



Basingstoke
and Deane

Basingstoke and Deane Borough Council

Statement of Case

Appeal by: Plainview Planning on behalf of Red Oak Taverns

Site address: Old House at Home, Newnham Green

Newnham

Hook

RG27 9AH

Planning Inspectorate Reference: APP/H1705/W/17/3169774

Local Planning Authority Reference: 16/01315/FUL

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Statement of Case

1.0 Introduction

- 1.1 This document sets out full particulars of the Council's case in respect of the Planning Appeal APP/H1705/W/17/3169774 lodged by Plainview Planning on behalf of Red Oak Taverns. The appeal is made on the grounds of non-determination. Discussions with the Appellant throughout the course of the application were open and constructive, allowing information to be requested and provided by all parties.
- 1.2 The Council has attempted to accommodate all parties throughout the application process, allowing the Appellant the right of reply to a series of third party representations and advice received. The Appellant was made aware of the Local Planning Authority's (LPA) intention to refuse the application by way of a telephone conversation in February 2017. The appeal against non-determination was subsequently lodged before the LPA had an opportunity to determine the application.

2.0 Reasons for Refusal

2.1 The LPA's case is that permission should be refused in the light of the Development Plan and with appropriate weight given to all other relevant material considerations.

2.2 Had the LPA had the opportunity to determine the application before the lodging of the appeal against non-determination, it would have refused the application for the following reasons:

1. *This application for the change of use of the Old House at Home to a dwelling fails to satisfactorily demonstrate that the Public House is no longer needed, is no longer practical, desirable or viable to retain, or will provide sufficient community benefit to outweigh the loss of the existing Public House. Significant support from the community exists for the retention of the Public House, including its designation as an Asset of Community Value which is indicative of its importance to the local community. The proposed change of use is therefore contrary to Policy CN7 of the Basingstoke and Deane Local Plan (2011 – 2029) and Paragraphs 28 and 70 of the National Planning Policy Framework (March 2012) that seek to guard against the unnecessary loss of valued facilities and promotes retention of such uses.*
2. *This application for the change of use of the Old House at Home to a dwelling would not preserve or enhance the character or appearance of the Conservation Area and is therefore contrary to Policy EM11 of the Basingstoke and Deane Local Plan (2011 – 2029). The proposals would also be directly contrary to Paragraph 134 of the National Planning Policy Framework (March 2012), which indicates that such development should be restricted and would not deliver sustainable development. The proposal also fails to meet the tests required under Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.*

2.2 Without prejudice to the LPA's case that the appeal should be dismissed and planning permission refused, a suggested list of conditions has been included for the Inspector's attention in Appendix 1 to this report should he/she be minded to grant planning permission.

3.0 Appeal Site and Surroundings

- 3.1 The appeal site refers to a vacant detached two-storey public house, known as the Old House at Home (OHaH). The building is located in the village of Newnham, which is approximately four miles to the northeast of the large town of Basingstoke and one mile to the northwest of the small town of Hook. The building has been vacant since the 27th February 2015.
- 3.2 The building has a traditional rendered Victorian appearance and benefits from a beer garden and 18 car parking spaces to a separate rear car park. The building is located just off the village green in a secluded corner, directly off a country lane. The building is located within the Newnham Conservation Area, and is identified in the Character Appraisal as a Building of Local Interest (BOLI).

4.0 Proposed Development

- 4.1 Planning permission is sought for the change of use from Public House (Use class A4) to a single four-bedroom detached dwelling (Use class C3). No external physical alterations are proposed to the building.

The application has been accompanied by:

- a location plan (April 2016);
 - a planning statement produced by Plainview (April 2016);
 - a full viability assessment produced by Fleurets (march 2016);
 - a planning statement addendum produced by Plainview (July 2016);
 - a Supplemental Report produced by Fleurets (July 2016);
- 4.2 The rear of the property will be landscaped for use as a residential garden, whilst from the street there will be no alterations to the front façade. No proposed changes are intended to the existing access, with parking to be provided to the rear of the property.

5.0 Planning Policy Context

5.1 The National Planning Policy Framework (2012)

The following sections of the National Planning Policy Framework (NPPF) (March 2012) are considered of relevance to this appeal:

Achieving Sustainable Development (Page2)
 Section 3 (Supporting a prosperous rural economy)
 Section 4 (Promoting sustainable transport)
 Section 6 (Delivering a wide choice of high quality homes)
 Section 7 (Requiring good design)
 Section 8 (Promoting healthy communities)
 Section 10 (Meeting the challenge of climate change, flooding and coastal change)
 Section 12 (Conserving and enhancing the historic environment)
 Decision Taking (Page 45)

5.2 Basingstoke and Deane Local Plan 2011-2029

Policy SD1 (Sustainable Development)
 Policy SS1 (Scale and Distribution of New Housing)
 Policy SS5 (Neighbourhood Planning)
 Policy SS6 (New housing in the countryside)
 Policy CN6 (Infrastructure)
 Policy CN7 (Essential services and facilities)
 Policy CN9 (Transport)
 Policy EM1 (Landscape)
 Policy EM4 (Biodiversity, Geodiversity and Nature Conservation)
 Policy EM7 (Managing Flood Risk)
 Policy EM9 (Sustainable Water Use)
 Policy EM10 (Delivering High Quality Development)
 Policy EM11 (The Historic Environment)

5.3 Supplementary Planning Documents and Guidance (SPD's and SPG's) and interim planning guidance

Design and Sustainability SPD Main Document
 Appendix 6 (Storage and collection of waste and recycling);
 Appendix 7 (Places to Live);
 Appendix 14 (Countryside Design Summary)
 Appendix 16 Design and Sustainability SPD (Residential Amenity Design Guidance)
 Residential Parking Standards SPD (2012)
 The Landscape and Biodiversity SPD
 The Countryside Design Summary SPG
 Newnham Conservation Area Appraisal

5.4 Other legislation and documentation

Section 72 of the Town and Country (Listed Buildings and Conservation Areas) Act 1990.
 Basingstoke and Deane Council Marketing Guidance (March 2017)

5.5 Assets of Community Value

Introduced on 21 September 2012 by the implementation of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012, the regulations provide communities with the opportunity to identify Assets of Community Value (ACV) and have them listed. Once such an asset has been listed, nothing further will happen unless and until the owner decides to dispose of it, either through a freehold sale or the grant or assignment of a qualifying lease.

- 5.6 Should the owner of the OHaH decide they wish to dispose of the pub, they must inform the Local Authority of their intention which would trigger a moratorium period of up to 6 months, the purpose of which is to provide voluntary or community bodies with the opportunity to raise funds and put together a bid to purchase the asset. After the moratorium period – either the 6 weeks if there has been no community interest, or the full 6 months – the owner would be free to sell to whomever they choose and at whatever price, and no further moratorium will apply for the remainder of a protected period lasting 18 months (running from the same start date of when the owner notified the local authority of wishing to sell).
- 5.7 The provisions do not place any restriction on what the owner of the OHaH can do with the premises, once listed, so long as it remains in their ownership. This is because it is the planning system which determines appropriate uses for particular sites, not right of ownership. Listing any pub, including the OHaH cannot guarantee planning permission will not be granted for any conversion, extension, or redevelopment, but does mean the sale (disposal) of the premises cannot occur without the community or another publican the chance to express an interest in and place a bid for its purchase.
- 5.8 The regulations state that LPA can decide whether or not ACV status is a material consideration in any planning application. Paragraph 2.20 of the Department for Communities and Local Government's non-statutory guidance on ACVs provides that: *"it is open to the Local Planning Authority to decide whether listing as an ACV is a material consideration if an application for change of use is submitted considering all the circumstances of the case"*. Basingstoke and Deane Borough Council will determine whether the ACV is a material consideration through an assessment of whether sufficient evidence exists to demonstrate whether the pub is a valued community facility.

6.1 Principle of development

The Development Plan

- 6.1.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case the Development Plan for the area is the adopted Basingstoke and Deane Local Plan 2011-2029 (BDLP). At a national level, the National Planning Policy Framework (NPPF) was introduced in 2012 and the NPPF constitutes guidance, which the LPA must have regard to.
- 6.1.2 Paragraph 69 of the NPPF (the Framework) emphasises the important role of the planning system in facilitating social interaction and creating healthy, inclusive communities, and paragraph 70 states that to deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should guard against the unnecessary loss of valued facilities and services. Moreover, the objectives of paragraph 28 in supporting a prosperous rural economy includes promotion of the retention and development of local services and community facilities in villages, including public houses. The Framework therefore provides a clear level of support for the retention of public houses in rural communities, where such loss would be 'unnecessary'. This is given considerable weight as this mirrors those relevant policies within the BDLP which deal specifically with proposals that would involve the loss of community facilities. Paragraph 70 of the Framework does not define the term "unnecessary loss". However, policies contained within the BDLP and Supplementary Planning Guidance are able to provide greater clarity as to how to test a proposed change-of-use against evidence of viability and other criteria.
- 6.1.3 The NPPF does not however, change the statutory status of the Development Plan as the starting point for decision making, but forms a material consideration in any subsequent determination. Policy SD1 'Presumption in favour of sustainable development' of the BDLP is relevant to all planning applications. This policy states that when considering development proposals, the LPA will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. The policy goes on to state that applications that accord with the policies in this Local Plan will be approved without delay, unless material considerations indicate otherwise.
- 6.1.4 Policy SS1 specifically concerns the scale and distribution of new housing within the Borough. As this application proposes a change of use to housing, this must be considered in light of the approved strategy to meet the Borough housing needs over the plan period. One key method for addressing such need is through exception sites located outside defined Settlement Policy Boundaries. For such residential development to be acceptable, it must meet strict criteria set out in Policy SS6 and any other relevant policy within the Plan relevant for new housing to be located in the countryside.
- 6.1.5 Relevant to this change of use, Policy SS6 part (c) states that development proposals for new housing outside Settlement Policy Boundaries will only be permitted where they are for the re-use of a redundant or disused permanent building provided that the proposal:
- iv) does not require substantial rebuilding, extension or alteration; and
 - v) does not result in the requirement for another building to fulfil the function of the building being converted; and

vi) leads to an enhancement to the immediate setting;

- 6.1.6 It is clear that the pub is a permanent building and would not require substantial rebuilding, extension or alteration (iv). In terms of criteria (v), whether the conversion would directly result in the requirement for another building to fulfil the function of the building being converted, it should be highlighted that this test does not consider whether the permitted use of the building itself is in demand or needed, moreover this test examines whether the proposed conversion, as a result, would require another building to serve its purpose. As the building is currently vacant, it cannot be argued that a replacement building must be found to accommodate the permitted use (pub), as no pub business is currently operating from the site. Other policies within the Local Plan examine whether the facility is no longer needed for any of the functions it can perform.
- 6.1.7 However, the final criteria (vi) of Policy SS6(c) is less clear. This supports the reuse of a redundant or disused building providing it leads to an enhancement to the immediate setting. As the building is currently vacant, its re-occupation would no-doubt result in a physical improvement to its material condition. However, its reuse as a dwelling rather than a pub is likely to be viewed as inconsistent with the building's original intended purpose. In exploring the justification for such a restriction within the countryside, the supporting text to Policy SS6 clarified that it is the primary intention of the policy to "maintain the existing open nature of the borough's countryside, prevent the coalescence of settlements and resist the encroachment of development into rural areas". In acknowledging the purpose of the policy to prevent physical intrusion into the countryside, it can be reasonably considered the physical conversion of this vacant building is inherently able to lead to an enhancement to the immediate setting, whilst the use may actually be inconsistent, the physical material harm is not considered to sufficiently prejudice the aims of this policy. Specific matters concerning the loss of the existing, albeit vacant use are covered by separate policies within the BDLP.
- 6.1.8 Policy CN7 'Essential Facilities and Services' seek to resist proposals which would be detrimental to or result in the loss of essential facilities and services which meet community needs and support well-being. Pubs are an essential facilities and service covered by this policy. The policy is clear that such proposals will only be permitted where it can be clearly demonstrated that:
- a) the service or facility is no longer needed; or
 - b) it is demonstrated that it is no longer practical, desirable or viable to retain them; or
 - c) the proposals will provide sufficient community benefit to outweigh the loss of the existing facility or service, meeting evidence of a local need.

This policy confirms the need for the LPA to work positively with local communities and support proposals to retain, improve or re-use such essential facilities. In order to comply with this policy, only one of the above criteria need to be fulfilled.

- 6.1.9 The supporting text to the policy requires that proposals that would entail the loss of an essential facility or service must show evidence of alternative provision, financial viability, or the results of marketing exercises to show that the service cannot continue to be provided. This policy requires the views of the local community to be sought on any loss as part of the assessment potential to retain the essential service in question. The loss of such a community facility will therefore be considered under the above three criteria a), b) and c) within Policy CN7. The Council has also produced guidance on marketing requirements which sets out the minimum

standard of information to be provided to the Council. This will be discussed later in this section.

a) The service or facility is no longer needed

- 6.1.10 The OHaH fronts directly onto Tylney Lane to the north of the village green in the village of Newnham. Internally its trading area comprises two rooms on either side of an entrance lobby, a single bar serving both rooms. Two single storey rear extensions provide kitchen and toilet facilities. To the side and rear of the building is a small pub garden and surfaced parking area for approximately 18 vehicles. The OHaH is the only Public House in the village of Newnham. The Appellant draws attention to the Newnham Clubroom which is located a short distance away towards the centre of the village at the cross roads. The clubroom operates as a village hall and is available for hire, for small or large functions. Whilst large, spacious and benefiting from generous parking, the LPA does not consider this establishment would be as attractive as a public house for spontaneous or occasional use, and certainly not for informal socialising. The responsibility for food preparation would also be placed upon those hiring the clubroom. In this regard the Clubroom is not considered an adequate substitute for a village pub.
- 6.1.11 It is clear from the 85 public representations received and the 'Save our Newnham Pub' petition undersigned by over 1200 individuals, that the change of use of the OHaH to a dwelling is strongly resisted. The number of representations is considered significant for a village of what is estimated at 500 residents (of all ages). The LPA also acknowledges that the Parish Council and local Ward Members are also strongly against the potential loss of this Public House. Whether these who made representation against this development, have in the past or intend in the future to frequent this pub should it reopen, the views of the local community as established through the public consultation period of this application clearly demonstrate that there is a strong desire for the building to be retained as a pub and the level of objecting representations is indicative of a considerable degree of local concern to the proposal.
- 6.1.12 When considering whether such facility is needed, in addition to public opinion it is important to look at the availability of other public houses within the vicinity of this site and establish whether the availability of 'alternative provision' is available from a 'local' perspective of Newnham itself, or in the surrounding area and to those in adjoining settlements. When viewed in context to the surrounding area, this part of Basingstoke and Deane Borough and the adjoining parts of Hart District are not considered to be 'deep rural' or sparsely populated. There are many individual villages and commuter towns which follow the A30 and southwest railway line into London. A few minutes drive east from the premises is Hook, a small town of 8,500 residents, whilst 10 minutes the other direction along the A30 lies Basingstoke, considerable town with a population of over 110,000.
- 6.1.13 There are five pubs within a radius of a 5 minute drive of the village, The Hogget, The Old White Hart, The Y Knot Inn, The Coach and Horses and The Falcon. Each of these alternative offerings has been detailed within the appellant's Viability Assessment submitted with the planning application. Of the five alternative establishments in close proximity, all provide a similar offering yet cater for a varying types of trade. This seems to be driven by their respective locations, which are, from the LPA's perspective, fundamentally different. Two pubs are located in the next village to the north (Rotherwick), two are located along the main London Road (A30) between Basingstoke and Hook, and one is located on the 'high street' within the town centre of Hook itself. Of these establishments, only one could be accessible to

people from the village by means other than private vehicle. This would be The Hogget, a former 'road house' attracting passing and destination food trade. This large pub/restaurant, focusses primarily on restaurant quality food, and contains a modest bar area. It is not in the LPA's view able to provide the same offer as say a 'traditional village pub' for more informal impromptu gatherings and non-food related visits. The journey to walk to the Hogget would also make it undesirable given the rural nature of the route etc.

- 6.1.14 Therefore, it would seem that despite the fact that there are other Public Houses close by in adjoining villages and towns, their location and offering does not appeal or meet the needs of the village in the first instance. The potential catchment of customers, as demonstrated by the level of resistance received through public consultation, extends wider than the immediate village of Newnham itself. Therefore, it is the view of the LPA that not only is the level of objection from both the local community and wider area indicative of the pubs inherent value, but there appears to be no substantive evidence to show that the number of competing pubs within the surrounding area is too great for the level of local demand which seems to exist in the immediate and wider area.
- 6.1.15 In considering the evidence which demonstrates whether the pub is a valued community facility, The OHaH has been included on the Council's list of Assets of Community Value (ACV). Whilst this regime operates independently from planning, the list inclusion is further evidence as to the OHaH's importance to the village. Taking account of the above matters, the LPA is of the firm view that there is significant evidence that the OHaH is a valued community facility to not only the village of Newnham itself, but to those in the surrounding area, and in this regard, is 'needed'. The application is therefore unable to meet the requirements of criteria (a) of Policy CN7 of the BDLP. This position also leads the LPA to determine that the ACV status is a material consideration in this assessment, as it has been demonstrated to the LPA that the pub is a valued community facility.
- 6.1.16 In light of the above conflict with criteria (a), an assessment must be made against criteria (b) of the Policy, in whether it is a realistic proposition to continue its use as a Public House and whether any operation could be commercially viable.

b) It is demonstrated that it is no longer practical, desirable or viable to retain them;

- 6.1.17 The planning application was supported by an independent viability assessment prepared by Fleurets. This assessment along with the submitted Planning Statement forms the basis of the Appellant's submission. In addition to undertaking our own investigation into the pub's former commercial status, the LPA appointed an independent valuer (Bruton Knowles) to explore the conclusions made by the Appellant in more detail. Furthermore, additional information was received from the Parish Council, which in addition to appointing their own independent valuer (Anthony Miller on behalf of Planning for Pubs), prepared and submitted a working Business Plan in conjunction with the Community Pub Steering Group (CPSG).
- 6.1.18 There are a number of factors which can cause a business to become unviable and are commonly discussed in many of the viability reports received. These commonly refer to a Public House Viability Test (PHVT), prepared by the Campaign for Real Ale (CAMRA), identifying viability issues that may be appropriate when considering the change of use of a public house. Whilst the applicability of individual matters within the PHVT are extensive and may vary from location to location, many matters contained within the PHVT are considered consistent with those contained within criteria (b) of Policy CN7. The LPA will therefore consider each part of criteria (b) in

turn, with due regard to the PHVT, and those initial findings of the appellant and where relevant third parties in order to better understand and scrutinise the particular merits of the appeal scheme.

Practical

- 6.1.19 For the site to no longer be practical to be retained as a public house, the physical building itself would have to have become impractical for such a use. The building appears structurally sound and its physical condition is not likely to make it impractical for use. The fact the pub has operated from this building for a considerable period of time, also clearly demonstrates to the LPA that as a starting point, the building can realistically continue to be used as a pub. The Fleurets viability report does not specifically mention the practicality of continuing the use, however it does state the pub is “relatively small/poorly configured and does not have what I consider to be good external areas.” In considering the physical attributes of the premises, the LPA’s own independent valuer Bruton Knowles, only considered whether the physical attributes of the building are sufficient enough to accommodate the necessary space for a Gastro Pub trading model, which they consider as the ‘only’ viable trading model for such a premises. A Gastro pub model being one which primarily puts food centre to its offer. In acknowledging the inherent physical constraints on the premises in adopting a Gastro Pub model, Bruton Knowles were silent on whether the current premises would be practical ‘to retain’ for any other kind of Public House business ‘model’, and therefore the position was inconclusive.
- 6.1.20 The LPA notes that within the local area there are a number of other premises which adopt various ‘trading models’, and these premises vary considerably in size, layout and form. The examples referred to by the Appellant as alternative facilities available, represent a mixed range of models and premises sizes. The OHaH is comparable in size to the Y Knot Inn, The Falcon and The Coach & Horses at Rotherwick. Like other examples of Public Houses in the area, the existing building’s interior is not substantial, but does itself create a degree of character that is reaffirmed by the open fires in both bar areas and the separate dining area in a converted barn/stable. If a landlord so wished, it could be easily given a more intimate feel which complements the attractive frontage and period character. As apparent from a copy of an advert marketing the premises, presented within the Parish’s Business Plan, this confirms the pub contains an “outside seating area with chairs and tables for approximately 20 people”. From the application site visit, there appeared to be little evidence that these outside areas, which were pleasant and secluded, were ever seriously enhanced to achieve greater utilisation. The outside space available to the premises was not solely the conventional rear pub garden (W & NW facing), but also consisted of a seating area to the front of the building onto the village green (S & SW facing). This area in particular has the potential to be made attractive and better utilised in order to increase the appeal of the pub, especially during summer months. With appropriate clearing, landscaping and gardening, these outside spaces could reasonably be brought back into use and substantially contribute to making the OHaH a destination.
- 6.1.21 Whilst the size of the premises is a contributing factor to the commercial success of any business, the LPA does not share the view that this is a determining factor which conclusively demonstrates the operation of any pub from this building is impractical. Furthermore, it appears that no attempt has been made recently to better utilise the space available and therefore diminished weight is given to the view that such a use on this site is impractical. Such works to consolidate and refurbish the interior and make better use of outside areas would certainly not be

considered unreasonable or impractical for any willing landlord to undertake, and would likely receive the support of the LPA. Therefore, it is the LPA's view that it has not been adequately demonstrated that the OHaH is impractical to retain as a pub.

Desirable

- 6.1.22 In concluding that the OHaH is a valued and needed community facility and could practically be retained as a pub, its desirability must next be considered. The LPA must therefore understand whether it has become undesirable for the building to be retained as a Public House. Desirability is not defined within the Town and Country Planning Act, the NPPF or the Local Plan, and therefore the LPA have applied a reasonable ordinary dictionary meaning in making any judgement. The word "undesirable" suggests that it would be "harmful or objectionable". The location of any particular building could make it undesirable to continue its current use, for example if it was in an inaccessible location which would prevent customers access, or isolated from its customer base, or adjoining a particular land use with is considered unneighbourly or harmful.
- 6.1.23 The exercise in public consultation undertaken by the LPA generated a significant level of response. These responses clearly confirmed a strong desire from the residents to resist the permanent change of use to a dwelling and the building to be retained as a pub. As described within the Parish's Business Plan and clear from representations received, local residents wish their pub to be inclusive, welcoming, providing quality food and drink, catering for all sections of the community. As apparent from marketing information obtained and presented within the Business Plan, a marketing advert for the premises confirms the pub as a "well established quality food venue" in a "much sought out area" between Basingstoke and Hook. The advert goes on to extol the strengths of the pub's location, with easy access to the mainline railway and M3. The building is stated as being within a "very good condition" and has been "well looked after". The pub is located in a pleasant verdant village setting, not isolated from any prospective customer base, and therefore no overriding factors would make the LPA consider that such a use would be 'harmful' or 'objectionable'. Whilst closed, the pub clearly has a range of factors which weigh in its favour making it a 'desirable' proposition and destination for the local community and those further afield.
- 6.1.24 In order to assist the LPA in understanding whether the business is a desirable proposition for any potential purchaser, the results of a balanced marketing exercise would certainly be of value. This will be discussed in section 6.1.42.

Viability

- 6.1.25 Notwithstanding whether the use as a public house is practical or desirable to maintain, for any business to be a realistic proposition, the viability of the pub operation has to be considered. The authorised use has not been carried out for at least two years and in this sense, the OHaH is not an operating business.
- 6.1.26 The independent viability assessment undertaken by Fleurets on behalf of the Appellant concludes that the OHaH "has a history of being a marginal or unviable Public House". It goes on to state that relative to competitor outlets, the pub is located in what Fleurets consider a "sparsely populated area", and therefore not well located. The assessment also highlights the fact that because of the lack of historic accounting information, the OHaH is considered high risk from an operator's perspective, and subsequently it is their opinion that the pub does not represent a financially viable proposition. This viability report provides some information on the

proximity of alternative Public Houses which it considered could meet the needs of the local community arising from the loss of this Public House and their relative accessibility, including some evidence of financial viability in order to demonstrate that the proposal meets criteria a) and b) of Policy CN7.

- 6.1.27 The LPA subsequently commissioned Bruton Knowles, to provide an independent response based upon the information available on the potential viability of the former Public House operation. It was the conclusion of Bruton Knowles that based on the information made available, the OHaH is no longer a viable Public House. This response identified two factors which “cannot be overcome” in promoting a successful business strategy for the pub. The first one was the lack of sufficient car parking to “accommodate the likely demand required for viability and limitation of the site area to extend the building and whilst retaining external trading space”. The second was the lack of adjoining public space to create further car parking in the future.
- 6.1.28 In addition to third party representations received, Newnham Parish Council formally instructed Planning For Pubs Ltd who produced a detailed representation against the planning application. This representation has been accompanied by a report providing a “critical commentary” on Fleurets viability report and to “give an alternative approach to the future viability of the Old House at Home”. This report is not a formal valuation report, however its author concludes that in their opinion, the Public House is in fact viable.
- 6.1.29 The LPA’s attention is drawn to the PHVT, whilst not a planning document nor adopted Local Plan Policy, its criteria provides useful guidance to any structured assessment of the possible potential future viability of a particular Public House. This statement will broadly consider each matter contained within the PHVT. It must again be stressed, this document is not exhaustive nor determinative, but does provide useful guidance.
- The market
- 6.1.30 Extensive data has been presented by the Appellant, the LPA’s independent valuer, and has been made available to the LPA through other appeal decisions, media coverage and third party representations, to show that there has been a marked decline in the pub trade, not just locally, but right across the UK. Factors such as legislative changes like the smoking ban, changing social habits (healthier lifestyles), supermarket competition and anti-drink drive legislation (to name but a few), have all had an impact on the sale of drink in pubs. The decline in the pub trade is well documented and is acknowledged through those tests required by national planning policy, the Local Plan and recent changes to permitted development legislation.
- 6.1.31 Equally, whilst the LPA is similarly aware of other pubs in the Borough that have ceased to trade because of market conditions, there are, however, more recent changes which indicate a recent reversal in certain market trends. These include the increase in craft beer sales, the increase in the number micro-breweries and micro-distillers across the country. These growth markets follow a desire for ‘quantity’ over ‘quality’ with a more artisanal approach to the products sold. Two such businesses, the Andwell Brewing Company along with the Craft Beer Bottling Company, are located only 4 minutes to the south of the pub. Further afield within the Borough lie other micro-breweries and the Bombay Sapphire distillery. In addition to these clustered businesses, pubs do continue to trade locally with the Appellant themselves referring to five such establishments within 5mins drive of the OHaH.

6.1.32 The Parish Council representation asserts that the local area has not seen a significant economic downturn or dramatic loss in customer base and that “an emerging groundswell of community initiatives and community operated pubs is now evident”. Whilst the LPA is not aware of all such instances, this does correlate with the rise in micro-breweries across the Borough and the region as a whole, and the reported increase in demand for quality beers, wines and spirits which is also well documented nationally.

6.1.33 Therefore whilst the LPA largely accepts the position that over the past few decades there has been considerable pressure on licensed premises which have made trading more difficult than previous, this pressure is presented by both Fleurets and Bruton Knowles as being nationwide occurrences. These reports do not include any detailed assessment of regional disparities, recent emerging trends or accurately take into account the specific economic health of the Borough or that of the adjoining borough of Hart District. Incidentally, both Boroughs are considered to be affluent parts of the county with corresponding below average unemployment levels. This supports the inherent strength of the sites particular location, evident clustering of certain complimentary businesses like the brewery and bottlers, and thereby presents a real need to explore local market conditions further before a conclusion can be reached concerning the market in which such a pub would operate.

- Trade Potential

6.1.34 As discussed earlier in this statement, the location of the pub, whilst rural, is considered to be within close enough proximity of a sizable catchment area encompassing the adjoining settlements of Old Basing, Hook and Basingstoke. Whilst the village of Newnham itself is small and would not reasonably be expected to support such a pub in isolation, the population within a 5mins driving radius of the pub would provide sufficient opportunity for ongoing trade. The assessment of trade potential as assessed by either Fleurets or Bruton Knowles does not include any detailed assessment of the likely increase future trade generated by planned residential developments within proximity of the site. Application 13/02585/MAJOR saw permission granted for 70 houses to the northeast of the village at the northern end of Hook. More relevant is an EIA Screening Opinion currently pending consideration with Hart District Council for an urban extension consisting of 750 homes and a local centre to the northwest of Hook. This proposed development would directly extend up to the borough boundary of Basingstoke and Deane and the edge of Newnham village itself. The Illustrative Masterplan accompanying this application shows easy pedestrian connectivity from the main residential part of the development to the village and pub itself. Whilst not a defined allocated site within Hart District Council Draft Local Plan, the fact there is a Screening Opinion lodged with Hart District Council shows a distinct intention to explore the development opportunity offered by this land and at the scale indicated. Whilst no certainty exists over the scheme acceptability or delivery, this represents a possible material change in the relationship between Newnham and Hook, its nearest largest town, by a significant increase in the catchment population and accessibility to the pub. Whilst a high degree of uncertainty exists, these factors could well affect the future attractiveness and the relative viability of such an enterprise, and therefore must be afforded a degree of weight in the LPA’s assessment.

- Profitability

6.1.35 The author of the Fleurets viability report stated that he did “not have access to any detailed accounting Information relating to the Old House at Home” and the

conclusions are thereby based upon estimated sales. Bruton Knowles, appointed by the LPA to provide independent advice, also were not in possession of any accounting information in making their assessment of the businesses viability. In this respect, a view was sought as to the trading potential of the pub rather than the actual level of trade under the previous ownership, which are themselves either outdated or inconclusive altogether. The main representation prepared on behalf of Newnham Parish Council by Planning for Pubs Ltd state that "In May 2015, a group of local residents, the start of the 'Pub Steering Group', met to consider the Old House at Home. They had printed copies of the accounts 2007-2010 supplied by the tenants previously. The Parish Council has an emailed summary of these figures but is not in a position to make the accounts available without the consent of the former tenants."

- 6.1.36 The LPA acknowledges this lack of available historical accounting information and appreciates that in all cases, such information may not be readily forthcoming or easily available to the determining authorities. The LPA will therefore apply a degree of caution to the conclusions made by all interested parties and take a precautionary view as to whether there is sufficient evidence to demonstrate that a new operator could influence turnover, gross profit and administrative costs to positively affect viability.
- 6.1.37 Within Anthony Miller's critical commentary contained within the Planning for Pubs representation on behalf of Newnham Parish Council, he states "*The Parish Council have advised me that the actual trading accounts for the years 2008 and 2009 show turnover figures of £419,667 and £367,000. Following a fire in 2009 the property was closed for 8 months. The Parish Council have advised me that when the pub re-opened the turnover was £259,784 in the initial 6 months of trading. In my view an analysis of the rating assessment at 1st April 2010 supports an annual turnover of £375,000 in 2016.*" Therefore what is known by all parties concerned is that there are trading accounts for the OHaH from 2008 and 2009, with partial accounts available for 2010. The LPA, like the Appellant has not had sight of any additional information which would point to "historical turnovers and good profits" as described within Anthony Miller's critical commentary, and certainly not for the most recent period of trading from 2010 onwards until the pub was purchased by the Appellants in 2015.
- 6.1.38 What is known is that during this period, there were a series of social-economic factors which would have no doubt influenced the reliability of these figures, notwithstanding the fact that a considerable period of time had elapsed. Firstly the national economic climate was heavily affected and suppressed by the financial crisis and subsequent recession (2007/2008). Secondly, and more specifically to such licenced premises, the industry was dealing with the repercussions of the smoking ban which was introduced in July 2007. Taking into account the further unforeseen consequences upon the business caused by the fire towards the end of this trading period (2010), the picture becomes even more unclear. The LPA must take the position that the more up-to-date the information available, the more weight they can be given. As these figures are based upon 2009 trading levels, and due to the fact 8 years has lapsed, they are largely outdated and their reliability as a true representation of the profitability of the business is subsequently diminished.
- 6.1.39 The LPA does not support the Parish Council's argument that these figures demonstrate profitability of the business at the present time, and similarly does not support the Appellant's view that such figures (or the absence of any since 2010) conclusively demonstrate that the enterprise would be unviable, despite having due regard to those projections and assumptions which have gone into projecting the

Fair Maintainable Trade (FMT) contained within Fleurets report and that of Anthony Miller.

6.1.40 A third party objection from the Community Pub Steering Group (CPSG), advised that the previous owner a Mr Williams, confirmed that the pub would be a viable operation on a turnover of £250,000. This is below the £350,000 figure suggested in the Parish Council Business Plan and therefore the disparity between third parties must be acknowledged, indicating a further degree of uncertainty to the LPA.

6.1.41 Therefore, whilst of some consequence, the LPA does not consider that these trading figures are able to provide a realistic insight into the actual trade potential of the business, not only over this period, but all the way up to the present time.

- Attempts to continue the operation and marketing

6.1.42 The LPA recognises that Public Houses serve important social, community and economic functions and contribute to maintaining the viability of rural villages as advocated by the NPPF. In seeking to understand whether the OHaH is no longer economically viable, the LPA would expect evidence to be produced by the Appellant to show what measures have been taken in order to attempt to return the pub to a viable business. This could include commercial initiatives, development proposals for the business like planned refurbishments, extensions or marketing to attract a new manager/owner etc.

6.1.43 An updated working Business Plan was submitted on behalf of the Parish Council to the LPA in September 2016, which identified the repair and refurbishment of the pub as a key component to any successful purchase of the premises by the community. Whilst the actions contained within this Business Plan are entirely dependent upon the acquisition of the building, it does demonstrate to the LPA that there is a strong and realistic desire by the local community to improve, repair and refurbish the pub in order to enhance the offer available.

6.1.44 Such physical works, especially those which would require structural alterations, are likely to require planning permission, so too would any increase in the level of parking available to the pub. These are two key components identified by the LPA's appointed valuer. There appears to be no fundamental reason why such works would be resisted by the LPA in principle, subject any physical alterations being mindful of the buildings historical and architectural status within the village and Conservation Area. Whilst reasonably constrained, there is also no reason why community led options for increased parking could not be realistically explored on land around or adjoining the building itself, including the edge of the village green. It therefore seems to be the case that whilst the current size of the building and parking availability are restricting factors to any business of this kind, such improvements do not appear to have been explored with any real purpose by the Appellants or previous owner.

6.1.45 In turning to the past and future management of the OHaH, the LPA is aware that the success of any Public House can be down to many factors, not least of which are the character and skills of the landlord. As such, poor, unaudited, or missing accounts do not necessarily conclude that the OHaH was unviable, but rather might just show that the premises were not well managed over the period beyond 2010 and the lack of organised trading information could point to this. There is little evidence that the previous manager covering the period actively pursued any commercial initiatives or development proposals to improve the offer or diversity of the product. Mention was made of a 'Sausage led' offer during the 1990s through

third party representations, but limited information has been provided as to the extent or success of this venture. The Parish Council expresses the view that under a community-ownership model with a live-in landlord couple (rather than the live-out management as previously the case), the OHaH could be a viable proposition. This option was not discussed by either the Appellant or the LPA's appointed consultant. It is therefore the LPA's view that there remains inconclusive evidence that the OHaH was not being run/managed in ways which optimised its potential attractiveness as a business proposition.

6.1.46 Local Plan Policy CN7 does make reference to the requirement for marketing evidence, however, the LPA acknowledges that this is not an absolute requirement but only if evidence of alternative provision and financial viability cannot be conclusively demonstrated. Only then would the results of marketing exercises be relied upon to adequately demonstrate that the service cannot continue to be provided. As alternative provision or financial viability cannot be arrived at with any certainty, the results of a marketing exercise would certainly provide a further degree of certainty as to whether the Public House would have been viewed as an attractive proposition and not ceased trading. To assist in addition to national guidance, the Council has produced a specific Guidance Note on marketing requirements, and this sets out the minimum standard of information to be provided to the LPA (Appendix 3)

6.1.47 This guidance note sets out what is expected from an applicant when they are undertaking a marketing exercise. As part of any relevant planning application such as this, it is necessary to submit a Marketing Report to demonstrate that a robust marketing strategy has been followed. Unless there are significant material considerations to justify otherwise, the marketing exercise should be undertaken for a period of at least six months (in accordance with the adopted Local Plan, footnote 37) and of a professional standard which could result in either:

- a sale or letting which will enable that use to be continued/implemented; or
- evidence that there is no demand for the particular use of a site/premises other than at substantially below current market value.

6.1.48 The property should be marketed in a manner that would genuinely test the market and bring it to the attention of likely purchasers. If the marketing exercise proves unsuccessful (i.e. the property cannot be sold/let for the intended use other than at substantially below market value within a 6 month period) and a planning application is submitted for a change of use or redevelopment, a Marketing Report providing a summary of the marketing exercise should be submitted as part of the planning application. Upon request, the Appellant provided the following comments on marketing within an email dated 9 June 2016:

"The pub has not been specifically marketed as it is in Red Oak Taverns' experience and educated opinion that the Old House at Home is unviable for the following reasons:

- the fact that the pub had already failed and was closed when we acquired it;
- the fact that the local community built a Club Room in 2011 for community meetings and uses;
- the long term chequered operating history of the pub despite the concessions offered by previous landlords, the most recent occurrence involving the freeing of the tenant from the tie for no recompense, either in

the form of a capital payment or increase in rent, with the result of rent still not being paid and leading to forfeiture of the lease for non-payment;

- the availability of at least four other, and larger, pubs in the nearby area;
- the paucity of local residents (c.300) in the community to make it viable as a local community pub. Indeed, this is well below an industry metric used by many pub companies of 1000 capita per licence in a 1 mile radius of the site;
- the fact that we had only one person contact us to enquire whether the pub would be opening since our acquisition on 28th August 2016 – the said Dan O'Regan referred to above;
- the fact that, due to the low local community count, the site would need to focus on being a destination food house i.e. rely on customers living outside of the community and travelling to the site by car. The site has a small floor area, poor configuration and hence few covers, meaning that a capital intensive extension (subject to planning) would be required to create a sustainable food trade.
- there is no guarantee that any extension of trading space would be successful, thus leaving this a very high risk strategy;
- for the poor footprint reason given above, that other income streams would need to be created to attempt to sustain the trade, such as hotel letting rooms being constructed on part of the site. This, again would be capital intensive and subject to planning permission. Again, a very high risk strategy, especially being in close proximity to the Tylney Hall Hotel (less than 1 mile away); and
- Fleurets, one of the most respected national pub advisers in the UK, has provided “independent advice as an Expert Witness” that the Old House at Home “...does not represent a viable financial proposition.”

6.1.49 The above list of reasons by the Appellant focus on why the pub is unviable. Of these reasons the LPA has already acknowledged and discussed many within this statement, however, crucially these reasons do not directly explain why a balanced marketing exercise could not or was not undertaken in accordance with either the Council's current Guidance Note or to a standard agreed by Fleurets, who are themselves clearly acknowledged by the both the Appellant and the LPA as having expertise in this field. The precise reasons why the Appellant did not decide to formally market or sell the premises are not known. Whilst it appears to be because they considered the OHaH unviable, it could also have been for other reasons that the LPA is unaware of.

6.1.50 There is mention within third party representations that the previous operator made a bid for the freehold in 2013. No further information is available as to the outcome of such a bid, but it is reasonable to consider that such a bid would have been unlikely from the management had it been the case that they were aware that the OHaH was been unviable at the time. If the premises were in fact on the market for a short period of time or any serious discussions to sell were held in private as has eluded by the Appellant and third parties, this would have realistically constituted such a short time-scale and without any indication of whether such an offer was reasonable. Therefore, little weight can be afforded to the Appellant's endeavours and the assertion that the absence of any firm interest in the business demonstrated it was not viable.

6.1.51 According to the Parish Council's most recent Working Business Plan dated 30th September 2016, the pub was advertised on a 'free of tie' lease on the pubsforlet.co.uk website after the last tenants left the premises in February 2015.

Other than a copy of this advert, no further information has been provided to qualify the duration or interest of such an exercise, therefore the value of such information is limited and the LPA maintains the above view.

- Retention through community enterprise

- 6.1.52 Any such retention of the OHaH through a specific community enterprise, ownership or initiative is reliant upon a group of people willing to invest time and resources into running such a business. Given the overwhelming public response to this application for change of use and the possible permanent loss of the OHaH, there is clearly a strong degree of support for the pub's retention. Through the efforts of the Parish Council and CPSG to date, there appears the necessary commitment within the community to seek ways and means to achieve this goal. Of course, the LPA is fully aware that the intent of the parish and third parties is distinctly different from success, and the success of such a community enterprise would be subject to the same risks and pressures as any purely commercial based enterprise. The community's purchase or lease of the OHaH would also be a pre-requisite to ensuring the pubs continued operation in any form.
- 6.1.53 Refusal of this appeal would itself not open up the possibility that the premises could be run by the local community, as such an outcome cannot oblige the current owners to dispose of the property. However, in considering the actual value of granting permission, this would overwhelmingly be of value to the Appellant in commercial terms, yet would remove (in affect for all time) the possibility that the OHaH might be retained by and for community use in the future. Preventing the loss of such a community facility is central to the way Local Plan Policy CN7 is intended to operate. In allowing such 'valued' essential facilities such as these to operate and lending them support through Policy CN7, the policy inherently implies that they should be retained as a first resort, ahead of what is clearly a more lucrative alternative use for the Appellant such as a residential conversion.
- 6.1.54 To that end Newnham Parish Council and the CPSG has commissioned a working Business Plan which outlines how a loan available to the Parish Council of £450,000 via the PWLB (Public Works Loan Board) would in the words of the Parish "secure the future of the OHaH as a thriving rural business and social hub of the village". This would involve attracting ambitious and imaginative management and chef, creating a varied locally sourced menu and local beers catering for a variety of tastes and budgets. The plan also involves the renovation of interior and exterior spaces to a high quality and plans to alter the premises via a glass link extension and large window for the dining area, along with a new side extension for new ladies', gents' and disabled toilets allowing an increased number of covers. Following initial start-up, the Parish Council and CPSG are confident a healthy net profit could be achieved which would be supported by the first six months of the tenancy being rent-free and the fact no repayment is required to the PWLB for the first 12 months of the loan period. The tenants' remuneration is in addition to the (refurbished) ancillary accommodation and reflects the fact that self-contained first floor flat is provided.
- 6.1.55 It is clear that such a plan on behalf of the Parish Council and CPSG is not without risk and substantial upfront costs would be incurred. Therefore this business plan cannot be regarded as definitive. However, the Parish Council and CPSG already seem to be demonstrating a degree of commercial endeavour and appear flexible to those likely changing variables over time.

Conclusion on viability

- 6.1.56 Given the conclusions under the above headings, despite the range of conflicting opinions and absent or incomplete accounting information, the LPA cannot say with any certainty that there wouldn't be a reasonable prospect of the OHaH becoming a viable business in the future. Under the current ownership, it is the Appellant's view that this is clearly not a viable proposition, and it might even be as equally difficult in terms of the conventional approach of the licensed trade based upon the varying valuation advice provided and the degree of expenditure required. However, the LPA cannot overlook the aspirations and imagination of a community led venture of the type promoted by Newnham Parish Council and the CPSG. Furthermore, there are a range of other organisations like CAMRA and the Public Loans Board which are likely to lend support and assist in practical ways to bring about a reasonable prospect of viability under an alternative model, which the LPA do not feel has adequately been explored. In this regard the LPA is of the view that the Appellant has not adequately demonstrated the requirement that it is no longer viable to retain the OHaH as stipulated by criterion (b) of Policy CN7.

The National Planning Policy Framework

- 6.1.57 In accepting this identified conflict with the Local Plan, the NPPF constitutes additional guidance which the LPA must have regard to. As this application is in effect an application for new housing, the NPPF requires LPA's to actively manage an appropriate Housing Land Supply (HLS). In this regard the Council is currently able to demonstrate that it has a 5 year HLS of 6.2 years. As such Paragraph 49 of the NPPF is not engaged (insofar as it relates to HLS). However, the NPPF continues to require all applications to be considered in the context of the presumption of sustainable development which is seen as a golden thread running through both plan-making and decision-taking.
- 6.1.58 The three dimensions to achieving sustainable development are defined in the NPPF as: economic, social and environmental. This is also consistent with the Local Plan under Policy SD1 (Presumption in Favour of Sustainable Development). It is therefore necessary to consider carefully to what degree this proposal for the change of use of a Public House to a single dwelling would meet the sustainable development goals of the NPPF in terms of its economic, social and environmental merits and whether they would themselves outweigh the identified Local Plan conflict.
- 6.1.59 The economic role of the NPPF requires proposals to contribute to building a strong, responsive and competitive economy. The social role requires planning to support strong, vibrant and healthy communities and states that it should create a high quality built environment. The environmental role states that the natural built and historic environment should be protected and enhanced and should mitigate and adapt to climate change.
- 6.1.60 Notwithstanding the inconclusive and somewhat contradicting assessments made concerning the historic and future financial viability of the OHaH, it is clear there would be limited economic benefit in the long term from the simple conversion of the building into to a single dwelling. Less so when compared to the possibility of the existing or a new owner continuing the buildings permitted use as a Public House. Whether through local employment, sourcing of local food and drink and the associated spin off trade that would be generated by the continued procurement, maintenance and ongoing refurbishment of a Public House into the future, the use of the building as pub presents significantly greater economic merits than the proposed change of use hereby sought.

- 6.1.61 Whilst the Borough has an acknowledged ongoing need for additional housing above that of the identified 5 Year HLS position, the identified social benefits of delivering a single market dwelling in the village of Newnham would be insignificant when compared to the unquestionable social benefits that would be derived from the continued use of the building as a Public House. Furthermore, whilst not a planning designation, the building's current status as an ACV is further indicative proof of the OHaH's social importance within the village and the LPA afford this weight in the overall planning balance. In terms of the environmental merits of the scheme, the conversion is not considered to represent any overriding environmental cost or benefit, and therefore in this regard the appeal is considered neutral.

Summary on Principle of Development

- 6.1.28 On this basis neither the information submitted with the application nor any of the other material planning considerations detailed above are considered to sufficiently override the fundamental conflict with the Development Plan. The principle of the change of use sought, is therefore considered unacceptable as the development represents an unsustainable form of development which would result in the unnecessary loss of an essential community facility.

6.2 Impact on character of the area and visual amenity

- 6.2.1 The impact on the character and appearance of the area must be considered in order to assess whether the conversion of this buildings would lead to an enhancement of the immediate setting of the site. Policies EM1 (Landscape) and EM10 (Delivering High Quality Development) seek to protect the character and appearance of an area from inappropriate development.
- 6.2.2 This appeal seeks permission for a change of use of the building only, and no external alterations to the building have been applied for. Notwithstanding this, it must be acknowledged that in order for the building to become residential, alterations to the external layout and appearance of the site would be inevitable and occur, undoubtedly resulting in the domestication of the application site.
- 6.2.3 The domestication of the building and site and factors such as the removal of signage would clearly reduce its character as a pub, and that of its curtilage. It is not uncommon for buildings to be used for purposes other than their original intended use, and in this context, the change of use to a dwelling would not cause any physical harm upon the surrounding landscape character or material harm to the visual amenity of those passers-by.
- 6.2.4 The building would remain the same scale, layout, form and massing as existing and its specific use as a private residence would not introduce any new or alien form of development to what is a village composed of a variety of house styles. Appropriate landscaping can be secured via condition in order to soften any domestic features and integrate the site into its location.
- 6.2.5 In light of the above, the appeal scheme could be reasonably sympathetic to its character and visual quality of the landscape and immediate area concerned as required by Policies EM1 and EM10 of the Local Plan.

6.3 Residential Amenity

- 6.3.1 The new proposed dwelling would lie close to an existing dwelling to the south east and north along the lane. There would be no new windows created and the first floor use of the building would remain as residential (formerly occupied as ancillary accommodation to the Public House use). The appeal scheme is also considered to provide sufficient usable amenity space for future occupiers in accordance with Council Standards and would cause no undue harm to adjoining residential occupiers.
- 6.3.2 In summary, the scheme respects the amenities of the adjoining land users and that of future occupants. On this basis the appeal scheme is considered to comply with Policy EM10 of the Local Plan.

6.4 Heritage Assets

- 6.4.1 The NPPF and Policy EM11 of the Local Plan requires there to be a consideration of the harm to, or total loss of, the significance of a designated heritage asset from the proposed development. In this case the Newnham Conservation Area and the building for which the appeal relates. It is indicated that where the harm is to be substantial or result in total loss, then consent should be refused unless this is necessary to achieve substantial public benefits.
- 6.4.2 The OHaH is located within the Newnham Conservation Area which was designated in 1981 and amended in 1984. By virtue of the appeal site's location, there is acknowledged to be an impact on the setting of the Conservation Area as a result of the building itself being identified not only as a non-designated heritage asset but as a Notable Building of Merit as identified in the Conservation Area Appraisal (CAA).
- 6.4.3 The building is a mid-Victorian building constructed of red brick (rendered to the front elevation) and has a slate roof and central stack. It occupies a key plot in the Conservation Area, just off the village green and is considered to be one of the central, landmark buildings in the village. As discussed in the previous section, the change of use application is not likely to have a great impact upon the physical fabric or appearance of the building itself, however, there would nevertheless be an impact upon the character of the Conservation Area. The Planning (Listed Buildings and Conservation Areas) Act 1990 (and ensuing guidance) is very clear that 'character', as well as appearance is to be preserved in Conservation Areas.
- 6.4.4 Whilst it is acknowledged that that Pub has ceased trading and has been closed for a period of time, permitting the permanent change of use of the building to a residential dwelling, would have an impact upon the village's inherent vitality. The use of the building as a pub clearly contributes positively to the character and appearance of the Conservation Area, not only through the physical presence and features of the building itself, but through its long-established use, association, and historic position as a traditional Public House serving the village.
- 6.4.5 The building's current permitted use as a Public House bring a significant degree of life and activity to what would otherwise be a very quiet, rural village with few facilities. Its retention would clearly allow the possibility for it once again to be a community hub for the village and the surrounding area. If the appeal is approved, it would effectively remove any opportunity there would be for the building to be brought back into use as a Public House. The added consequence of which would be less movement of people and cars during the course of the day and thus the building would fail to contribute to the visual and functional distinctiveness of the setting of the Conservation Area.
- 6.4.6 The permitted use of the building as a Public House provides a particular sense of local historic focus, and its loss would inherently reduce the level of activity and vitality within the village inconsistent with the inherent charm and heritage value of the Conservation Area.
- 6.4.7 In terms of the NPPF and notwithstanding the recognised threat posed to the Conservation Area by the loss of the pub, the modest scale of the proposal (1 detached building) and the lack of significant physical changes to its exterior, the resultant harm to the significance of the Newnham Conservation Area as a whole is considered to be less than substantial. Nevertheless, against this less than substantial harm, the only public benefit likely to be derived from the scheme is the provision of single market dwelling, in a rural location.

- 6.4.8 The provision of new housing is normally a significant benefit but, even in use as a pub, the OHaH is already capable of providing a single unit of ancillary accommodation, the LPA therefore considers the provision of a single dwelling largely a neutral factor. In any event, this provision certainly does not outweigh the less than substantial harm to the Conservation Area, and in this regard the LPA is distinctly aware of its statutory duty to pay special attention to the desirability of at least preserving the character and appearance of the Conservation Area.
- 6.4.9 In this instance whilst the appeal as proposed would lead to less than substantial harm to both these designated and non-designated heritage assets, the LPA consider that the change of use would not preserve or enhance the character or appearance of the Conservation Area and is contrary to Policy EM11 of the Local Plan. The proposals would also be directly contrary to paragraph 134 of the NPPF, which indicates that such development should be restricted and would not deliver sustainable development. The proposal therefore fails the requirements of Section 72 of the Town and Country (Listed Buildings and Conservation Areas) Act 1990 and the statutory duties of the Council in this regard have been discharged.

6.5 Highways and Access

- 6.5.1 The existing access currently leading to the car park will be utilised as part of the appeal scheme. It is proposed to retain three car parking spaces which corresponds with the proposed single dwelling which would have 4+ bedrooms and therefore require 4 parking spaces. The correct parking level is achievable from the current 18 space car park available. An ancillary area of the current car park would need to be retained to provide turning for cars, whilst a storage area for cycles would also be required. These matters can reasonably be secured via condition.

6.7 Planning Obligations

- 6.7.1 The Community Infrastructure Levy (CIL) Regulations enable Local Authorities to raise funds from developments to provide, maintain and enhance community infrastructure within the vicinity of a development. Whilst Basingstoke and Deane Borough Council has not yet finalised and adopted a levy, contributions may still be secured via a Section 106 'Legal Agreement'. Any obligation contained within a Legal Agreement must comply with the tests set out in the CIL Regulations which are, that an obligation must be:
- (a) necessary to make the development acceptable in planning terms
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development.
- 6.7.2 In November 2014 the Government introduced national thresholds for seeking affordable housing and tariff-based contributions through a Written Ministerial Statement and changes to the Planning Practice Guidance. At that time the Council determined planning applications in accordance with this position. The changes were challenged and Reading Borough Council and West Berkshire Council won a judicial review into the introduction of these national thresholds in July 2015 at which point the Government withdrew their guidance.
- 6.7.3 However, the Government challenged the judicial review outcome and the judge's decision through the Court of Appeal. Their appeal was upheld on 11 May 2016, resulting in the Government re-introducing the relevant sections of the NPPG on 19 May 2016. This confirmed that tariff-based contributions as sought through the Council's Scoping Process cannot be sought for developments of 10 units or less, or less than 1,000sqm in floor space.
- 6.7.4 As the proposal is for a single residential unit and has a floor space of less than 1,000sqm, contributions cannot be requested or secured for this development.

7.0 Overall Balance

- 7.1 The main planning policies for the consideration of such an appeal are Policies SS6, CN7, EM1 and EM11 of the Local Plan. The NPPF also constitutes guidance the LPA must have regard to.
- 7.2 Whilst Policy SS6 only considers the practical implications of new housing in the countryside, Policy CN7 is concerned with preventing the loss of essential facilities and services which themselves meet community needs and support well-being. In responding to the requirements of this policy, there is significant evidence that the OHaH is a valued community facility and in this regard, is 'needed' as defined by criterion (a) of the policy. The ACV status of the pub is also a material consideration as it endorses the view that the pub is a valued community facility.
- 7.3 With regard to criterion (b) of the policy, the Appellant has not adequately demonstrated to the LPA that the OHaH is impractical to retain as a pub, whilst the pub clearly has a range of factors which the LPA consider weigh in its favour, making it a 'desirable' proposition and destination. With regard to viability, the LPA's view has been informed by a series of viability assessments undertaken on behalf of the Appellant, the LPA and third parties, along with viability guidance publically available from CAMRA.
- 7.4 The LPA largely accepts that there has been considerable pressure on licensed premises over recent times, but is conscious of regional economic disparities, emerging trends in the market and the clustering of businesses within the borough. The LPA is also aware that the trade potential of the OHaH extends beyond the village of Newnham itself and in this regard has notable potential in adjoining towns and villages. Whilst a high degree of uncertainty does exist, factors such as planned residential developments within proximity of the site could well affect the future attractiveness and the relative viability of such an enterprise, and are therefore afforded a degree of weight in the LPA's conclusions.
- 7.5 In respect to profitability, the LPA has not benefited from any recent reliable accounting information, and as such cannot conclude with any certainty that the OHaH was or was not unviable in the past. In this regard the LPA considers that the limited information available is not able to provide a realistic insight into the actual trade potential of the business into the future. The Appellants viability argument is also not supported by any information that shows that a robust marketing strategy has been followed, to genuinely test the market.
- 7.6 Finally, the overwhelming public response in support of the pub's retention and the efforts of Newnham Parish Council and CPSG appear to show a strong degree of commitment within the community to realistically secure ways and means to maintain the use of the building as a Public House. As Policy CN7 is concerned with preventing the loss of such facilities, the aims of the Parish and local community through public engagement are considered to support the overall aim of the Policy and therefore afforded great weight in the planning balance against the absence of limited and inconclusive evidence from the Appellant.
- 7.7 In terms of Heritage assets, whilst the LPA acknowledges that the appeal scheme as proposed would lead to less than substantial harm to both the designated and non-designated heritage assets, this change of use would ultimately not preserve or enhance the character or appearance of the Conservation Area and would therefore be contrary to Policy EM11 of the Local Plan.

- 7.8 This statement has also identified the fact that there are considered insufficient material economic, social and environmental merits of the appeal scheme to outweigh this identified conflict with the Local Plan. The proposal would therefore be directly contrary to paragraph 134 of the NPPF, which indicates that such development should be restricted and would not deliver sustainable development.
- 7.9 The LPA therefore puts forward the position that the appeal scheme would constitute an inappropriate and unsustainable form of development, and respectfully requests the Inspector dismiss the appeal on the above grounds.