and lit paths to enable customers within the site's 800m walking catchment to access the store. Additionally, there are bus stops within 70m of the site providing opportunities to use public transport to visit the site. Additionally, the site is considered to be accessible by bike. As such, the site is sustainably located and has good accessibility by a range of transport modes.

7.77 The proposals include the formalisation of car parking to the rear of the site. This will include 3 no. parking spaces for the residential uses and 17 no. parking spaces to accommodate Co-op customers (one of which will be for disabled access). It is noted that this proposal is for the relocation of an existing Co-op which currently has no of-street parking options.

7.78 The proposal includes provision for on-site deliveries to take place within the rear car park area. This will require the management of 2 no. Co-op parking spaces to ensure that there is sufficient space to enable the delivery vehicles to turn on site and access and egress in a forward gear. This type of parking space management is common to Co-op's deliveries throughout the UK and is facilitated by staff training and the use of dedicated delivery scheduling software to enable sufficient time to ensure these spaces are managed.

7.79 Additionally, cycle parking spaces will be provided for both customers of the Co-op and separately, for the residential accommodation on the first floor. This will facilitate sustainable modes of transport to the site.

7.80 Parking and highway issues are considered in more detail within the accompanying Transport Statement with this submission. This concludes that the proposals are acceptable with regard to highway and parking issues.

f) Other Issues

7.81 Below is a summary of other relevant issues at the site.

Heritage

7.82 A Heritage Statement is submitted in conjunction with this planning application. This considered the proposals against the potential for harm and benefits to the heritage significant of the Blacks Head itself, the Upper Tean Conservation Area and the nearby Listed Buildings.

7.83 The Heritage Statement concludes that the proposal is considered to cause no harm to the Upper Tean Conservation Area, no harm to the designated Listed Buildings or their setting and only very minor harm to the non-designated Blacks Head Public House itself, through change to fabric and setting.

7.84 The proposal will facilitate Co-op's long-term use of the site as a convenience store. The proposal will result in an expanded retail floorspace for Co-op, furthering their commitment to Upper Tean. This will augment the existing local convenience provision, providing a service to the local community. The current store is smaller than would be typically be expected for a convenience store, with no off-street parking or options for off-street deliveries. This has resulted in a cramped internal layout which is difficult for shoppers to manoeuvre within. In particular, customers with limited mobility, or for example, parents with pushchairs currently need to navigate the limited space within the existing store. Additionally, all parking associated with the existing store takes case on the street. The relocated and expanded layout will enable a much-improved shopping experience for customers, particularly those with specific mobility needs. As such, this is considered to be acceptable in principle and a planning benefit.

7.85 In addition, the current limited floorspace within the existing store has resulted in a limited range of produce for sale. The relocated store and expanded floorspace will enable an improved and enhance range of produce to be sold, which will be of benefit to the consumer, increasing choice and range of goods to purchase. It is an important material consideration to note that shops are identified within the

NPPF within the definition of social, recreational and cultural facilities and services that the community needs. As such, the NPPF expects that planning decisions should seek to plan positively for these types of services which help the community to meet their needs. In particular, paragraph 92. d) of the NPPF confirms that decision policies and decisions should *"ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community;"*. As such, the expanded provision is in accordance with the NPPF and will help the store to develop and provide a service to the local community.

7.86 Co-op is the only convenience store in Upper Tean, with no other supermarkets located within the town, and a limited offer of other facilities to purchase general food and drink essentials. As such, its role is critical to the well-being of the local population, allowing them to purchase food and drink locally. The relocated and expanded convenience offer will result in fewer people commuting out of Upper Tean to buy food and drink which will result in more sustainable patterns of movement, with more customers walking to purchase goods.

7.87 The relocated and expanded store offer will allow additional staff to be employed by Co-op. This will have an economic benefit by creating more jobs within the local area.

7.88 The proposals will also result in a net 3 no. residential flats on the upper floor. This will assist in meeting the district's housing requirements and is therefore of benefit.

7.89 Therefore, the works proposed to the existing Blacks Head Public House will enable the relocation and expansion of the existing Co-op store at Upper Tean will have a range of public benefits which should be given consideration in assessment of the proposals. Weight should be given to the economic benefits of expanding the existing retail offer and creating new job opportunities locally. The proposals will result in an improved shopping experience for all customers, in particular those with limited mobility. In addition, the proposals will allow a greater choice and boost the existing role of the store in provision of an essential service to local people. Furthermore, the proposal will result in an increase in housing within the village.

7.90 It is therefore considered that there are significant benefits to the proposal which outweigh the limited minor harm to the heritage significance of the non-designated heritage asset as a result of the proposals.

Coal Mining

7.91 The site is not located within a Development High Risk Area. The Coal Authority mapping shows that there are no known coal mining constraints covering the site (albeit that there is a surface coal resource which covers the site) As such a Coal Mining Risk Assessment is not required.

8. DESIGN AND ACCESS STATEMENT

Design

8.1 The design of the site has taken into account the site's context, surrounding uses, the character and appearance of the surrounding area and its designation as a Conservation Area, as well as the requirements of Co-operative in their need for a new convenience store.

8.2 The existing Public House building was constructed in the mid-nineteenth century and is considered to contribute positively to the street scene and character of the Conservation Area. As such, when formulating the design, the proposals have sought to retain this building, in particular its frontage onto High Street. However, it is also acknowledged that permission has previously been granted to demolish the existing derelict retail unit adjacent to the public house and replace this with two storey development. As such, this proposal has taken its cue from this previously approved development and propose to demolish these buildings and redevelop this part of the site with new, modern development.

8.3 The proposal will construct a new two storey extension to the east of the site and to the rear. This will step down to a single storey. This new extension will be constructed from brick which is reflective of the vernacular context in which the site sits. The upper floors will be clad in part with timber effect planks and part-finished with smooth white render, sympathetic to the local surroundings. Similarly, the roof will be constructed from pre-formed metal flashings and this is acceptable within the site's context

8.4 The proposed new extension will incorporate the entrance and shop window to the new shop with a modern shopfront. This will ensure that the active frontage faces towards the street. The proposal has been orientated so that it sits appropriately in the streetscene.

8.5 The proposal has been designed to sensitively site windows at first floor level so that they do not result in unneighbourly overlooking, whilst still providing an acceptable level of amenity for the occupants of the new residential flats at first floor level.

8.6 The layout of the site has taken its cue from the existing site layout, with the site set to the edge of the pavement on High Street, with parking and servicing to the rear accessed from New Road.

8.7 Given the careful design of the proposed new extension and the layout of the site, it is considered that this is in accordance the urban design principles set out in adopted Policy DC1 of the Core strategy.

Access

8.8 Access to the wider site layout has been considered in the earlier section of this report and in the separate Transport Statement.

8.9 With regard to accessibility within the site, the proposals will include step free entrances to allow inclusive access by a wide range of users. This is a betterment to the existing main entrance to the public house which is via the means of a step from High Street. The existing entrance door to the pub will be maintained but locked shut. The proposals facilitate a new step-free entrance within the new side extension.

8.10 As such, the proposal is considered to be acceptable with regard to design and access issues.

9. CONCLUSION

9.1 This Planning Statement supports an application for the change of use from a public house (Class A4) to a convenience retail store (Class A1), demolition of existing single storey derelict retail buildings, rear and side two storey extensions, the creation of 4 no. residential flats and associated car parking at the Blacks Head public house, High Street, Upper Tean.

9.2 It has been demonstrated that the proposal is compliant with the relevant national policy regarding the change of use away from a community facility. There is sufficient alternative provision in the local area and the retained use of the site as a public house would be unviable.

9.3 This statement has shown that the site would accord with Policy TCR2 of the adopted Core Strategy, proposing a new convenience store within a designated larger village of less than 500sqm gross. This would support the community of Tean, whilst not harmfully impacting the vitality and viability of the designated town centres.

9.4 The proposal would facilitate the relocation of the existing Co-op convenience store to a more appropriate and convenient location within Upper Tean. The existing store is cramped and does not benefit from off road parking or servicing. The proposals would allow a modern convenience store with the ability to service off-street and to include the provision of parking spaces for customers. This will enable Co-op to better serve the existing community, providing for their day-to-day top-up shopping needs, thereby enhancing their existing facility in Upper Tean.

9.5 The proposal would result in 4 no. new residential flats (net 3 new dwellings as the existing upper floor of the public house is in residential use). This will add to the district's housing stock and provide a new choice and flexibility for people to live within the village. The proposal reuses a previously developed site to provide this new housing and is therefore considered to be acceptable with regard to density and location.

9.6 Additionally, it has been shown that the site would have an acceptable impact on residential amenity, noise, heritage and highways grounds.

9.7 Overall, the proposal is considered to be in accordance with policies contained in the development plan and that there are no material considerations to justify the refusal of planning permission, subject to suitably worded conditions.

APPENDIX 1

NEW WHITE BULL APPEAL DECISION

The Planning Inspectorate

Appeal Decision

Hearing held on 5 January 2016
Site visit made on 5 January 2016

by Tom Cannon BA DIP TP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 February 2016

Appeal Ref: APP/J3015/W/15/3133491
New White Bull, 519 Nottingham Road, Giltbrook, Nottinghamshire NG16 2GS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Paragon Property Development Company Limited against the decision of Broxtowe Borough Council.
- The application Ref 15/00269/FUL, dated 10 April 2015, was refused by notice dated 15 July 2015.
- The development proposed is the change of use of a vacant public house to convenience foodstore with alterations including part demolition and a rear extension and conversion of first floor apartment to create two residential apartments with access and landscaping.

Decision

1. The appeal is allowed and planning permission is granted for the change of use of a vacant public house to convenience foodstore with alterations including part demolition and a rear extension and conversion of first floor apartment to create two residential apartments with access and landscaping at the New White Bull, 519 Nottingham Road, Giltbrook, Nottinghamshire NG16 2GS in accordance with the terms of the application, 15/00269/FUL, dated 10 April 2015, subject to the conditions set out in the Schedule of Planning Conditions attached hereto and forming part of this decision.

Procedural Matters

2. It was confirmed by the main parties at the Hearing that a nomination by the Campaign for Real Ale (CAMRA) to list the New White Bull as an Asset of Community Value (ACV) was pending consideration. A decision was made on 14 January 2016 confirming that the New White Bull would not be listed as an ACV. The main parties' comments were sought on this matter.

3. A copy of the Council's decision confirming that the demolition of the public house would not represent permitted development under Part 11, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015, was submitted during the appeal process. It was agreed by the main parties at the Hearing that this was a matter of public record and was not of direct relevance to the appeal proposal.

4. The application was amended prior to its determination by the Council. The revised plans reduced the size of the proposed sign and introduced pillar detailing in the side elevation of the proposed extension. No party would be prejudiced by my determining the appeal on the basis of the amended plans.

5. During the appeal the appellant submitted an independent Viability Study. Both the Council and interested parties were given the opportunity to comment on it, with representations received from The Blue Monkey Brewery. I have taken account of these comments in my consideration of this appeal.

Application for costs

6. At the Hearing an application for costs was made by Paragon Property Development Company Limited against Broxtowe Borough Council. This application will be the subject of a separate Decision.

Background and Main Issues

7. The appeal premises lies in a predominately residential area of Giltbrook, approximately 1.7 kilometres south-east of Eastwood town centre and about 2 kilometres north-west of the centre of Kimberley. Although there is a small concentration of local services and facilities in this part of Nottingham Road, the appeal site is not situated within a defined town or local centre which Policy 6 of the *Aligned Core Strategies Part 1 Local Plan 2014* (ACS) seeks to promote.

8. The New White Bull public house was originally listed as an ACV on 18 July 2013, following a nomination by the Parish Council (PC), whilst still operating as a going concern. Shortly after its listing, notice was given by the owners of their intention to dispose of the building, with the PC initially requesting to be treated as a potential bidder, triggering a six month moratorium period. However, no bid was submitted by the PC, and the premises were sold in January 2015. The public house has remained closed ever since.

9. Whilst the New White Bull was still listed as an ACV when the application was determined, it is common ground that the premises were formally removed from the ACV register on 22 September 2015. This remains the case following the latest attempt to list the public house.

10. Therefore, having regard to the above background, all that I have read and discussions at the Hearing, I consider that the main issues in this case are:

    (1) Whether the proposal would result in the loss of a valued local facility important in sustaining the social life of the community; and

    (2) The effect of the proposal on the viability of local services and facilities.

Reasons

Valued local facility

11. *Section 38 of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990* require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. It is common ground that there are no existing development plan policies in either the ACS or the *Broxtowe Local Plan 2004* (LP) which seek to guard against the loss of local services and facilities which are important in sustaining the social life of the community. As such, I will assess the first main issue in this appeal against national planning policy and all other relevant material considerations.

12. Paragraph 70 of the *National Planning Policy Framework* (the Framework) says that amongst other things, 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, particularly where this would reduce the community's ability to meet its day-to-day needs*.' Therefore, in the context of this appeal, one must first establish if the New White Bull is a valued facility, and secondly, would the permanent loss of the public house reduce the community's ability to meet its daily needs.

13. It has been put to me that prior to its closure the New White Bull was a valued and well-used facility serving as a meeting place for community groups and as a venue for local and family events for many years, particularly by residents who reside in the immediate area. This is emphasised by the level of public interest in this particular case and the number of representations made in respect of its original listing as an ACV.

14. However, the independent Viability Study submitted as part of this appeal indicates that the business, which appears to have been trading as a predominately 'wet led' public house had been struggling in recent years, due to declining beer and spirit sales and competition in the local area. This evidence, which is not disputed by the Council, therefore casts doubt on the suggestion that the New White Bull was in fact a well-used and valued community facility. It also represents a material difference between this proposal and appeal decision Ref: *APP/H2733/W/15/3007922* where the Inspector concluded that there was no evidence to suggest that the public house was not economically viable.

15. I have also had regard to representations made by the Blue Monkey Brewery which imply that the viability of the public house had been affected by increased rents and higher beer prices set by the brewery controlling the New White Bull. Nevertheless, as a prospective purchaser, these comments, unlike the Viability Study are not independent. Nor do they provide any substantive evidence on the potential viability of the public house. As such, the representations made by the Blue Monkey Brewery do not to my mind weaken the findings of the appellants' Viability Study, which suggests that the value of the public house as a community asset had been in decline for some time prior to its closure in 2015.

16. Approximately 260m north-west of the appeal site is the Hayloft public house. Given its relative proximity, the Hayloft is within a reasonable walking distance of residential properties at the southern end of Giltbrook, and therefore serves a similar catchment area to the former New White Bull. Moreover, despite the undulating topography in the area, two further public houses, The Foresters Arms and the New Inn are situated 560m and 920m from the appeal site, providing further choice for local residents.

17. It is also suggested that the New White Bull as a 'wet' public house served a different purpose within the community to the Hayloft, which local residents have indicated is primarily food led. However, it was evident from my site visit that whilst the Hayloft does provide a value food offer, it retains the character and atmosphere of a traditional public house and appeared to be well used as a meeting place where local residents congregate within the open plan bar area. Thus, from the evidence put before me in this appeal, there would seem to be

a degree of overlap between the service offer which was provided at the New White Bull and is currently available at the Hayloft. I also understand that both The Foresters Arms and New Inn are principally 'wet' public houses which provide live entertainment and thus have a similar ambiance to the former New White Bull.

18. Consequently, given the nature and location of other existing public houses in the vicinity of the appeal site, I conclude that the loss of the New White Bull would not reduce the community's ability to meet its day-to-day needs. In fact, through the provision of a new convenience foodstore which in itself is a community facility albeit of a different type, in an area where there are not currently any such facilities, it could be argued that the appeal scheme would actually improve the level of service provision and provide a clear social benefit to the local community. In this respect the proposal would accord with one of the core planning principles of the Framework, to: '*take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs*.'

19. For the above reasons, I find that, from the evidence put before me in this appeal, the proposal would not result in the loss of a valued local facility important in sustaining the social life of the community. As such, it would accord with the provisions of the Framework.

Viability of local services and facilities

20. The Council's second reason for refusal focuses on the potential impact of the proposed convenience store on the viability of other local shopping facilities in the immediate area, particularly the newsagents, post office and cob shop (all of which are situated less than 250m from the appeal site), the concern being that the development proposed could result in their closure. Specific reference is made to Saved Policy S5 of the LP which, amongst other things, is only permissive of new retail development outside town centres where it would '*not be likely to harm the viability of any other local shopping facilities, or the viability or vitality of any of the defined town centres*.'

21. Section 2 of the Framework seeks to ensure the vitality of town centres. The appellant sought to argue, in this regard that, since the appeal site and the other premises referred to do not lie in a town or designated centre, Saved Policy S5 should be considered as being out of date. However, paragraph 23 of the Framework states that local planning authorities should set policies for the consideration of proposals for main town centre uses (such as the appeal scheme) which cannot be accommodated in or adjacent to town centres (in this respect it is also agreed that the appeal development passes the sequential test as set out in paragraph 24 of the Framework). It seems to me that S5 is just such a policy. As such, I find no fundamental conflict with the Framework in this regard.

22. That said it is common ground between the main parties that, having regard to paragraph 26 of the Framework, an assessment of the impact of the development proposed on town centre vitality and viability is not required in this case. Given the floorspace proposed, I have no reason to disagree.

Nevertheless, Saved Policy S5 does require that some assessment be made in terms of the impact on local shopping facilities.

23. In this respect, the Council has failed to provide any detailed forensic analysis of the schemes impact on local services, with their concerns focusing on the perceived harm caused to the newsagents and cob shop in particular, due to a potential overlap between convenience goods they and the proposed retail development would offer.

24. However, it has been long established that the prevention of competition between nearby retailers is not a legitimate planning objective. Whilst I appreciate that there may be a limited degree of overlap between the existing and proposed businesses, the appeal proposal could increase choice and the range of goods on Nottingham Road, with the potential for linked trips with nearby shops and services, so encouraging people to shop locally. The submissions overall do not indicate any significant adverse impact on the vitality and viability of local services and facilities and I therefore conclude that the appeal scheme would accord with Saved Policy S5 of the LP and the provisions of the Framework.

Other Matters

25. Local residents, District and County Councillors and the local Member of Parliament have raised a number of other concerns regarding the proposed development. I am mindful that heavy goods vehicles accessing the existing commercial yard to the rear of the New White Bull would continue to pass through the site once the convenience store is operational. However, no substantive evidence has been put before me to demonstrate that such movements would in practice have a severe impact on pedestrian or vehicular safety for patrons of the new store. In this respect, I have also had regard to the response from the highway authority who raise no objections to such matters.

26. It has also been put to me that there is an overprovision of small supermarkets in the area. Nevertheless, it is not the purpose of the planning system to determine whether or not another convenience shop is needed here. Nor would the design of the proposed extension which would be positioned to the rear of the existing building have a detrimental impact on the character and appearance of the area.

Conditions

27. I have considered the conditions agreed in the SoCG and discussed at the Hearing in light of advice in paragraphs 203 and 206 of the Framework and the PPG. In the interests of precision and enforceability, and to accord more closely with advice in the PPG, I have amended the Council's suggested wording where appropriate.

28. In addition to the standard time limit condition it is necessary, for the avoidance of doubt, to define the plans with which the scheme should accord. Details of samples of materials and the submission and implementation of hard and soft landscaping works are required to preserve the character and appearance of the area. To protect the living conditions of nearby residents, the landscaping scheme shall also include details of boundary treatments. For

similar reasons, the position and specification of the proposed trolley and bin stores are required. Also in the interests of the living conditions of neighbour residents, all external lighting should be carried out in accordance with the approved plans, together with restrictions on the noise emitted from all plant, machinery or equipment, and on opening and delivery hours. For reasons of highway safety, it is necessary for the parking, turning and servicing areas to be surfaced in a hard bound material and marked out prior to the development being brought into use.

29. Although a condition requiring the submission of a scheme for limiting the transmission of noise between the proposed residential units and the retail use has been suggested, such matters are covered by building regulations and are not therefore required.

Conclusion

30. For the reasons set out above, and having regard to all other matters raised I conclude that the appeal should succeed.

T Cannon

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: GBS/1085/004 Revision B, GBS/1085/005 Revision D and GBS/1085/006 Revision B.

3) No development shall commence until details and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and samples.

4) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:

   (a)trees, hedges and shrubs to be retained and measures for their protection during construction works;
   (b) numbers, types, sizes and positions of proposed trees and shrubs;
   (c) boundary treatments including details of acoustic fencing;
   (d) hard surfacing materials; and
   (e) planting, seeding/turfing of other soft landscaping areas.

   All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation 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 in the next planting season with others of similar size and species.

5) The development hereby permitted shall not be occupied until details of the positions and specification of the proposed trolley stores and bin stores have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

6) The proposed floodlighting and external lighting shall be carried out in accordance with the following approved plan: P172-483 unless subsequently approved in writing by the local planning authority. Within 3 months of the commencement of the development herby permitted the local planning authority shall be given access to ensure that the proposed external lighting has been carried out in accordance with the approved details.

7) The building shall not be occupied until the parking, turning and serving areas shown on drawing no. GBS/1085/004 Revision B has been clearly marked out and surfaced in a hard bound material, and that area shall thereafter be kept available at all times for the parking, turning and loading and unloading of vehicles.

8) The combined rating level of noise emitted from all plant, machinery or equipment installed as part of the development shall not exceed 5dB(A)

above the existing background level when assessed in accordance with BS4142:2014 as measured on the boundary of the site with the nearest noise sensitive receptor.

9) The premises shall only be open for customers between the following hours:

0700 - 2300 Mondays – Saturdays; and

0700 – 2200 on Sundays or on Bank or Public Holidays.

10) Other than the delivery of newspapers and magazines, deliveries by commercial vehicles shall be taken at or despatched from the site only between 0800-2200 Monday – Friday, and 0830 – 1800 on Saturdays, Sundays or on Bank or Public Holidays.

APPEARANCES

FOR THE APPELLANT:

Simon Stanion	Marrons Shakespears
David Pritchard	Marrons Planning
Richard Green	Christie & Co

FOR THE LOCAL PLANNING AUTHORITY:

James Howlett	Counsel
Mark Thompson	Planning Officer, Broxtowe Borough Council
Councillor Margaret Handley	Ward Councillor and Chair of Planning Committee

INTERESTED PARTIES

Local residents:	
Mrs Gretton	
Mr Clugstom	
Mr Cluggio	
Mr Patel	Local business owner
Councillor John Handley	Nottinghamshire County Council
Trevor Vickers	Blue Monkey Brewing Ltd

DOCUMENTS SUBMITTED AT THE HEARING

1. Council's response to the appellants' costs application

2. Email from the Council's Environmental Health Officer regarding the proposed external lighting scheme

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Confirmation from the Council regarding the nomination of the New White Bull as an ACV dated 14 January 2016

APPENDIX 2

APPEAL DECISION APP/R1845/A/14/2225496 STOURPORT-ON-SEVERN

The Planning Inspectorate

Appeal Decision

Hearing held on 18 December 2014
Site visit carried out one on the same day

by Mrs J A Vyse DipTP DipPBM MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 January 2015

Appeal Ref: APP/R1845/A/14/2225496
Squirrel Inn, 61 Areley Common, Stourport-on-Severn, Worcestershire DY13 0NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Tesco Stores Limited against the decision of Wyre Forest District Council.
- The application No 14/0126/FULL, dated 5 March 2014, was refused by a notice dated 21 May 2014.
- The development proposed is demolition of existing outbuildings and porch on front entrance, erection of single storey extension (189 square metres gross) to the rear of existing public house, installation of plant and enclosure, replacement shop front to front elevation and external alterations to create a Class A1 convenience store (357 square metres gross).

Decision

1. For the reasons that follow, the appeal is allowed and planning permission is granted for demolition of existing outbuildings and porch on front entrance, erection of single storey extension (189 square metres gross) to the rear of existing public house, installation of plant and enclosure, replacement shop front to front elevation and external alterations to create a Class A1 convenience store (357 square metres gross) at Squirrel Inn, 61 Areley Common, Stourport-on-Severn, Worcestershire, in accordance with the terms of the application, No 14/0126/FULL, dated 5 March 2014, subject to the conditions set out in the attached schedule.

Procedural/Preliminary Matters

2. Objectors were concerned about the possibility of an ATM[1] as part of the proposal. Whilst an ATM was included on early plans, it does not feature on the plans that formed the basis of the planning application. It was also confirmed by the appellant at the Hearing, that an ATM did not form part of the development for which permission was sought. I have dealt with the scheme on that basis. Should the appeal succeed and the scheme be implemented, any subsequent proposal for an ATM would be a matter for the Council in the first instance.

3. In response to concerns about the distance over which delivery cages would need to be pulled, between the loading/unloading bay and the rear door, as shown on plan No 1402-117 PL03, a revised plan was submitted at the Hearing, No 131986/AL12E. The amended plan showed an additional door

[1] Automated Teller Machine

close to the loading bay, leading directly into the 'back-of-house' area of the proposed store. The amendment is very minor and the Council agreed that it could be considered as part of the scheme proposed without causing prejudice to the interests of any person or organisation concerned with this appeal. I agree and shall deal with the appeal on the basis of the revised plans.

Main Issue

4. Whilst the alterations proposed are linked to a wider proposal to change the use of the public house premises to a shop, specifically a Tesco Express store, the change of use does not require planning permission and thus, is not part of the proposal before me. As agreed at the Hearing, the main issue in this case relates to the effect of the development proposed on the living conditions and general amenity of local residents, having particular regard to noise and disturbance arising from associated commercial and customer vehicle movements.

Planning Policy

5. The development plan for the area includes the Wyre Forest District Council Core Strategy (2006-2026), which was adopted in December 2010, and the Wyre Forest District Council Site Allocations and Policies Local Plan 2006-2026, adopted in July 2013.

6. In seeking to protect and enhance local retail services, policy SAL.GPB3 of the Site Allocations and Policies Local Plan is supportive of new retail development in neighbourhood or village centres where it comprises the conversion or extension of existing facilities, provided that the floor space would not exceed 280 square metres (sqm) net. Outside of the neighbourhood or village designations, the policy is also supportive for the development of new retail (A1) uses subject to the same floor area restriction and where they would be located on previously-developed land and would not cause adverse impact on local amenity.

7. The accompanying Proposals Map does not provide a definitive boundary for neighbourhood/village centres, the Areley Common centre being identified simply by a red dot positioned in part over the road, and in part over an existing Londis store, a short distance to the south of the appeal site. In pre-application discussions, and as set out in the committee report,[2] officers were of the view that the appeal site did lie within the Areley Common centre. However, although recommended for approval, Members refused the application citing, among other things, conflict with policy SAL.GPB3. Whilst the Council's Hearing Statement acknowledges that the policy lends itself to a degree of interpretation, it reiterates the view of Members that the appeal site lies outwith the neighbourhood/village centre.

8. Although predominantly a residential area, there are, in addition to the public house at the appeal site and the aforementioned Londis store, a pharmacy and a newsagent which are located in the vicinity of the red dot. To define the neighbourhood/ village centre therefore, as simply the Londis store, seems to me to be an overly narrow interpretation of the policy. Indeed, at the start of the Hearing, the Council accepted that it was reasonable to treat the appeal site as forming part of the centre. Accordingly, since the appeal scheme

[2] Paragraph 1.2

relates to the extension of an existing building, creating a maximum net sales area of 280 sqm,[3] in an existing neighbourhood/village centre, I find no conflict with policy SAL.GPB3. There was no suggestion, in this regard, that the policy conflicts with the thrust of the National Planning Policy Framework (the Framework) which seeks, among other things, to encourage economic development.

9. Although the relevant part of policy SAL.GPB3 does not require that such retail proposals should have no adverse impact on local amenity, local amenity/living conditions are a material planning consideration. I am mindful, in this regard, that one of the core planning principles set out at paragraph 17 of the Framework, which post-dates the development plan, is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. It would not be good planning to simply ignore any effect of a development proposal in this regard, simply because a requirement to do such was not included in a relevant development plan policy. Indeed, it was accepted for the appellant that living conditions/amenity are an important planning consideration.

Reasons for the Decision

10. The carriageway is relatively narrow in the vicinity of the appeal premises – just 6 metres in width. Although there are double yellow lines along the same side of the carriageway as the appeal premises, the opposite side of the road is available for on-street parking and is well used for such. The combination of those circumstances means that, notwithstanding that this is a classified road (B4196) the carriageway is reduced, in effect, to a single vehicle width for sometimes considerable stretches.

11. Based on the Design Manual for Roads and Bridges (DMRB) and on a traffic count undertaken in May 2014, the appellant advises that the road is operating at approximately 18% of its maximum capacity. I recognise, in this regard, that the DMRB takes account of on-street parking on roads such as this, with 'shuttle' working, whereby there are sections of highway where only one vehicle can pass at a time. However, from my own observations during the site visit, and as evidenced by video footage shown during the Hearing and the many detailed letters from local residents, the congestion caused often has significant implications for the flow of traffic along Areley Common on a daily basis. Problems include stationary traffic blocking private drives and side access roads, vehicles being forced onto the pavements at times, or sometimes accelerating hard in a 'race' to get in to a gap to avoid an oncoming vehicle. Those problems are compounded at times, when on-street deliveries are taking place, and when large vehicles use the route, including refuse collection vehicles, and the regular bus service (some 5-7 per hour). I am in no doubt therefore, that the highway is heavily congested on a regular basis.

12. Based on the TRICS database, the appellant's Transport Statement calculates anticipates daily two-way traffic movements associated with use of the existing premises as a public house on its present floor space but trading at full capacity, to be in the region of 92 movements Monday – Friday, 100 on a Saturday. In relation to the development proposed, the anticipated two-way

[3] The scheme includes demolition of the existing rear extension and its replacement with a larger extension to create a maximum net sales area of 280 square metres (sqm) plus a 'back-of-house' area. Storage would be on the first floor.

daily total is anticipated to be 775 movements Monday – Friday, 506 on a Saturday.

13. It is very clear therefore, that there would be a significant increase in traffic movements, were the appeal scheme to go ahead. Even taking account of the evidence that some 90% of trips associated with the development proposed are likely to involve vehicles that are already on the road network,[4] the scheme might be expected to introduce some 77 new two-way traffic movements onto this part of the highway network on a daily basis during the week. I am very firmly of the opinion, notwithstanding the theoretical capacity of the road, that any increase in traffic movements on Areley Common in the vicinity of the appeal premises, but particularly of the order indicated above, would add materially to the existing problems experienced in relation to congestion on this part of the highway network, with a significant adverse impact on the living conditions and general amenity of local residents in terms of disturbance. There would be conflict, therefore, with the Framework core principle of providing a good standard of amenity for existing local residents.

14. Whilst concern in relation to noise from traffic movements also formed part of the Council's reason for refusal, no quantitative technical evidence was submitted to support its case. Rather, reliance was placed on the Noise Policy Statement for England of March 2012 (NPSE) and the accompanying Explanatory Note, to which paragraph 123 of the Framework refers.

15. The Framework requires that planning decisions should aim to avoid noise from giving rise to significant and other adverse impacts on health and quality of life as a result of new development, and that any impact should be mitigated and reduced to a minimum through the use of conditions. The NPSE makes it clear that environmental noise includes noise from transportation sources, and that neighbourhood noise includes noise arising from trade and business premises and noise in the street. However, there is no single objective noise-based measure which defines the level of noise which would be considered to have a significant adverse effect in all situations, with the NPSE advising that the effect of noise on quality of life is a subjective measure and that the means of assessing noise impact should focus on a qualitative assessment of the likely human reaction to it.

16. Given the substantial increase in traffic movements over and above those associated even with maximum use being made of the premises as a public house, I am in no doubt that there would be a corresponding increase in noise from traffic movements, both within the site itself and the immediate vicinity of the site. Again, there would be conflict with one of the Framework core principles in this regard.

17. However, one of the material considerations that I am obliged to take into account, is what else can be done with the land/premises without the need for planning permission i.e. the fall back position. The Courts have held that the fall back does not have to be probable, or even have a high chance of occurring. Rather, in order to be a material consideration, a fall back only has to be more than a merely theoretical prospect. While the likelihood of the fall back occurring may affect the weight to be attached to it, that does not affect its status as a material planning consideration. Even where the possibility of

[4] Paragraph 5.16 of the appellant's Transport Statement

the fall back position happening is very slight indeed, or merely an outside chance, that is sufficient to make the position a material consideration.

18. Under the provisions of the Town and Country Planning (General Permitted Development)(Amendment)(England) Order 2005, the building can be converted to retail use and extended to provide a net sales area of some 213 sqm, with the first floor used for storage, without the need for planning permission. I was shown plans to demonstrate how a scheme such as this could be achieved by the appellant,[5] and was provided with examples of other Tesco stores that operate from buildings with limited sales and bulk storage areas, using first floor storage if necessary. In answer to my questions at the Hearing, I was firmly assured for the appellant that this fall back arrangement represented a robust alternative which would be implemented were the appeal to fail.

19. For significant weight to be afforded to a fall back position, there needs not only to be a reasonable prospect of it being carried out in the event that planning permission was refused, but it would also need to be equally or more harmful than the scheme for which permission is sought. In this regard, the fall back arrangement would not be controlled by any planning conditions. The appellant's highways evidence demonstrates that the retail floor space in the fall back arrangement would be likely to result in very similar two-way movements during the busiest peak hour to that associated with the development proposed. However, in the event that the appeal should succeed, a number of conditions are proposed in relation to the scheme proposed that would offer control over matters such as delivery times, delivery vehicle size and opening hours. The appeal scheme also includes an in/out access arrangement, as opposed to use of the existing access point by incoming and exiting vehicles, as well as the provision of a dedicated on-site loading/unloading bay, a formalised parking layout and cycle parking, and the provision of acoustic grade fencing around the car park.

20. The fall back position maintained by the appellant would be likely to give rise to greater harm, in terms of noise and disturbance from associated vehicle movements, than would the appeal scheme, which would be subject to conditions that would mitigate some of the additional traffic impact. That fall back position is, therefore, a material consideration of significant weight in this case. I find, therefore, subject to conditions, that the appeal scheme would have benefits when considered against the fall back position. Having in mind well established case law, that consideration outweighs the harm in terms of noise and disturbance arising from commercial and customer vehicle movements that would be associated with development proposed.

Other Matters

21. The Squirrel Inn is included on the Local Heritage List. I have therefore treated it as a non-designated heritage asset. Whilst the significance of the building derives from its history as a mid-19th Century village inn, extensive alterations and extensions to the building over the years mean that its architectural significance is limited principally to the front, roadside elevation.

22. At some time during the 20th Century, an unsympathetic porch was added to the centre of the front elevation, and a fairly utilitarian outbuilding, currently

[5] Appendix 14 to the evidence of Miss R Lees

used for garaging, was erected to the side/rear. The porch, which dominates the front of the building, would be demolished as part of the appeal scheme, to be replaced with a traditional timber shop front and a new entrance. Those alterations would result in a more sensitive arrangement that would be sympathetic to the historical form of the building. It is also proposed to retain/refurbish the existing timber sash windows, which is welcomed, and to retain the original water pump and building plaque. The piecemeal additions to the rear of the building would be demolished, together with the various outbuildings, and replaced with a rear extension of matching facing brickwork, with a cement slate mansard roof. I agree with the Council that the extension would be appropriate in terms of its scale and appearance, given that it would be located at the rear of the property. All in all, I consider that there would be no harm to the special interest or significance of the appeal building as a heritage asset. There would be no conflict, therefore, with policy SAL.UP6, or the advice in the Framework, which seek to protect such interests.

23. Residents are concerned at the loss of the public house as a local facility. However, I am advised for the appellant that, although the premises have been marketed since December 2011, there has been very little interest. Although policy SAL.DPL11 seeks to retain community facilities, including public houses, the loss of the use has to be weighed against the fact that planning permission is not required for the proposed change of use, which is not part of the proposal before me.

24. Whilst the building has been registered as an Asset of Community Value, demonstrating the value placed on the premises by local residents, that does not convey with it protection in terms of the use of building. The purpose of registration is not to act as a constraint on competition. Rather, it has implications for disposal of the building. In this instance, none of the provisions set out in the legislation apply, since Punch Taverns would remain as freeholder of the premises, with Tesco being a leaseholder, with a lease of 20 years.

25. There was concern locally that the development proposed would result in the closure of other local retail businesses. However, it is not the purpose of the planning system to determine whether or not another convenience shop is needed here, nor is its purpose to protect individual traders or prevent competition. Indeed, the appeal site is located in a designated neighbourhood/village centre, wherein policy SAL.GPB3 is supportive of new retail development. In any event, as already mentioned, the proposed use as a retail premises is not part of the development for which permission is sought.

26. There was concern that the proposal would increase danger to highway users, including pedestrians. However, the evidence before me is that there is no adverse or unusually poor safety record in the vicinity of the appeal site. An on-site loading/unloading bay is proposed and visibility splays for exiting vehicles would be in excess of the minimum requirements recommended in the Manual for Streets. Were the appeal to succeed, a condition could control delivery arrangements, including the size of vehicle and the timing of deliveries, to ensure that they did not coincide with peak traffic or school drop off/pick up times. The level of on-site parking proposed (15 car parking spaces plus disabled parking, and six cycle parking spaces) is commensurate with the size of development proposed. On balance, therefore, in the absence of any technical evidence to the contrary, I conclude that there would be no material

harm to highway safety. Indeed, there would be a benefit over and above the fall back position, in that the parking and access arrangements etc would be secured by condition. I am also mindful, that the local highway authority raises no objection on highway safety grounds, subject to conditions.

27. Although part of the site is shown as a bowling green on the Ordnance Survey map, I saw, during the site visit, that it currently comprises an area of rough grassland that is starting to become overgrown. Were the appeal to succeed, the development would not result in the loss of an existing bowling green facility.

Conclusion

28. There is strong local feeling about this proposal, as reflected by the volume of objections received at every stage and the eloquent opposition demonstrated at the Inquiry itself. I too have significant concerns in relation to the adverse implications of the development proposed on the general amenity and living conditions of local residents. However, subject to conditions, the appeal scheme would have benefits when considered against the fall back arrangement referred to above. Based on the firm assurance given by the appellant at the Hearing that, were the appeal to fail, the company would implement the fall back, and having regard to the relevant case law, I have found that that consideration outweighs the harm in terms of noise and disturbance arising from commercial and customer vehicle movements associated with development proposed. I conclude, therefore, that the appeal should succeed.

29. I recognise that this decision will be disappointing for local residents and their representatives, and am mindful, in this regard, of the Government's 'localism' agenda. However, even under 'localism', the views of local residents, very important though they are, must be balanced against other considerations. In coming to my conclusions on the issues that have been raised, I have taken full and careful account of all the representations that have been made, which I have balanced against the provisions of the development plan and the National Planning Policy Framework, as well as the relevant case law. For the reasons set out above, the evidence in this case leads me to conclude, on balance, that the appeal should be allowed.

30. The conditions suggested by the Council were discussed in detail at the Hearing. During that discussion, suggested conditions 11 and 15 were deleted.[6]

31. In addition to the standard implementation condition, and otherwise than as set out in the decision and conditions, it is necessary that development is carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. A condition relating to external materials, including hard surfacing, is necessary to protect the character and appearance of the area.

32. Conditions relating to the retention and refurbishment of the sash windows, and to the retention of the water pump and the Squirrel plaque on the front elevation are required, given their historic interest. Given the historic interest of the property and the archaeological potential of the site, the Squirrel Inn

[6] Condition 11 related to the closure of an access and condition 15 related to on-site traffic management arrangements. Both are matters covered by other of the conditions.

representing a phase of development of common land in the locality, a conditional programme of archaeological works is required, pursuant to the guidance at paragraph 141 of the Framework. I have combined the three suggested conditions in this regard, into a single condition.

33. Conditions relating to the hours of opening, hours during which deliveries can take place and the submission of a Service Management Plan are necessary in the combined interest of highway safety and protecting the living conditions and general amenity of local residents. To the same ends, it was agreed that suggested condition 14 should be worded as requiring a Construction Traffic Management Plan. I recognise that the opening hours sought would mean that the premises would be open later than the nearby Londis store. However, they are no later than the hours common to public houses and regard must also be had to the fall back position, whereby there would be no control whatsoever over hours of operation. The timings of deliveries were discussed in detail at the Hearing and the related condition reflects that discussion.

34. In order to protect the living conditions of local residents, conditions are necessary in relation to the installation and operation of external lighting, the provision of acoustic fencing to the car park area, the submission of a scheme of noise mitigation in relation to the operation of external plant. The 40dBA rating limit set out in the condition is based on the existing typical daytime background sound level. The 35dBA at night time is selected on the basis that it would equate to an internal level of 20-25 dBA, well below the WHO guideline noise values.[7]

35. In the interest of highway safety, conditions are necessary to ensure that the proposed on-site car/cycle parking spaces and vehicle circulation/manoeuvring areas are provided and retained, and that the proposed alterations to the kerbing and pedestrian protection bollard, shown on plan No 1402-117 PL03, are provided.

36. It is necessary to ensure that the net retail floor space does not exceed 280 sqm to ensure that that there would be no adverse impact sequentially on the retail hierarchy of the District Plan, in the interest of highway safety and in the interest of protecting the living conditions and general amenity of local residents.

Jennifer A Vyse

INSPECTOR

[7] These are set out at paragraph 5.15 of Sharps Redmore Hearing statement on behalf of the appellant.

Schedule of conditions attached to
Appeal Decision APP/R1845/A/14/2225496
Squirrel Inn, 61 Areley Common, Stourport-on-Severn
Worcestershire DY13 0NG

1) The development hereby permitted shall begin not later than the end of three years from the date of this decision.

2) Unless required otherwise by the conditions set out below, the development hereby permitted shall be carried out in accordance with the following approved plans:
131986/AL01 (1:1250 site location plan);
131986/AL15C (proposed elevations – side (north) and front);
131986/AL16C (proposed elevations – side (south) and rear);
1402-117 PL03 (proposed site layout) as amended in part by 131986/AL12E (submitted during the Hearing).

3) No development shall take place until samples of the type and colour of all external materials for the development hereby permitted, including hard surfacing, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

4) No development shall take place until detailed plans for the external treatment/finish of the existing sash windows to be retained, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

5) Development shall not take place other than in accordance with a scheme that shall previously have been submitted to and approved in writing by the local planning authority that provides for the retention and protection during construction works, of the Squirrel plaque on the front elevation, and the water pump.

6) No development shall take place, including any works of demolition and site clearance, until a Programme of Historic Building Recording and Interpretation, including a Written Scheme of Investigation, has been submitted to and approved in writing by the local planning authority. Development shall then be carried out in accordance with the approved details. The details to be submitted shall include, but are not confined to:

   a) an assessment of significance and research questions;

   b) the programme and methodology of site investigation and recording;

   c) the programme for post investigation assessment;

   d) provision to be made for analysis of the site investigation and recording, including a timetable;

   e) provision to be made for publication and dissemination of the analysis and recording, including a timetable;

   f) provision to be made for archive deposition of the analysis and records of the site investigation, including a timetable;

   g) nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

7) The retail premises hereby permitted shall not be open other than between the hours of 07.00-23.00 on any day.

8) Other than newspaper deliveries/pick up, no delivery vehicles shall arrive/depart from the premises hereby permitted other than between the following times:

   07.00-08.00, 10.00-15.00 and 17.00-20.00 Monday – Friday

   09.00-14.00 on Saturdays

   10.00-14.00 on Sundays and bank/public holidays.

9) The development hereby permitted shall not be brought into use until a Servicing Management Plan for the operation of the premises has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved Plan and the Plan shall be adhered to during the lifetime of the development hereby permitted. The details to be submitted shall include, but are not confined to:

   a) arrangements to ensure that any delivery vehicle does not exceed 10.35 metres in length;

   b) the operation and management of the loading/unloading bay shown on plan No 1402-117 PL03, including arrangements to ensure that deliveries take place via access door B, adjacent to the loading bay i.e. directly into the 'back-of-house area, as shown on plan No 131986/A12E.

   c) the storage/management of delivery cages and shopping trolleys;

   d) arrangements to ensure that refrigeration plant on delivery vehicles is switched off prior to arrival at the site and is not turned on again until the vehicle has left the site.

10) No development, including works of demolition and site clearance, shall take place until a Construction Traffic Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved Plan shall be adhered to throughout the construction period. The plan shall include, but is not restricted to:

   a) provision for the on-site parking of delivery vehicles and the vehicles of site operatives and visitors;

   b) hours of construction operations, including the hours during which construction activities can take place on the site, and the timings for vehicle movements associated with the delivery of building materials, contractors' vehicles, and the removal of building waste;

   c) site management arrangements, including on-site storage of materials, plant and machinery.

11) No external lighting shall be installed and/or operated at the site other than in accordance with a scheme that has previously been submitted to and approved in writing by the local planning authority.

12) The development hereby permitted shall not be brought into use unless and until acoustic grade fencing, the full details of which shall previously have been submitted to and agreed in writing by the local planning authority, have been erected around the boundaries of the car

park/vehicle circulation and manoeuvring area. Once installed the fencing shall be retained thereafter.

13) The development hereby permitted shall not be brought into use until a scheme for protecting the occupiers of adjoining dwellings from noise from the operation of external fixed plant or machinery has been implemented in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. The scheme to be submitted shall ensure that the rating level of the noise emitted from the site in this regard shall not exceed 40dBA between 07.00-23.00 hours and 35 dBA at any other time. The noise levels shall be determined by measurement or calculation at the nearest noise sensitive premises. The measurements and assessments shall be made in accordance with the guidance in BS 4142:2014.

14) The development hereby permitted shall not be brought into use until the access/egress, turning/manoeuvring and parking spaces, including the loading/unloading bay, shown on plan No 1402-117 PL03, have been properly consolidated, drained and surfaced in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. Those areas shall not thereafter be used for any purpose other than the intended purpose.

15) The development hereby permitted shall not be brought into use until the six cycle parking spaces shown on plan No 1402-117 PL03 have been provided in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. The cycle parking provided shall be retained thereafter for that purpose.

16) The development hereby permitted shall not be brought into use until the full height kerbing along the carriageway, and the provision of a bollard to the left hand side of the site egress, as shown on plan No 1402-117 PL03, have been provided in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. The kerbing and the bollard shall be retained thereafter.

17) At no time shall the net retail floor space of the building exceed 280 square metres.

----------End of Schedule ----------

APPEARANCES

FOR THE APPELLANT:

Mr C Young	No 5 Chambers
Miss Rhian Lees BSc(Hons), MSc, MRTPI	Principal Planner with DPP Planning
Mr Nathan Hanks CPDT, MCIHT	Associate Director with Transport Planning Associates
Mr Keith Metcalfe BSc(Hons), DipANC, MIoA	Acoustic Consultant with Sharps Redmore

FOR THE LOCAL PLANNING AUTHORITY:

Miss Emma Anning MA, MRTPI	Development Control Officer with the Council
Mr John Baggot MA, MRTPI	Development Manager with the Council

INTERESTED PERSONS:

Councillor James Shaw	District Councillor
Mrs Susan Crowther	Local resident and member of Areley Kings First
Mr Derek Wood	Local resident
Mr Andrew Booton	Chair of Areley Kings First

DOCUMENTS SUBMITTED DURING THE HEARING

Doc 1 Speaking notes of Mrs Crowther

Doc 2 Speaking Notes of Mr Wood

Doc 3 Speaking notes of Mr Booton

Doc 4 Extract from the Localism Act 2011 re Assets of Community Value

Doc5 Alternative ground floor plan showing alternative access door on the south side of the building, to the 'back-of-house' area.

PLANNING DESIGN ENVIRONMENT ECONOMICS

pegasusgroup.co.uk

First Floor, South Wing,
Equinox North,Great Park Road,
Almondsbury, Bristol, BS32 4QL

E Bristol@pegasusgroup.co.uk
T 01454 625 945

COPYRIGHT The contents of this document must not be copied or reproduced in whole or in part without the written consent of Pegasus Group. Crown copyright. All rights reserved, Licence number 100042093