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<b>Agenda Item:</b>	5.1
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<b>Site:</b>	Dog and Partridge Public House, Church Lane, Marchington
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<b>Proposal:</b>	Change of Use from Public House (Class A4) to Residential Dwellinghouse (Class C3)
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### Report of Head of Service (Section 151 Officer)

This report has been checked on behalf of Legal Services by Sherrie Grant

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#### [Hyperlink to Application Details](#)

<b>Application Number:</b>	P/2020/00139	
<b>Planning Officer:</b>	Alan Harvey	
<b>Type of Application:</b>	Detailed Planning Application	
<b>Impact on Heritage Assets under S66(1) and S72</b>	No material impact	
<b>Applicant:</b>	Mr Needham	
<b>Ward:</b>	Crown	
<b>Ward Member (s):</b>	Councillor Phillip Hudson	
<b>Date Registered:</b>	18 February 2020	
<b>Date Expires:</b>	Original expiry date 13 April 2020; with the determination date extended to 22 December 2020 as agreed with the applicant to provide for the external assessment of the viability submissions and reporting the application to Planning Committee.	
<b>Reason for reporting application to committee</b>	Application called to committee by Councillor Hudson as it was felt that the decision on this matter is of great importance to the residents of Marchington village and surrounding areas. Councillor Phillip Hudson in his call in request sets out that he personally wishes that the public house be retained in its present use (and the comments of the Councillor are set out in full this report at paragraph 5.2).	
<b>Recommendation</b>	<b>REFUSE permission</b>	

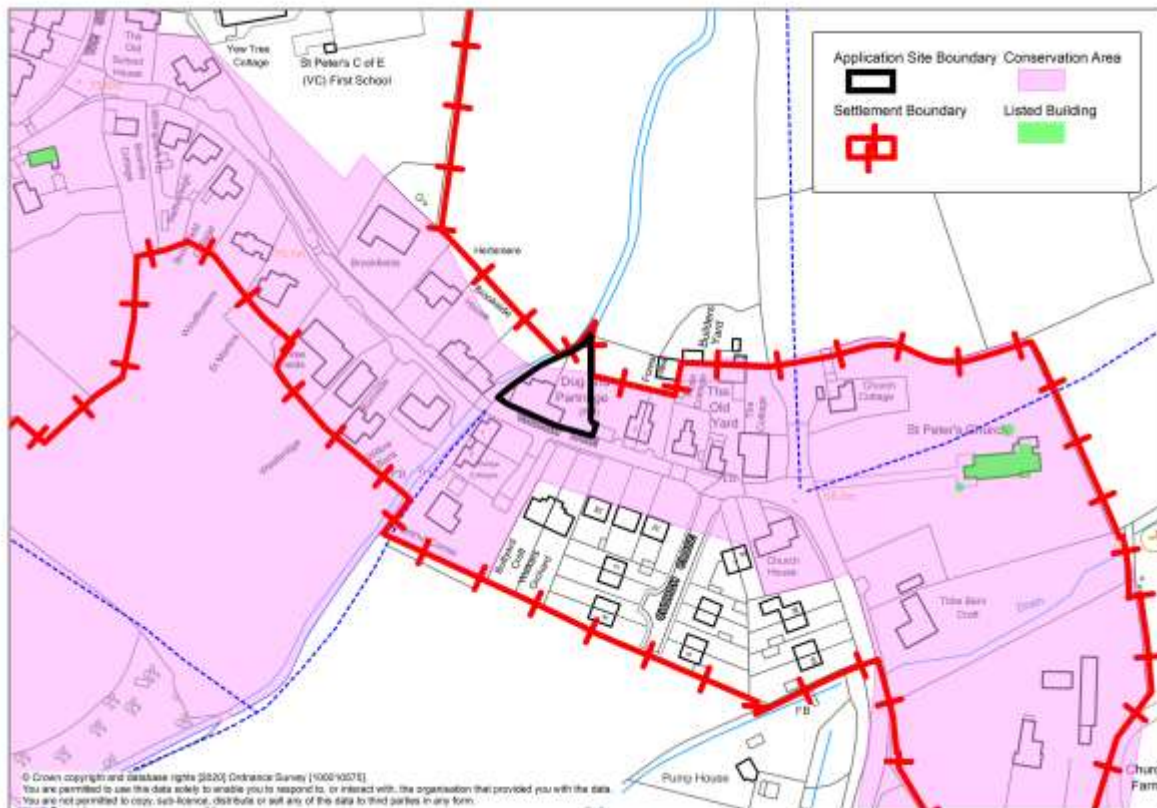
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## 1. Executive Summary

- 1.1 The Dog and Partridge Public House is located on the northern side of Church Lane within the Marchington Conservaton Area. The site is adjoined to the east, south and west by residential properties. .
- 1.2 On 9th March 2020, the Dog and Partridge was designated an Asset of Community Value (ACV). The other public house in the village - The Bulls Head on Bag Lane - is also designated an Asset of Community Value (since 12 May 2016).
- 1.3 The Marchington Conservation Area Appraisal (of July 2015), and in turn the made Neighbourhood Plan (of September 2016), identifies the Dog and Partridge Public House as a non-designated heritage asset which makes a positive contribution to the conservation area.
- 1.4 The site is within the Functional Flood Zone - being adjacent to the Marchington Brook - and is within the village settlement limits as defined in the Local Plan.
- 1.5 The application is a full submission which seeks approval for the change of use of the public house premises to a single dwelling house of 4 No. bedrooms. Part of the existing car parking area to the eastern side of the site will be grassed over to become part of the private garden to serve the dwelling (leaving 3 No. parking spaces for the residential use). No external alterations are proposed to the premises other than the removal of the public house signage.
- 1.6 The application was submitted prior to the first (national) lockdown for Covid 19 (of March - July 2020) and the comments of the statutory undertakers, the parish council, the constituency MP, local ward member and interested parties also largely pre-date the first lockdown. The public house was therefore open and being operated by the applicants as per their 'normal' working practices at the time of the application submission. The premises re-opened for customers eating in following the end of the national lockdown (with a marque also erected in the car park); although the business was again closed for customers eating in under the second national lockdown and at the time of the publication of this committee agenda (on 14.12.2020) remains as such as the Borough of East Staffordshire entered into a 'tier 3' designation (upon the ending of the second national lockdown). The business has provided a take away service during both national lockdowns and continues to do so under the tier 3 designation (being available Wednesday to Saturday 5.30pm – 8.30pm and on Sunday 12pm (noon) to 4pm according to their facebook site).
- 1.7 Marchington Parish Council commented that they respected the wish of the owner to retire, however, they fundamentally objected to the application as they believe the loss of the public house would be contrary to the policies of the Local and Neighbourhood Plans as there is a justified need for the premises, which it is believed could be run as viable concern. Marchington Parish Council also amongst other things point out the scheme would result in the loss of employment, that the pub is a heritage asset and an Asset of Community Value and that the site is in the flood zone.

- 1.8 Kate Griffiths MP has written in support of the request made by Cllr Hudson to have the application called-in (to Committee) as there is agreement with the reasons he has stated (for that call in) as any decision to allow change of use for a rural public house cannot easily be reversed and it is wished that a further attempt be made to keep it as a pub before change to a dwelling is allowed.
- 1.9 Representations were received during the public consultation process (in February/March 2020) from a total of 60 No. local residents/interested parties with 57 No. raising objections/concerns to the scheme and 3 No. supporting the proposal.
- 1.10 The letters of objection/concern in many cases replicate the points being made by the Parish Council; with again a number expressing respect in relation to the applicants wish to retire but believing that this action should not result in the loss of one of the two village public houses. The correspondences also point out that the Dog and Partridge is the only pub in the village that serves food; as the Bulls Head is essentially a drinks focused establishment.
- 1.11 The letters in support of the application point out amongst other things that there is another available public house in the village, that the business has not been sufficiently supported by local residents (particularly in more recent times) and that it is unreasonable to expect the applicant to run a business without there being a profit.
- 1.12 With regard to the other planning merits of the case, it is concluded that the scheme would not give rise to any material detriments in relation to impacts on heritage assets/visual amenities, residential amenities, highway safety, drainage/flood risk; nor in terms of biodiversity.
- 1.13 However, and further to the commissioning (by officers) of an external review of the need for, and viability of the public house, it is considered whilst the availability of alternative public house facilities in the locality has been shown, that on balance it has not been demonstrated that the premises are necessarily unviable as a public house business. Furthermore, it is also considered that the Dog and Partridge is not in an inherently unsustainable location; nor that the reuse of the site as a dwelling would represent a more sustainable solution than the retention of the existing public house. As such it is concluded that the scheme would be contrary to paragraphs (b)(ii) and (b)(iii) of Policy SP22 of the Local Plan in terms of the loss of a local facility.
- 1.14 In light of the above conclusions the application is recommended for refusal
- 1.15 **Members are advised that the above is a brief summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.**

Map of site



**2. The site description**

- 2.1 The Dog and Partridge Public House is located on the north side of Church Lane within the Marchington Conservation Area. There is car parking area - with spaces of 8 No. vehicles - in the eastern area of the site and paved 'beer garden' to the rear of the premises. The public house is adjoined to the east, south and west by residential properties.
- 2.2 The Marchington Conservation Appraisal, and then in turn, the Made Neighbourhood Plan, identify the building as a non-designated heritage asset which makes a positive contribution to the conservation area. The public house was also designated as an Asset of Local Community Value on 9th March 2020.
- 2.3 The site is located within the Functional Flood Zone with the Marchington Brook adjoining the western boundary of the site.
- 2.4 The application site is within the settlement boundary for Marchington as defined in the Local Plan.

**3. Relevant planning history**

- 3.1 In January 2017 - **application ref: P/2016/01255** - was a grant of full planning permission for the erection of a single storey rear extension along with the installation of replacement window units.

- 3.2 In June 2019 - **application ref: P/2019/00655** - was a previous submission to change the use of the public house to a single dwellinghouse which was withdrawn by the applicants as they indicated that they proposed to market the premises as required by the Council's Local Plan policies before the submission of any further application.

#### 4. The Proposal

- 4.1 The application is a full submission which seeks approval for the proposed change of use of the public house premises to a single dwellinghouse of 4 No. bedrooms. The scheme does not propose any external alterations to the building other than the removal of the public house signage.
- 4.2 The submitted plans show that the existing ground floor is to be converted to living space with an additional (fourth) bedroom being created at first floor (within what currently is the managers accommodation).
- 4.3 The scheme also proposes that part of the existing car parking area be changed to lawn with the creation of the associated garden area; with three No. car parking spaces and a turning area retained to serve the residential use. The original submission showed 2 No. spaces and was amended during the application process.

#### List of supporting documentation

- 4.4 The following documents have been provided as part of the application:

- Application Forms
- Location Plan
- Proposed Site Layout Plan (Original and Revised).
- Existing and Proposed Floor plans
- Planning and Design and Access Statement (with supplementary submissions in response to the Council's commissioned need/viability reports)
- Marketing report
- Financial Statements/Accounts (confidential)

- 4.5 The Planning Statement sets out the following supporting points summarised below :-

- The proposed change of use is compliant with both local and national policy and meet the tests set by Neighbourhood Plan Policy CFOS1 and Local Plan Strategic Policy 22 which ensure the loss of community assets only take place after a marketing period has taken place and where there is alternative provision in place.
- The Dog and Partridge is a nominated Asset of Community Value (ACV), however, given the compliance with the development plan policies, the presence of another nominated ACV pub in the village (the Bulls Head) and a clear lack of financial viability, that the application should be supported despite the nomination.
- The loss of trade for the Dog and Partridge has arisen from the lack of customer parking, a lack of on street parking, geographic isolation and

competition from more accessible pubs, and a nationwide change in drinking culture which has seen pub use decline across the country.

- The pub sits in a relatively quiet, isolated location with a limited number of residents in the village to support it.
  - The pub is difficult to find if you do not have a good knowledge of the locality.
  - In terms of the historic environment the conversion scheme will ensure the building continues to make such a contribution into the future.
  - The residential use will help meet the housing target set out in Neighbourhood and Local Plan policies.
  - The residential conversion will have no negative impact on the amenity or privacy of neighbouring residents, but will serve to reduce noise and disturbance, especially at night, by a significant reduction in traffic movements.
- 4.6 As outlined in the summary (section 1 above) officers of the Borough Council commissioned (from Everard Cole) an external independent assessment of the need and viability of the public house in the light of the applicants original submissions; along with (in turn) a request from the applicants to take into account a supplementary letter about the arrival of Covid 19 and its impacts on the application business and the wider public house sector (as at early September 2020). There have also been further correspondences from the applicants challenging the (negative to the applicant) findings of the external consultants report in terms of the issue of viability.
- 4.7 The applicants have also pointed out that in terms of the comment of the external consultant\* that *“it is not unreasonable for the arrangement with the church to use their carpark to be easily be reinstated”* that :-

*“This is not the case and whilst this is possibly not a pertinent issue in terms of planning (although it is in terms of our shortage of parking spaces), we do feel that we should outline why this is not an option. The church insists that the car park is locked at all times with a combination padlock. So, customers would first have to come to the D&P (Dog and Partridge) to get the code for the lock, then drive to the car park, open the gate, park and then close and lock it behind them. They would then have to walk to us and, after their visit, do the whole thing again in reverse. Many of our customers are older and this would undoubtedly be a problem for them, particularly in inclement weather and in the winter months when it is dark. It should also be noted that we paid an annual fee to the church for the use of the carpark and therefore, we should reasonably expect that customers should be able to enter and exit the carpark without restriction and that the churchwarden should be responsible for ensuring that the carpark was secure at the end of the day. When we did rent the car park, many people still chose not to use it and parked on the surrounding roads. This in turn caused complaints from*

*villagers however, we can't dictate to people where they can and can't park."*

(\* a point similarly made by local residents objecting to the scheme – see section 6 below)

- 4.8 The assessment of the findings of all the application documents, along with the independent consultants reports (commissioned by Council Officers) are dealt with in section 8 onwards below. It is pointed out nevertheless that given the documentation is both relatively voluminous and contains confidential financial/commercially sensitive information that this report necessary only sets out summary conclusions of the submissions (including challenges from the applicants) and findings.

## 5. Consultation responses and representations

- 5.1 A summary of the consultation responses (of February/March 2020) are set out below:

Statutory and non statutory consultee		Response
5.2	Marchington Parish Council	<p>The Parish Council have submitted a substantive letter in relation to this application which is attached as an Appendix to this report. The letter at the outset comments that <i>"the Parish Council is sympathetic to the applicants' wish to retire and reside within the village but is compelled by the strong reaction received from residents to lodge an objection to this change of use application."</i> and that:</p> <p><i>"The Dog and Partridge is an attractive focal point in the middle of the village with a very pleasant and popular beer garden. The building itself dates from the 17th century and there has been a public house on this site for over 200 years. The pub is entwined within the history of the village hosting weddings, christenings, wakes and birthdays."</i></p> <p>The Parish Council then continue to set out their objections to the scheme by assessing the applications submissions in the context - and using headings - of the relevant development plan policies (which themselves are set out in full in parish response – but not repeated in this section of the report - as they are already set out in this in the Assessment section below). The summary of the objections/concerns of the Parish Council under the relevant headings are as follows :-</p> <p><b>Marchington Neighbourhood Plan - Policy CFOS1</b></p> <p>The Parish Council does not agree with the applicants contentions that the application complies with Policy CFOS1 this for the following reasons:</p> <p>Condition A.</p>

		<p>It is true that Marchington does have another public house The Bulls Head, Bag Lane. We believe that this public house cannot be classed as a suitable alternative because -</p> <ul style="list-style-type: none"> <li>● The Bulls Head is a wet pub only – there is no food provision.</li> <li>● The Bulls Head does not have level access therefore the elderly, disabled and those with young children within the community would be unable to access the facility.</li> <li>● To lose the only restaurant within the village that residents can walk to would be severely detrimental for the social and mental wellbeing of those residents who no longer drive.</li> <li>● The cricket club as mentioned in the application is only open when a match or training event is being held, as with the Bulls Head there is no food provision.</li> </ul> <p>Condition B</p> <ul style="list-style-type: none"> <li>● The planning, design and access statement submitted states that trading figures have been submitted and that these show that the public house has no viable future. The Parish Council is surprised by this statement when you consider the number of generous donations and support that have been gifted to the Community Shop, Chawner Alms Houses and Marchington Festival over the past three years.</li> <li>● We would also like it noted that the opening times for the Dog and Partridge have recently been reduced including over the Christmas period (2019) which we would presume would be their most profitable time.</li> <li>● Recently it has been noticed that some walk-in diners have been turned away on some days due to all tables having been full.</li> </ul> <p><b>East Staffordshire Local Plan - SP22 Supporting Communities Locally</b></p> <p>The Parish Council concerns are</p> <ol style="list-style-type: none"> <li>i. As stated above we believe that Item (i) has not been satisfactorily complied with.</li> <li>ii. We believe the market value of the property has been overstated. Other public houses sold in the area with a higher turnover have been advertised with lower guide prices. The market has also not been tested properly by offering the public house at a reduced guide price given the lack of interest. We also don't know how this valuation has been arrived at or whether other estate agents were invited to value the property to give a fair assessment of whether the guide price is correct.</li> </ol>
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	<p>iii. The village has successfully maintained several businesses and indeed several public houses for many years.</p> <p>iv. We understand that the economic climate is difficult currently, but the trend locally appears to be that public houses serving good quality food are thriving e.g., The Meynell Ingram Arms and The Shrewsbury Arms. Both of which are in similar geographical locations and are now very successful.</p> <p>The Parish Council requests that the following aspects of the Local and Community Plan are taken into account when considering this change of use application:</p> <p>Supporting Communities Locally section of the Local plan (3.160/1) emphasises the need:</p> <p><i>“for supporting community facilities as they are the focus for community activity and contribute towards community cohesion. Such community facilities include, but are not limited to, primary schools, shops, post offices, banks, public houses, fuel-filling stations, public halls, indoor sports facilities and small-scale health-care facilities”</i></p> <p><b>ESBC Local Plan Policy SP14 - Rural Economy</b></p> <p>The Dog and Partridge is one of the few employers within the village. It provides essential employment opportunities for all ages within the community and its loss would be of significant detriment to the community.</p> <p><b>Heritage</b></p> <p>The Dog and Partridge is situated within Marchington’s conservation area. The Neighbourhood Plan Character survey concluded that Church Lane is a picturesque older part of the village with the most prominent buildings being the Church and Public House. The Property was also identified as an undesignated heritage asset.</p> <p><b>Car Parking</b></p> <p>The concerns raised in the application submission in regards to (the lack of) car parking provision on site is true, but the previous landlords had a successful agreement to utilise the car park of St Peters Church within 130m of The Dog and Partridge, something that in the 2 years the current landlords have chosen not to continue.</p> <p><b>Flooding</b></p> <p>The property is situated in designated Flood Zone 3 area and is known to regularly flood (most recently on 17th</p>
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		<p>February 2020) with water that is polluted by the fowl sewer. A new build property on this site would have to have a flood risk assessment completed by the Environment Agency before building would be allowed to commence</p> <p><b>Conclusion</b></p> <p>By way of conclusion the letter from the Parish Council (of March 2020) points out that :-</p> <p>On the 20th January 2020 East Staffordshire Borough Council provisionally agreed to The Dog and Partridge Public House being approved as Asset of Community Value.* We are now within the 8 week consultation period for this application but request that the fact that as it has been initially granted is taken into consideration.</p> <p>The Dog and Partridge has always been a busy, thriving entity and therefore, presumably, profitable. To lose such a loved and valued community asset would be of real detriment to the village. The village has sustained two pubs for decades.</p> <p>As stated previously, the Parish Council recognises and respects the applicant's wish to retire but suggests that the pub be sold as a going concern so that it may remain an important amenity at the centre of village life for many years to come.</p> <p><i>(* as noted above in section 2 of this report it was formally designated a Asset of Community Value on 9 March 2020).</i></p>
Cllr Hudson		<p>Comments as follows in 'calling in' the application to the Committee:</p> <p><i>"Last year the owner of the Dog &amp; Partridge applied for change of use of the pub to a domestic dwelling. Following much interaction the application was withdrawn "pending the results of the 6 month marketing exercise", whereupon the pub was advertised for £450k with the estate agent Davy &amp; Co.</i></p> <p><i>In December 2019 at the Parish Council meeting the landlords agent, "Planning Design" attended and explained that the application would be resubmitted in February 2020. They appeared unable to answer any of the key questions which were put to them, and appeared to be generally uninformative.</i></p> <p><i>Of prime importance is the fact that National (NPPF), Local and Parish planning policies clearly protect this type of pub from change of use. In particular The Marchington</i></p>

	<p><i>Neighbourhood Plan, Policy CS0S1 regarding loss of facilities is very important and should be considered when determining this application.</i></p> <p><i>In the Council's local plan, access to community facilities (including Public Houses) is described as important to both urban and rural communities. By removing one of the main Public Houses in the area the residents of Marchington would be losing access to a vital community hub. As such, retaining the pub is an important part of making sure that Marchington stays a sustainable village.</i></p> <p><i>The Marchington Neighbourhood Plan also states the Dog &amp; Partridge has been listed as a Non-Designated Heritage Asset due to its location in the conservation area of Marchington village. The Parish Council have been successful in applying for the premises to be declared an Asset of Community Value.</i></p> <p><i>Local pubs and restaurants have always provided competition for business, and this has been the case for many years. There is clearly a demand for this type of pub as we continue to see local pubs investing in refurbishing, developing and reopening in the area, with very few closing down.</i></p> <p><i>The closure of the Dog &amp; Partridge would be a loss of a community facility, providing somewhere for people to meet and socialise. The pub provides a valuable meeting place for local clubs, societies and charities. In return, these local organisations contribute to the turnover of the pub.</i></p> <p><i>The Dog &amp; Partridge supports the local economy through employment of staff and purchases from local businesses. Indeed, the applicant has facilitated raising thousands of pounds for village causes, for which the local residents are very grateful.</i></p> <p><i>There are only two public houses in the village and the loss of this one would have a very negative affect on the village. The Dog &amp; Partridge is the only pub in the village that serves food. The Bulls Head, is of a completely different nature and is essentially a "drinks only" establishment. Local residents would have to travel to find a pub that they could eat at.</i></p> <p><i>The loss of a public house in a rural village once made cannot easily be reversed.</i></p> <p><i>I am very keen to see the Dog and Partridge remain as a Public House. It is part of the community and to see it become a domestic dwelling would be a great shame for</i></p>
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		<p><i>the residents of Marchington and the loss of an important public amenity.</i></p> <p><i>Mr Needham (the applicant) claims that over the last three years the competition for the Dog and Partridge pub has increased. This clearly must be evidenced. As a minimum, the applicant should be required to submit trading accounts for the last three full years in which the pub was operating as a full-time business to show if this new competition has affected the trade of the Dog and Partridge.</i></p> <p><i>I understand Mr Needham (the applicant) would wish to close the business and turn it into a dwelling for retirement however I feel that the community needs should come first and that if possible it could be sold as a going concern so that the public house is not lost.”</i></p>
	Kate Griffiths MP	<p>Comments that:</p> <p><i>“Whilst I sympathise with the current owner(s) circumstances, I am concerned about the loss of a valuable asset to the community; particularly as the National Planning Policy Framework, local and parish policies protect this type of pub from change of use.</i></p> <p><i>A decision to allow change of use for a rural public house cannot easily be reversed, and I would like to see a further attempt be made to keep it as a pub before such a change is allowed.</i></p> <p><i>I support the request made by Cllr Hudson to have the application called-in and agree with the reasons he has stated (and) would be grateful for your consideration of my comments on this matter.”</i></p>

## 6. Neighbour responses

- 6.1 The residents of the adjoining properties were formally notified and a site notice posted.
- 6.2 A total of 60 No local residents/interested parties submitted representations in respect of the application scheme (in February/March 2020); with there being 3 No representations in support of the scheme and 57 raising objections.
- 6.3 The representations in support of the application cited the following reasons summarised below:-

<b>Summary Table of Support to the Scheme</b>	
<b>Principle</b>	<ul style="list-style-type: none"> <li>The village already has The Bulls Head public house,</li> </ul>

	<p>currently with an Asset of Community Value (ACV) designation, which is well within 5 minutes walking distance for the village already. As such there is no need to restrict the proposed change of use as village will not be left without a public house.</p> <ul style="list-style-type: none"> <li>• The closure of the Dog and Partridge is an inevitable consequence of the reduction in demand for licensed premises in the UK demonstrated by the large number of pub closures in this country in recent years.</li> <li>• It is considered there is only enough trade for one pub in the village and the closure of the Dog and Partridge will at least allow the one remaining pub (Bulls Head) to have the opportunity to become a going concern</li> <li>• The local population do not support this business sufficiently - particularly in more recent years - and due to lack of support the business is rapidly becoming untenable.</li> <li>• The landlord has been very enterprising in having special events to try and boost trade including many music events but these have met with little support from villagers.</li> <li>• There has been hostility and threats by a number of villagers living in Church Lane who have claimed there is too much noise on music nights.</li> <li>• It is unreasonable to expect any party to run a business without making a profit. The applicants should be allowed to retire and get on with their lives.</li> </ul>
<p><b>Other Reasons</b></p>	<ul style="list-style-type: none"> <li>• The local village shop also runs at a loss through lack of villagers supporting and is reliant on charitable donations to continue.</li> <li>• The process been going on for far too long and the local council have a Duty of Care to the applicants in order for this financial and emotional baggage to be removed.</li> <li>• The parish council have behaved most unprofessional throughout this procedure by causing much upset within the village.</li> </ul>

6.4 The representations in objection to the scheme raised the following concerns summarised in the table below :-

<p><b>Summary Table of Objections to the Scheme</b></p>	
<p><b>Development Plan Policies</b></p>	<ul style="list-style-type: none"> <li>• The Marchington Neighbourhood Plan (made in 2016) provides that the villages public houses are</li> </ul>

	<p>protected under Policy CFOS1 as facilities of great value to the community.</p> <ul style="list-style-type: none"> <li>• It would be a loss of a community facility and central meeting place for local clubs, societies, charities etc not to mention for family celebrations and gatherings.</li> <li>• The public house supports the local economy through employment of staff and purchases from local businesses, so would have an detrimental impact on these.</li> </ul>
<b>Need</b>	<ul style="list-style-type: none"> <li>• The Dog and Partridge is the only pub in Marchington that serves food and this amenity would be lost.</li> <li>• The other public house in the village (the Bulls Head), is more of a sports bar for the local football teams, cricket teams and locals meeting for a beer providing a different type of pub. The Cricket Club has a bar open on a few occasions serving bottled beer to players and parents of junior players on match and training days for a few hours.</li> <li>• A pub providing good food will always attract custom, both from the village community and from further afield. There are many such establishments in the surrounding area which have been refurbished and flourish.</li> <li>• This public house closing will affect the quality of life in the village.</li> </ul>
<b>Viability</b>	<ul style="list-style-type: none"> <li>• The applicant states the public house is not financially viable, yet advertises the turnover at £380,000 pa, and is listed as no 2 out of 37 similar establishments on TripAdvisor, this is very contradictory.</li> <li>• A review of the publically available accounts suggests that the business is more profitable than it initially first appears due to financial structures being employed.</li> <li>• The planning application mentions competition in the area but given this was already there when the landlord purchased this pub these reasoning is not considered valid</li> <li>• The public house currently appears to be very popular, if the number of cars in the car park during opening hours is anything to go by.</li> <li>• It has also been noticed that on some evenings, walk-in diners have been turned away due to all tables being occupied. This is a reflection of the high standard of food served by the establishment.</li> <li>• The application refers to the number of pubs declining, however, in 2019 there was an increase and the trend for the closure of pubs has started to reverse.</li> <li>• There are other pubs in the area who have invested heavily such as the Roebuck at Draycott and in nearby</li> </ul>

	<p>Kingstone the community have bought the pub and are doing really well.</p> <ul style="list-style-type: none"> <li>The current owner appears to have lost enthusiasm for the trade but enjoys living in what is seen as a desirable village. It is thus contended that - it isn't the pub that is faltering, it is the owner. His inability to make the profit he would like should not impact on our community.</li> </ul>
<b>Marketing</b>	<ul style="list-style-type: none"> <li>The price that is being asked for the business (at £450,000) is not reflective of similar pub businesses in the area.</li> <li>No bids indicate the pub has been set at too high a price, it does not indicate no one wants to buy just the asking price is too high.</li> <li>It is believed the process this has simply been done as a paper exercise without any true desire to market the business</li> <li>No "For Sale" boards were placed on the building and there is little evidence to real advertising.</li> <li>Expecting to sell such a property in six months was unrealistic as properties like these take longer than this to sell.</li> </ul>
<b>Location</b>	<ul style="list-style-type: none"> <li>The suggestion in the application the premises is hard to find is nonsensical in an era where nearly everyone has a satnav and in any event with a small village anyone looking for the pub could hardly miss it.</li> </ul>
<b>Car Parking</b>	<ul style="list-style-type: none"> <li>The Dog &amp; Partridge has a car park and in the past had arrangements with the Church (within close proximity) to use their carpark. This arrangement could easily be used again.</li> <li>The arrangement with the local church was not being fulfilled by the landlord to ensure the gates were closed overnight, a simple request to ensure neighbours were not disturbed by excessive noise after closing time.</li> </ul>
<b>Heritage</b>	<ul style="list-style-type: none"> <li>The Dog &amp; Partridge has been listed as a Non-Designated Heritage Asset in the Neighbourhood Plan due to its location within the Conservation Area of Marchington Village and this should be given high regard to prevent the loss of such facilities.</li> </ul>
<b>Flooding</b>	<ul style="list-style-type: none"> <li>Flooding is a problem for these premises being so close to the brook and it would not be sensible for planning to be granted for a conversion to a residential property.</li> <li>A new residential property would never be allowed to be built on the floodplain of the river.</li> </ul>
<b>Other Matters</b>	<ul style="list-style-type: none"> <li>Some locals have stopped visiting the pub after the landlord made his application because of the (negative) comments made on the application and in the press so thus likely contributing to a decline in</li> </ul>

	<p>turnover in more recent times.</p> <ul style="list-style-type: none"> <li>• Poor customer experience may have contributed to the business suffering a downturn.</li> <li>• The current landlord has been very generous to several organisations in the parish and it is suggested that if the business was not successful then this would be the first cost to cut.</li> <li>• It appeared to be the case that the business for a period did not have kitchen staff who were preparing meals of the standard set previously, although in more recent times this issue seems have been resolved.</li> <li>• If the applicants wish to continue to live in the village there are opportunities to move to existing residential properties.</li> </ul>
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6.5 It is pointed out that a number of representations made in objection indicate that they are grateful for the contribution that the applicants have made to village life, including financial contributions to local organisations and the village shop, since they purchased the premises in 2012 and respect their decision to retire, however, it is contended that this should not mean the permanent loss of this public house facility.

6.6 The Marchington Cricket Club submitted a letter (in March 2020) which stated that :-

*“We understand that as part of the (application) justification the applicant has quoted a loss of business since Uttoxeter Cricket Club commenced using the cricket ground and club house at Marchington in April 2019.*

*Whilst we neither support nor object to the application we would like to point out this assertion is not true. The bar facilities at the cricket club are open on training nights (Wednesday and Friday) and match day (Saturday for six months of the year and on one or two days in the year for special functions. It is used by Club Members and visiting teams, none of whom use the facilities at the Dog and Partridge.”*

## 7. Policy Framework

### National Policy

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)

### Local Plan

- Principle 1: Presumption in Favour of Sustainable Development
- NP1: Role of Neighbourhood Plans
- SP1: East Staffordshire Approach to Sustainable Development
- SP2: Settlement Hierarchy
- SP3: Provision of Homes and Jobs 2012-2031
- SP4 Distribution of Housing Growth 2012 - 2031
- SP22 Supporting Communities Locally



- SP24 High Quality Design
- SP25 Protecting the Historic Environment: All Heritage Assets
- SP27 Climate Change, Water Body Management and Flooding
- SP29 Biodiversity and Geodiversity
- SP35 Accessibility and Sustainable Transport
- DP1 Design of New Development
- DP5 Historic Environment
- DP7 Pollution and Contamination

#### Made Marchington Neighbourhood Plan

- Policy CFOS1: Community buildings, shops and public houses
- Policy DP1: Sustainable Development Principles
- Policy DP2: Flood prevention and management
- Policy H2: Meeting the needs of all sectors of the population
- Policy H3: The design of residential conversions and extensions
- Policy BE1: Protecting and enhancing local historic character
- Policy T1: Development related traffic requirements

#### Supplementary Planning Documents

- Car Parking Standards SPD
- Separation Distances and Amenities SPD
- East Staffordshire Design Guide

### **8. Assessment**

8.1 The main issues in the determination of this application are considered to be as follows :-

- Principle of the development;
- Impacts on residential amenities
- Impacts on heritage assets/visual amenities;
- Highway safety
- Flooding/Drainage;
- Biodiversity; and
- Other Issues (Assets of Community Value)

### **9. Principle of the Development**

9.1 The NPPF states that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. Paragraph 11 of the NPPF states that for decision-taking this means:

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

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

9.2 Annex 1 of the NPPF states that 'existing policies should not be considered out of date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according their degree of consistency with the NPPF. The closer the policies in the plan to policies in the framework, the greater the weight that may be given'

## 10. Local Plan Policies

10.1 The policies in the Local Plan provide a clear framework to guide sustainable growth and the management of change, thereby following the Government's presumption in favour of sustainable development.

10.2 Strategic Policy 1 sets out the East Staffordshire Approach to Sustainable Development. Principles listed in the policy include social, environmental and economic considerations to be taken into account in all decision making where relevant. The principles are:

- located on, or with good links to, the strategic highway network, and should not result in vehicles harming residential amenity, causing highway safety issues or harming the character of open countryside;
- it is convenient and safe to walk, cycle and travel by public transport between (and for larger sites, around) the site and existing homes, workplaces, shops, education, health, recreation, leisure, and community facilities and between any new on-site provision;
- retains, enhances, expands and connects existing green infrastructure assets into networks within the site and within the wider landscape;
- re-uses existing buildings where this is practicable and desirable in terms of the contribution the buildings make to their setting
- integrated with the character of the landscape and townscape, provides for archaeological investigation where this is appropriate and conserves and enhances buildings of heritage importance, setting and historic landscape character;
- designed to protect the amenity of the occupiers of residential properties nearby, and any future occupiers of the development through good design and landscaping;
- high quality design which incorporates energy efficient considerations and renewable energy technologies;
- developed without incurring unacceptable flood risk or drainage problems and uses Sustainable Drainage Systems (SUDS) where appropriate;
- does not harm biodiversity, but rather enhances it wherever possible, including increasing tree-cover, especially as part of the National Forest;
- creates well designed and located publicly accessible open space;
- would demonstrably help to support the viability of local facilities, businesses and the local community or where new development attracts

new businesses and facilities to an area this does not harm the viability of existing local facilities or businesses;

- would contribute towards the creation of sustainable communities through the provision of a mix of housing types and tenures;
- uses locally sourced, sustainable or recycled construction materials (including wood products from the National Forest where this is appropriate), sustainable waste management practices and minimises construction waste;
- safeguards the long term capability of best and most versatile agricultural land (Grade 1, 2 and 3a in the Agricultural Land Classification) as a resource for the future; and
- would result in the removal of contamination and other environmental problems associated with the site.

10.3 Strategic Policy 22 (Supporting Communities Locally) seeks to support proposals and activities that protect, retain or enhance existing community facilities, or lead to the provision of additional community facilities as well as resisting the loss of existing facilities. The policy provides guidance and criteria on how to deal with the loss of community facilities and states (in respect of paragraph (b)) that

*“Proposals which result in the loss of a community facility will not be permitted unless:*

- (i) adequate alternative provision is available within or adjacent to the settlement or will be provided as part of the development process;*
- (ii) all reasonable efforts have been made to preserve the facility or service, including sharing of premises, but it has been satisfactorily demonstrated to the Council that the service is no longer viable and has been actively marketed for a period of at least 6 months; and*
- (iii) the service or facility is in an inherently unsustainable location and the reuse of the site would be a more sustainable solution than the retention of the service or facility.”*

10.4 Marchington Neighbourhood Plan Policy CFOS1 - Community buildings, shops and public houses - states:

*“Community facilities in Marchington will be protected. Where planning consent is required the loss of such facilities will be resisted unless –*

- a. The proposal includes alternative provision on a nearby site of equivalent or enhanced facilities. Any sites should be accessible by walking, Cycling and have adequate car parking: or*
- b. It can be demonstrated to the satisfaction of the Local Planning Authority that there is no longer a need for the facility, or the premises are unsuitable or not viable for the continued provision of the service.”*

10.5 Policy DP1 (Sustainable Development Principles) of the Neighbourhood Plan states that *“planning permission will be granted for development in Marchington Parish at a scale and in locations that accord with policies set out in the Neighbourhood Plan where it can be shown that the*

*development would support the community, by providing new homes, to meet the development requirement of approximately 20 new dwellings identified in the adopted East Staffordshire Local Plan, also taking account of the setting and character of the village and addressing local housing demand needs in terms of size, type and tenure. Demonstrating that new development has regard to the principles set out in the Neighbourhood Plan and be located to ensure that it does not adversely affect the following: the amenity of nearby residents; the character and appearance of the local area in which it is located; social, built, historic, cultural and natural heritage assets”.*

- 10.6 In relation to the provision of new residential development the Local Plan sets out in Policies SP2, SP3 and SP4 a development strategy directing growth to the most sustainable places. Burton Upon Trent and Uttoxeter are identified as the main settlements to take housing development mostly in the form of sustainable urban extensions with some limited growth in the rural area, principally within settlement boundaries (with Marchington having such a settlement boundary). Neighbourhood Plan Policy H2 sets out the importance of meeting the housing needs of all sectors of the population

### **Assessment**

- 10.7 Predominantly, the submissions of local residents, along with those ward councillor and local MP, reflect the importance to which the Dog and Partridge public house is valued to them as a local facility. The proposed change of use of the public house also prompted the request for and designation of the Dog and Partridge public house as an Asset of Community Value (ACV).
- 10.8 Three local residents have, however, written in support of the application and having regard to the application submissions at the outset of the process, the position of the applicants in support of the proposal was that :-
- Neighbourhood Plan Policy CFOS1(b) allows for the loss of a community facility where it can be demonstrated that it is either unsuitable, unnecessary or unviable in that location. The applicant has provided the trading figures from the last 3 years which show the pub is unable to trade profitably.
  - Local Plan Policy SP22 sets the criteria for the loss of community facilities (and thus informs the criteria for CFOS1(b) of the Neighbourhood Plan) and requires that alternative provision is available within the settlement. Following the closure of the Dog and Partridge, the village will continue to be served by the Bulls Head (on Bag Lane), which is currently a nominated Asset of Community Value.
  - Local Plan Policy SP22 also requires that all reasonable efforts are made to preserve the asset through its sale, and states a marketing period of 6 months must be undertaken. The Dog and Partridge has been marketed for (at least) six months by a leading commercial estate agents (Davey & Co) and they set the price at £450,000 which is

considered reasonable for a property of this size, accommodation composition and quality (and which considered the liability for flooding). Not a single bid was made during the six month marketing exercise.

- Local Plan Policy SP22 also makes to reference to a facility being in an inherently unsustainable location and in this respect it is contended that Marchington is an intrinsically unsustainable location for a small country pub with limited parking to be. The village has a modest population of 2000 people, and does not benefit from much passing traffic due to the B5017 which bypasses the village and its geographic isolation from surrounding settlements. The pub business has been built around a limited trade available from the village and it is pointed out that the Community Shop - which is located 60m east of the Dog and Partridge - is only able to stay open thanks to annual financial grants.
- The Council's parking standards for public houses indicates the premises would need to provide 30 spaces to meet the standard. The parking on site is very restricted with only 8 No. spaces available and there is very little on street parking in vicinity.
- As Marchington has a modest population, the pub must look to attract business from outside the settlement in order to stay afloat. However, the capacity of the carpark effectively caps the number of patrons the pub can accommodate at any one time, and any increase in on street parking would be detrimental to the amenity of neighbours.

10.9 With the advent of the Covid 19 situation the applicants agent commented in a supplementary statement (in early September 2020) as follows :-

- *“Since the application was first submitted to the Authority (18/02/2020) the outlook for the future viability of the business has been considerably worsened by the emergence of the corona-virus pandemic. Furthermore, there have been changes to the Use Class Order which reflect a Government recognition of the extremely difficult nature of the economic climate for establishments such as the Dog and Partridge, which reinforces the position that a dining establishment cannot be sustained in Marchington.*
- *The impact of the virus has already been felt acutely by the business. The business was closed and could not re-open until the beginning of July. The Dog and Partridge is a small pub with limited seating, limited outdoor areas and very limited parking. The owners had no space to install an outside marquee\*\* and now that we are over the summer season Covid has reduced the dining capacity from 54 to 26 and with no patrons allowed at the bar the seating area must serve both diners and drinkers. This is exacerbated by the layout of the pub, with several small rooms which are difficult to ventilate and to maintain social distancing. There is some seating in the beer garden at the rear of the building, however, this is not going to be a viable option for patrons during the coming winter months. The pub derives a lot of its character and charm from a cosy, intimate internal layout, which will now ironically be a significant deterrent for the older and family clientele that pub has relied on for many years. Another unforeseen impact of the virus has been the*

*inability for the applicants to host the popular live music nights, which had been an important source of income for a number of years. This lost income cannot be replaced.*

- *Whilst the Eat Out To Help Out scheme has given the hospitality sector a temporary boost in income, the longer-term picture for the industry as a whole is bleak, especially with the very real threat of second and third waves of the virus, which in turn poses the threat of further local and national lockdowns. The business has already suffered the effects of a change in drinking culture and is at a notable disadvantage to its competitors due to the combination of its rural location and small car park. The long term impact of Covid19 will compound these issues, and it is reasonable to assume the business will cease trading in the near future if the change of use is not approved.”*

(\*\* the applicants have subsequently corrected this statement and pointed out they did indeed erect a marquee on the car park area).

10.10 The applicants submission (of early September 2020) also effectively re-iterated the previous points made in terms of the fact that the applicants had actively sought to market the premises without success due to geographical location and the liability of the site to flooding.

10.11 In relation to the review of the originally submitted application documentation, along with a supplementary statement provided by the applicants agent in the terms of the stated impacts of Covid 19 the report of the external consultant (from Everard Cole) concluded that :-

- The immediate local area surrounding the Dog and Partridge is adequately supplied with public house and other community amenities and facilities able to meet the community’s day to day needs. In that respect both the East Staffordshire Borough Council Local Plan Strategic Policy 22 (i) and Policy CFOS1 (a) of the Marchington Neighbourhood Plan are satisfied.
- However, that meeting of ‘need’ issue does not mean the competing businesses cannot coexist and operate on a viable basis within such a proximity and it is believed that the Dog & Partridge is an economically viable proposition as *“the requirements of an owner who is looking to operate the site is different from an owner who is not wishing to utilise the property for its designated use as it imposes on their life-style choices. Assuming the pub is run by an owner-operator, the owners remuneration plus the business profit provide a return on capital of over 9%, which I believe would be acceptable to a number of operators who are subject to the norms of profit motivation and market led commercial costs of finance.”*

10.12 In relation to coming to the conclusion that adequate alternative facilities existed in the locality, the Everard Cole report commented that the local community and those accessing the district by car are served by the following established public houses: -

- Bulls Head, Marchington – 0.2 mile away

- The Barn, Stubby Lane, Marchington – 0.9 mile away
- The Roebuck, Tobys Hill, Draycott-in-the-Clay – 1.6 miles away
- The Boars Head Hotel, Station Road, Draycott-in-the-Clay – 1.6 miles away
- Swan Inn, Lichfield Road, Draycott-in-the-Clay – 1.7 miles away
- Doveridge Village Club, 1 Alms Road, Doveridge – 2.3 miles away
- Cavendish Arms, Derby Road, Doveridge – 2.6 miles away
- Cock Inn, Hanbury Hill, Hanbury – 3 miles away
- Red Lion, Duffield Lane, Newborough – 3.4 miles away
- Plough, Stafford Road, Blounts Green – 3.6 miles away
- Rose & Crown / Lighthouse Restaurant, New Road, Boylestone – 4 miles away
- Meynell Ingram Arms, Abbots Bromley Road, Hoar Cross – 6 miles away
- The numerous pubs and restaurants in Uttoxeter which is less than 4 miles away

10.13 The Everard Cole report comments further that :-

- *“These alternative public houses provide both community wet-led offers and daytime and evening food offers. Some of the alternative facilities also offer bed and breakfast accommodation.*
- *Within the village of Marchington itself, the Bulls Head is a pub with a larger car parking provision situated in the centre of the village a few hundred yards from the Dog & Partridge. The Bulls Head is a community pub that predominantly trades as a ‘wet-only’ pub, although it appears to have recently introduced a takeaway menu limited to curries and kebab wraps. It is also noted that Uttoxeter Cricket Club has a licensed bar in their clubhouse in the village (of Marchington) and whilst it may not necessarily be regarded as a direct alternative to the Dog & Partridge, and its hours of operation are very limited, it is nevertheless an additional licensed venue the village can now enjoy.”*

10.14 The applicants welcomed the conclusion that the ‘need’ for alternative public house facilities could be met in the local area, however, the conclusions on the viability of the business have challenged by the applicants in further submissions.

10.15 The external consultant has reviewed those further submissions and in terms of the impacts of Covid 19 comments *“that whilst there is no doubt the epidemic is currently having a detrimental effect on the whole hospitality industry; that effect is being felt universally and the applicants do not appear to offer any substantive evidence to support their argument or substantiate their specific claim (that the Dog and Partridge would not be a viable business post the Covid situation).”*

10.16 In overall conclusion, the external consultant (from Everard Cole) goes on state that :-

*“In my opinion, any reasonings raised by the applicants to support their assertion (that the business is not viable) are predominantly issues*

*resulting from their own particular circumstances and preferences in operating the business and those same challenges would not necessarily be faced by alternative operators. Their comments suggest they fail to appreciate that the viability assessment is undertaken objectively from the perspective of a REO (Reasonable Efficient Operator) and, to echo my response in the attached appendix (i.e. this being a detailed critique), to argue that their (the applicants) method of operation of the business is not viable is a completely different proposition to whether or not the pub is inherently unviable.”*

10.17 Given the conclusions of Everard Cole on the issue of viability it is, therefore, considered that the proposed development would be contrary to paragraph (b)(ii) of Policy SP22 of the Local Plan.

10.18 Furthermore, in relation to paragraph (iii) of Policy SP22 given the location of the public house within the settlement boundary for Marchington it not agreed with the applicants that the premises are in an inherently unsustainable location and that the reuse of the site (as a dwelling) would necessarily be a more sustainable solution than the retention of the public house use. The applicants in particular contend that the unsustainable nature of this rural business is its reliance on patrons private car journeys, and in relation to the fact that there are no evening buses on the route that serves Marchington (being Buses 401/402/403 Burton to Uttoxeter) it is the case that any journeys from outside the village will essentially be by private vehicle. However, it is also case that the closure of the Dog and Partridge would mean a resident in Marchington would have to use a private motor vehicle to travel elsewhere for a similar food offer (as that offered at the application premises) whereas it may also mean some existing journeys from outside Marchington may be extended for the same reason.

10.19 In terms of the ‘corresponding’ Policy CFOS1 of the made Marchington Neighbourhood Plan, the wording of the paragraph (b) specifically refers to it being demonstrated (by the applicants) to the satisfaction of the Local Planning Authority that there is *“no longer a need for the facility, or the premises are unsuitable or not viable for the continued provision of the service”* (officer underlining). In essence, therefore, this wording means that only one of the stated three elements need to be successfully addressed in any particular application case to meet the criteria and with this application given one of those is met - in terms of ‘need’ (as per para 10.7 above) - then it is concluded that scheme would not (also) be contrary to Policy CO1 of the Neighbourhood Plan.

10.20 In relation to the proposed residential use, the applicants cite that the dwelling unit to be created would meet the relevant policies of the Local Plan (namely Policies SP2, SP3 and SP4) and the Neighbourhood Plan (Policies DP1 and H2) in terms of the delivery of new housing. Whilst this may in principle be the case, any such contribution (of one unit) is modest and in any event the Council is already meeting its 5 year land supply target set out in the NPPF (with the most recent calculation as at 31st March 2020 concluding there is 6.04 years of supply). It is therefore considered that the creation of a new dwelling is not of sufficient benefit to outweigh the loss of the public house use.



10.21 With regard to the use of the church park for visitors to the public house it is the case that this has been utilised previously with the agreement of the church members and representations are made that the car parking could with the relevant parties agreement similarly be made available again in the future. The applicants on other hand advise that this not the case in pointing out

*“whilst this is possibly not a pertinent issue in terms of planning (although it is in terms of our shortage of parking spaces), we do feel that we should outline why this is not an option. The church insists that the car park is locked at all times with a combination padlock. So, customers would first have to come to the D&P (Dog and Partridge) to get the code for the lock, then drive to the car park, open the gate, park and then close and lock it behind them. They would then have to walk to us and, after their visit, do the whole thing again in reverse. Many of our customers are older and this would undoubtedly be a problem for them, particularly in inclement weather and in the winter months when it is dark. It should also be noted that we paid an annual fee to the church for the use of the carpark and therefore, we should reasonably expect that customers should be able to enter and exit the carpark without restriction and that the churchwarden should be responsible for ensuring that the carpark was secure at the end of the day. When we did rent the car park, many people still chose not to use it and parked on the surrounding roads. This in turn caused complaints from villagers however, we can't dictate to people where they can and can't park.”*

10.22 Whatever the position in the future in relation to the use of the Church owned car parking, however, in terms of this present application it is clear the land in question falls outwith the control of the applicants and thus outside of the scope of the application site under consideration. The applicants do cite the 'shortage' of car parking within the site – with this being some 8 No. in total - as being part to their justification to change the use of the premises to a dwelling. However, given there is on-street parking in the locality it is again considered that this issue is not of sufficient weight to overcome the in principle policy objection to the loss of the public house facility.

10.23 In conclusion, therefore, in principle the application is considered to be contrary to paragraphs (b)(ii) and (b)(iii) of Policy SP22 of the Local Plan, although it is of course also necessary to take into account the other material planning issues as set out below.

## **11. Impact on Heritage Assets/Visual Amenities**

11.1 Paragraph 184 of the NPPF states that Local Planning Authorities should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

11.2 Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State

shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Again, as for the Section 72 duty referred to above, case law has established that this means that considerable importance and weight has to be given to that statutory duty when balancing the proposal against other material considerations.

- 11.3 Strategic Policy 25 states that Development proposals should protect, conserve and enhance heritage assets and their settings, taking into account their significance, as well as the distinctive character of the Borough's townscapes and landscapes. Detailed Policy 5 goes into more detail regarding Historic Assets, Listed Buildings, Conservation Areas and Archaeology.
- 11.4 Neighbourhood Plan Policy BE1 states that *“built development in and around Marchington village must protect, complement or enhance the historic rural character of the settlement and its hinterland, which is identified the Marchington Character Study and the Marchington Conservation Area Appraisal. Applicants must explain in a Design and Access Statement or Heritage Statement, how the proposed development will protect, complement or enhance the historic rural setting of the Parish, including the Conservation Area and Listed Buildings, with regard to: the scale and form of the development, the density of the development, the materials used in the development, and elevated views of Marchington village and its landscape setting”*.
- 11.5 The NPPF attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. The NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- 11.6 Strategic Policies 1 and 24 indicate that development proposals must contribute positively to the area in which they are proposed. The policy lists a number of criteria developments are expected to achieve including creating a sense of place, reinforcing character, reflecting densities and where possible minimise the production of carbon through sustainable construction. Policy DP1 of the Local Plan re-iterates the design principles set by Policy SP24 stating that development must respond positively to the context of the surrounding area, exhibit a high quality of design and be compliant with the East Staffordshire Design Guide.
- 11.7 Policy H3 of the Neighbourhood Plan seeks to ensure that existing buildings are converted in such a way that is sympathetic to the historic environment.

### **Assessment**

- 11.8 The nearest listed buildings of the Parish Church (Grade II\*) and a tomb in the churchyard lie some 120 metres to the east of the site and with the intervening buildings the public house does not make any direct

contribution to the setting of these listed buildings. The development proposal would not materially impact on the setting of any listed buildings.

- 11.9 As such Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 would not be engaged by this scheme.
- 11.10 The application site is in the conservation area and the Dog and Partridge is a non-designated heritage asset. Other than the removal of the existing public house signage there are no significant changes are proposed and as such the conversion scheme will maintain the buildings overall contribution to the character and appearance of the conservation area.
- 11.11 As such Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 would be engaged by this scheme and the development is not considered to be materially detrimental. The scheme would also be sympathetic to the wider village streetscape.
- 11.12 It is also pointed out that as no structural changes are required to the building and there are no engineering operations the scheme would also not materially impact on any archaeological interest.
- 11.13 As such it is therefore considered that the proposal complies with the provisions of Local Plan Policies SP1, SP24, SP25, DP1 and DP5 and Policies BE1 and H3 of the made Marchington Neighbourhood Plan.

## **12. Impacts on Residential Amenities**

- 12.1 The National Planning Policy Framework and Policies DP1, DP3 and DP7 of the Local Plan seeks to ensure new development will not have an adverse impact on the amenities of new or existing residents by way of loss of light, overlooking or overbearing, or by unacceptable levels of noise or disturbance.

### **Assessment**

- 12.2 The proposed scheme would involve the conversion of the existing building to the dwelling use and in doing utilise the existing building and its openings. The public house car parking area will in part be converted to garden area. It is considered that these proposals will not give rise to any overbearing, overshadowing or overlooking impacts over and above the existing situation.
- 12.3 With regard to the impact of the use on surrounding residents, the proposed change of use from a public will materially reduce the levels of noise and disturbance (including from vehicle movements) As such the scheme would give rise to any concerns in terms of impacts on residential amenities.
- 12.4 In relation to the resident amenities of the occupants of the proposed dwelling the garden area proposed would meet the minimum requirements sent out in the Council's Separation Distances and Amenities SPD.

12.5 As such it is therefore considered that the proposal complies with the provisions of Local Plan Policies DP1, DP3 and DP7.

### **13. Highway Matters**

13.1 The NPPF sets out the role transport policies play in facilitating sustainable development which contributes to wider sustainability and health objectives. Decisions should ensure development proposals have taken the opportunities for sustainable transport modes, ensure safe and suitable access to the site can be achieved for all people and improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

13.2 Policies SP1 and SP35 of the Local Plan aim to ensure development is located on sites with good links to the highway network, development is convenient and safe to walk, cycle and travel by public transport. Developments should not result in vehicles harming residential amenity, causing highway safety issues or harming the character of the open countryside. For those developments likely to have an impact on the wider highway infrastructure, proposals should be accompanied by a transport assessment clearly setting out how the likely impacts of the development will be addressed. Policy T1 of the Neighbourhood Plan also seeks to ensure traffic requirements of development are met by application scheme.

13.3 The Council's revised parking standards SPD sets out standards for different uses including space size, accessibility and the quantity of car parking spaces required for different uses.

#### **Assessment**

13.4 The proposed development will continue to be accessed off Church Lane and three number parking spaces are proposed to be retained to serve the proposed 4 No. bedroom dwelling in line with the Council's revised parking standards SPD. The scheme will not give rise to any wider highway safety concerns and would therefore comply with Policies SP1 and SP35 of the Local Plan and Policy T1 of the Neighbourhood Plan.

### **14. Flooding and Drainage**

14.1 The National Planning Policy Framework seeks to ensure that new development is not at risk from flooding, or does not increase flood risk elsewhere. It advocates the use of a sequential test with the aim of steering new developments to areas with the lowest probability of flooding. The Environment Agency produces flood risk maps which classifies land according to probability of flooding. The areas of highest risk are classified as Flood Zone 3, with a 1 in 100 or greater annual probability of flooding, and the areas of lowest risk are classified as Flood Zone 1, with a less than 1 in 1000 annual probability of flooding.

14.2 Strategic Policy 27 of the Local Plan expects all new development to incorporate Sustainable Drainage Systems (SUDS). Systems will

discharge clean roof water to ground via infiltration techniques, limit surface water discharge to the greenfield run-off rate and protect and enhance wildlife habitats, heritage assets, existing open space, amenity areas and landscape value. Neighbourhood Plan Policy DP2 (Flood prevention & management) emphasises that development should not increase the risk of flooding and/or exacerbate existing drainage problems.

### **Assessment**

14.3 The site lies entirely within the Functional Flood Zone and the scheme would also utilise existing foul and surface water systems. The Flood Risk Vulnerability Table 2 of National Planning Practice Guidance puts drinking establishments (public houses) and residential properties at the same level of risk. There will be therefore be no change in flooding or flood risk through the proposals as the scheme merely relates to a change of use; a position confirmed by the Environment Agency.

14.4 As such it is considered that the scheme complies with the provisions of Local Plan Policy SP27 and Neighbourhood Plan Policy DP2

## **15. Biodiversity implications**

15.1 The National Planning Policy Framework (at paragraph 175) indicates that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), be adequately mitigated, or, as a last resort, be compensated for, planning permission should be refused. East Staffordshire Local Plan Strategic Policy 29 (SP29) seeks amongst other things to ensure that development retains, protects and enhances features of biological or geological interest, and provides for the appropriate management of these features and seeks to ensure that development produces a net gain in biodiversity in line with UK and/or Staffordshire Biodiversity Action Plan species, and biodiversity opportunities.

### **Assessment.**

15.2 The scheme will result in the removal of hard surfacing and its replacement with lawn area which will have some minor biodiversity benefits. As such it is therefore considered that the scheme complies with the provisions of Local Plan Policy SP29 and the NPPF.

## **16. Conclusions**

16.1 Accordingly, having assessed - with the informed approach of the external consultants - and weighed in the balance the planning merits of the applicants and objectors submissions (including those of the parish council and the local MP and ward councillor) - it is considered as per the Assessment section of this report - and as summarised in the Executive Summary - the application should be recommended for **REFUSAL**.

16.2 **REFUSE** planning permission, for the following reason:

The Dog and Partridge Public House is identified in the made Marchington Neighbourhood Plan as a community facility and is designated an Asset of Community Value. Strategic Policy 22 (SP22) of the East Staffordshire Local Plan inter alia (at paragraph (b)) provides guidance and criteria on how to deal with the loss of community facilities and states that *“proposals which result in the loss of a community facility will not be permitted unless: (i) adequate alternative provision is available within or adjacent to the settlement or will be provided as part of the development process; (ii) all reasonable efforts have been made to preserve the facility or service, including sharing of premises, but it has been satisfactorily demonstrated to the Council that the service is no longer viable and has been actively marketed for a period of at least 6 months; (iii) the service or facility is in an inherently unsustainable location and the reuse of the site would be a more sustainable solution than the retention of the service or facility.”*

Having regard to the criteria of paragraph (b) of Policy SP22, whilst it is considered (in respect of paragraph (i)) that adequate alternative provision is available in the locality it is not considered that the application submissions have demonstrated that the public house service is no longer viable nor that the facility is in an inherently unsustainable location nor that the reuse of the site would be a more sustainable solution than the retention of the facility. As such it is considered that the proposed development would be contrary to paragraphs (b)(ii) and (b)(iii) of Strategic Policy 22 (SP22) of the East Staffordshire Local Plan.

## **17. Background papers**

17.1 The following papers were used in the preparation of this report:

- The Local and National Planning policies and associated supplementary planning documents outlined above in section 7
- Papers on the Planning Application file reference: P/2020/00139
- Papers on the Planning Application file reference: P/2019/00655
- Papers on the Planning Application file reference: P/2016/01255

## **18. Human Rights Act 1998**

18.1 There may be implications under Article 8 and Article 1 of the First Protocol regarding the right of respect for a person’s private and family life and home, and to the peaceful enjoyment of possessions. However, these potential issues are in this case amply covered by consideration of the environmental impact of the application under the policies of the development plan and other relevant policy guidance.

## **19. Crime and Disorder Implications**

19.1 It is considered that the proposal does not raise any crime and disorder implications.

## **20. Equalities Act 2010**

20.1 Due regard, where relevant, has been had to the East Staffordshire Borough Council's equality duty as contained within the Equalities Act 2010.

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