

## Grounds of Appeal

Application PP/11/02421/Q13 was registered as complete on 29<sup>th</sup> July 2011.

The application has been revised in accordance with comments made by the Officers, but it has not yet been determined.

This appeal is therefore on the grounds of non-determination.

- 1) The proposed change of use from Class A4 to Class C3 single family dwelling accords with the policies of the development plan and there are no material considerations that indicate that planning permission should not be granted having regard Section 38(6) of the 2004 Act.
- 2) Specifically there are no policies which seek to prevent the change of use of the public house use to residential use in either the 2011 London Plan or the 2010 RBK&C Core Strategy, which together comprise the development plan. The Core Strategy defines "social and community uses" in paragraph 30.3.4 for the purposes of the application of Policy CK1– the list does not include public houses. This has been recently confirmed by Inspector Barton in APP/K5600/A/11/2152776.
- 3) Paragraph 30.3.7 says that public houses are considered a social and community use in the Borough but that there is too little evidence to resist their loss at the present time. The paragraph says the Borough has 113 traditional public houses and that only 6 have been converted to dwellings in the last 10 years to December 2010. Everywhere in the Royal Borough is within 10 minutes walk of a public house.
- 4) It will be shown that there are currently 12 other public houses within 10 minutes walk of the appeal site. It will further be shown that since December 2010, 3 public houses have been granted planning permission for change of use to residential dwellings in accordance with the development plan, two of which were approved by RBK&C and one was allowed on appeal.
- 5) It will therefore be argued that in land use policy terms the proposed change of use of the public house is not in conflict with the development plan, with specific reference to Core Strategy Policies CO5 and CK1.
- 6) It will further be shown that the proposed change of use to a family dwelling supports and is supported by London Plan Policy 3.3 to increase housing supply and also by Core Strategy Policy CH1 which seeks to make provision for a minimum of 600 net additional dwellings per year. Paragraph 35.3.10 of the Core Strategy confirms that over the next twenty years the size of market housing likely to be required is 80% larger family dwellings of "*three and four and more bedroom units.*"
- 7) It will be shown that there are no development plan policies which specifically resist the change of use of public houses to dwellings in conservation areas.
- 8) It will be shown that the contribution of the appearance of the public house to the conservation area heritage asset will be preserved and enhanced by the appeal proposals. In particular the external appearance of the building will be maintained and improved
- 9) It will be shown that the existing character of the use of the large garden attached to the public house by customers detracts from the setting of the directly adjacent listed buildings in Margaretta Terrace and from the residential character of the conservation area as a whole.
- 10) It will be argued that the existing use of the public house as a 'gastro pub' is far removed from the character of the former traditional Victorian public house use of the premises, both in terms of the regular use of cars by patrons coming and going to the 'gastro pub / restaurant' today and by the use of the garden area for drinking and eating at all times and in all weathers. The retention of the 'gastro pub / restaurant use does not therefore preserve or enhance the historic character of the conservation area – its use is not that of a traditional corner public house, which originally served a very local pedestrian community behind closed doors. It is a 'gastro pub / restaurant' destination attracting custom from outside the area not in keeping with the predominantly domestic character of this quiet residential enclave; and a use that has, in very recent years, proved erosive of that character by virtue of the liberalisation of licensing hours, by its encouragement of the use of the car and by the smoking ban within public buildings making smoking an outdoor / street activity.
- 11) It will therefore be argued that the proposed change of use would not cause any material harm to the character of the conservation area but would be more in keeping with its quiet residential character and in this respect it would support and is supported by Core Strategy

Policies CL1 and CL3, as well as conforming with the 2008 English Heritage advice in “Conservation Principles, Policies and Guidance for Sustainable Management of the Historic Environment”.

- 12) It will further be argued that an important “other material consideration” in this case is the detrimental impact on the residential amenity of the local community resulting from the changes to the nature of the public house use, occasioned in part by the changes in the regulatory regimes. As a result, this quiet residential enclave is now disturbed by the ‘gastro pub / restaurant use,’ notwithstanding the very strict licensing controls imposed upon it and despite continuous efforts and best endeavours by the operators to stay within those constraints. The public house use of the large front garden on the corner of two residential streets, of which one is a cul-de-sac, has a unique and disproportionately greater adverse impact on residential amenity than is caused by any of the other public houses within walking distance of the appeal site.
- 13) It will therefore be argued that, on its own merits, this particular change of use proposal is justified, both in terms of prevailing planning policies at national, strategic and local levels, as well as with regard to the compelling other material consideration of residential amenity. The change of use of the public house to a dwelling will cause no material harm to any interest of acknowledged planning importance in these circumstances – its retention as a ‘gastro pub / restaurant,’ on the other hand will continue to do so. In addition, the proposed development will contribute to the provision of much needed family housing whilst securing the sustainability of the residential neighbourhood.
- 14) In support of the appeal proposals reliance will be placed on other planning decisions allowing the change of use of public houses to dwellings in the Borough including premises in conservation areas. Chief among these will be the careful assessment of and the application of development plan policy to, the change of use from public house to a dwelling involving the Prince of Wales public house (APP/K5600/a/11/2152776).