



Planning Statement

Old Stags Head Public House,
65 Church Hill, Penn,
Wolverhampton, WV4 5JB

December 2023

Ref. SP20-1029

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Documents

Document 1: Decision Notice – 22/00045/FUL

Document 2: Appeal Decision – APP/D4635/W/23/3319946

1. Introduction

1.1 This Planning Statement has been prepared by Simply Planning Limited (SPL), on behalf of our client, 3B1Y Ltd, and is submitted in support of a full planning application in respect of the Old Stags Head Public House, 65 Church Hill, Penn, Wolverhampton, WV4 5JB.

Description of Development

1.2 The application seeks permission for the change of use of the public house (sui generis) to provide a single, 5-bedroom, family dwelling (use Class C3), together with associated external alterations and landscaping.

1.3 The Old Stags ceased trading in 2018 and has stood vacant ever since. As evidenced later in this document, a public house use is not a viable proposition. As such, the proposals will secure the optimum viable use of a redundant building and will inject significant investment into the site.

1.4 In short, the proposals will deliver a high quality family home, whilst improving the appearance of the building and its associated setting.

Background

1.5 The proposed development is a revised submission of application ref. 22/00045/FUL, which was refused in October 2022 and dismissed at appeal in October 2023.

1.6 The planning and appeal history is discussed, in detail, at paragraphs 2.11 – 2.32 of this Statement; however, in short, the Inspector concluded that a public house use of the site is unviable.

1.7 The matters of contention, i.e. an extension to the building and introduction of a new retaining wall, have been omitted from the revised proposals and, on this basis, there is no reason why the application proposals cannot be supported.

Supporting Documents

1.8 In addition to this supporting Statement, the application is accompanied by a series of technical documents which consider the acceptability of the proposals in light of the Development Plan policies and other material considerations. The accompanying documents are as follows:

Document	Author
Design and Access Statement	BCHN Architects
Heritage Impact Assessment	Donald Insall Associates
Viability Appraisal	Colliers

1.9 A full suite of architectural drawings, prepared by BCHN Architects, also form part of the submission. The drawings are listed as follows:

Drawing No.	Title
2835-D-01	Location and Block Plan
2835-D-02	Existing Site Plan
2835-D-03	Existing Cellar and Ground Floor Plans

Drawing No.	Title
2835-D-04	Existing First Floor Plan
2835-D-08	Ground Floor and Cellar Demolition Plan
2835-D-09	First Floor Demolition Plan
2835-D-12	Proposed Site Plan
2835-D-13	Proposed Ground and Cellar Plan
2835-D-14	Proposed First Floor Pla
2835-D-21	Existing Elevations (1 of 2)
2835-D-22	Existing Elevations (2 of 2)
2835-D-25	Proposed Elevations (1 of 2)
2835-D-26	Proposed Elevations (2 of 2)

Structure of the Statement

1.10 This Planning Statement explains the background to the scheme and justifies why planning permission ought to be granted having considered the relevant planning policy context, planning history and all other material considerations.

- **Section 2** sets out the factual background and development context, including a description of the application site and surrounding area, and provides a review of the relevant planning (including appeal) history.
- **Section 3** describes the application proposals.
- **Section 4** reviews the planning policy context against which the proposals should be judged, including the National Planning Policy Framework (NPPF), The Black Country Core Strategy, and the saved policies of the Wolverhampton Unitary Development Plan (UDP).
- **Section 5** considers the matters at issue and assesses the scheme against the Development Plan policies and material considerations.
- **Section 6** draws our conclusions

2. Factual Background

Site and Surroundings

- 2.1 The application site comprises the former Old Stags Head public house, located on the northern side of Pennwood Lane at its junction with Sedgley Road. The site has a wide frontage to Pennwood Lane, with the topography rising and the site narrowing to the rear. The site area totals approximately 0.15ha (0.284 acres).
- 2.2 The site, in its context, is shown on the aerial image below (Figure 1):



Figure 1: Aerial Image of Site – Source: Google Satellite

- 2.3 To the east, north and west the application site is flanked by existing two-storey dwellings with mature screening on all boundaries. The application proposal would not result in the removal of mature landscape screening. Rather, all existing trees are to be retained on site.
- 2.4 The original pub building dates from the early 1830's and is sited at the back edge of the road (Pennwood Lane). It has a principal two-storey element with a tiled pitched roof (double gabled to the western flank) originally constructed in brick but now (in part) rendered.
- 2.5 There have been later C20th single storey additions to the west (Pennwood Lane frontage) and rear. To the east, set back from the road, is a concrete built garage/outbuilding.
- 2.6 The pub has been vacant since October 2018.
- 2.7 On the opposite side of Pennwood Lane is a surface car park (of around 60 spaces). This car park falls outside of the application site.
- 2.8 The site forms part of Penn, a suburb of Wolverhampton located approximately 3 miles southwest of the city centre. It is sustainably located in close proximity to a range of services and facilities.

- 2.9 The application site falls within the designated Green Belt, the Vicarage Road (Penn) Conservation Area and the Environment Agency's Flood Zone 1.
- 2.10 The Old Stags Head public house is considered to be a Non-Designated Heritage Asset (NDHA). It was also formally registered as an Asset of Community Value (ACV) on 20th September 2023.

Planning / Appeal History

- 2.11 As noted above, the proposed development is a revised submission of application ref. 22/00045/FUL. That application sought consent for:

"The change of use and extension of The Old Stags head Public House, to provide a 6-bed family home (Use Class C3). Erection of retaining wall in rear garden."

- 2.12 The application was refused under delegated authority on 7th October 2022. A copy of the Decision Notice is provided at **Document 1**.

- 2.13 The application was refused for four reasons. These are detailed in the Council's Decisions Notice, however, the main issues are summarised as follows:

1. *"The loss of the pub, considered a valued community facility.*
2. *The harm caused to the character and appearance of the Vicarage Road (Penn) Conservation Area by reason of:*
 - *the loss of the pub, a commercial building.*
 - *the design, scale and massing of the proposed rear extension.*
 - *the design and scale of the front boundary treatment, parking area and retaining structure.*
 - *the absence of a proposal for the pub car park.*
3. *Whether the proposed rear extension is inappropriate development in the Green Belt.*
4. *Whether the proposed development would cause harm to the health and preservation of retained protected trees."*

- 2.14 All of these issues have now been resolved/address through either the appeal or this resubmission.

- 2.15 An appeal against the Council's decision was lodged in April 2023 (ref. APP/D4635/W/23/3319946). The appeal followed the Hearing procedure. The Hearing was held at Wolverhampton City Council's Offices on 21st September 2023.

- 2.16 Prior to the Hearing, the LPA withdrew their objection to the perceived harm to the health of trees due to the proximity of the retaining wall. It was agreed that such matters could be reasonably satisfied by way of an appropriately worded condition.

- 2.17 Following the Hearing, the appeal was dismissed on 11th October 2023. The Appeal Decision is attached at **Document 2**.

Inspector's Support for Change of Use

- 2.18 In the context of this application, it is highly relevant, that the Inspector raised no objection to the loss of use of the public house and the subsequent creation of a single family dwelling. Notably, the appeal proposal

was considered to comply with the requirements of Policy C3 (Community Meeting Places) of the Wolverhampton Unitary Development Plan (2006).

- 2.19 The matters of viability and the loss of the community facility are discussed at Paragraphs 25 – 41 of the Appeal Decision. Of particular relevance the Inspector notes:

“...the public house is located on the edge of the Wolverhampton urban area, with large areas of surrounding countryside, and as a result has a diminished customer population base, compared to many other public houses within the area, that are generally sited within more populated residential areas. The surroundings are pleasant with the church, the nearby common and network of footpaths leading to other areas but there are no overriding setting advantages, such as waterside location, or historic interest features, such as tourists attraction, to encourage destination-led trade.” (Paragraph 29).

“...the appellant’s revenue/cost appraisal demonstrates that a public house use would be unviable and therefore, attracting an owner or partnership to operate the public house would be extremely difficult.” (Paragraph 36)

“Under UDP Policy C3, the public house use would be unviable as a public house and requirement 4 would be satisfied. Turning to other policy requirements, there is substantial support for the retention of the public house. It was used as a meeting place for the local community, including local groups, family events, events associated with the church and nearby school, receptions, as well as pub events, like quizzes, and has been listed as an ACV.”(Paragraph 39)

“However, limited weight is given to the ACV and under the policy, consideration has to be given to community facilities provided by the public house and not to those, which could be provided. There are six public houses and facilities nearby, like the Golf Club and church hall, within about a mile. Corporate public houses may be less welcoming and lack a sense of being a local facility, but the alternative public houses provide for a range of tastes, including drinks and food options, entertainment, and sports viewing. Pedestrian access to the two of the nearby public houses would be along highways lacking dedicated footpaths but there are other public house facilities within reasonable walking distances taking not much more than 10 minutes. Furthermore, the topography of the area is not so severe to discourage walking especially along pavements. In terms of meetings, it is inevitable that rooms for meetings can be booked up but there is no detailed evidence of difficulties, especially if booked ahead.” (Paragraph 40)

- 2.20 Whilst noting the nomination of the public house as an asset of community value, the Inspector attributed this limited weight.

- 2.21 At paragraph 41, the Inspector drew the following overall conclusion in relation to the principle of development:

“For all these reasons, the remaining policy requirements are satisfied, and the loss of the public house use has been justified based on the evidence before me. The proposal complies with Policy C3 of the UDP and paragraph 93 of the Framework, which states decisions should guard against the unnecessary loss of valued and services, particularly where this would reduce the community’s ability to meet its day-to-day needs.”

- 2.22 The principle of development is, therefore, acceptable.

Identified Heritage Benefit

- 2.23 The Inspector also found heritage benefits in the scheme, noting:

“The proposal would secure re-use of a NDHA within the Conservation Area and the building’s main façade would be retained, repaired and unsightly paraphernalia removed, such as vents, satellite dishes, etc. representing heritage benefit.” (Paragraph 21)

“...The external appearance of the NDHA would be repaired and improved through the demolition of unsightly extensions and paraphernalia, and re-use would prevent the buildings deteriorating in appearance and significance...” (Paragraph 43)

2.24 As we go on to demonstrate, the proposed development contains to deliver these heritage benefits.

Concerns and Reason for Dismissal

2.25 The Inspector’s concern centred on:

- the scale, height, bulk, mass and appearance of the proposed extension,
- The scale of the new retaining wall,
- The impact of the extension and retaining wall on the openness of the Green Belt; and
- The impact of the extension and retaining wall on the appearance of the existing building and the character of the Penn Conservation Area.

2.26 In respect of heritage, the inspector commented as follows:

“The degree of harm to the significance of the Conservation Area, as a designated asset, would, in terms of the Framework, be less than substantial. In accordance with paragraph 202 of the Framework, the harm should be weighed against the public benefits of the proposal. There are heritage, social, environmental and economic benefits but the proposal would fail to preserve the character and appearance of the Conservation Area. Given this, the benefits would not be sufficient to outweigh the less than substantial harm identified and the considerable importance and weight this carries for the Conservation Area. Accordingly, the proposal would conflict with Policies HE1, HE4, HE5, D6, D8, D9 and D12 of the UDP and Policies CSP4 and ENV2 of the Black Country Core Strategy 2011, which collectively and amongst other matters, require high quality design that respects its surroundings, and that where it affects heritage assets, it preserves or enhances assets. (Paragraph 43)

2.27 In respect of the Green Belt, the Inspector considered the proposed extension and retaining wall to constitute inappropriate development remarking as follows:

“...Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Although limited, there would be harm to the openness of the Green Belt. The Framework establishes substantial weight should be given to any harm to the Green Belt.

In addition to the Green Belt harm, the proposal would harm the significance of a NDHA, and the significance and special interest of a Conservation Area, the latter attracting considerable weight. For these reasons, ‘Very special circumstances’ do not exist as the harm to the Green Belt by reason of inappropriateness and other harm is not clearly outweighed by other considerations. Accordingly, the proposal would conflict with Policies G1, G2 and G3 of the UDP, which collectively and amongst other matters, states inappropriate development will not be permitted except in special circumstances.” (Paragraphs 44 and 45)

2.28 As detailed below, the revised submission does not result in any Green Belt or heritage harm.

Amendments/Response

2.29 The scheme now omits the extension and retaining wall from the proposal. As such, the revised submission relates solely to the change of use of the public house (previously found acceptable by the Inspector), together with external alterations and landscape improvements.

2.30 The previous matters of contention do not, therefore, form any part of this submission.

- 2.31 The external alterations are minor in nature, will not cause harm to the openness of the Green Belt and collectively deliver tangible heritage and design benefits.
- 2.32 There can be no objection to the development proposed through this submission. Indeed, the of use of the public house has recently been deemed acceptable by the Inspector.

3. Proposed Development

- 3.1 The application seeks permission for the change of use of the public house (sui generis) to provide a single, family dwelling (use Class C3).
- 3.2 The proposal also incorporates several external alterations and landscape improvement works; including:
- Demolition of existing concrete garage/outbuilding;
 - Removal of ventilation and cooling equipment, ducting and non-domestic paraphernalia;
 - Enhancement of the 20th century rear additions, through the provision of a replacement sedum roof, the installation of new fascia's and fenestrations, and repointing/re-rendering where necessary;
 - Provision of a dedicated parking courtyard to the east of the building;
 - Creation of a new side entrance to the property in the eastern elevation;
 - Introduction of new boundary treatments to Penwood Lane, following the removal of a 1.8m close boarded fencing.
 - Installation of new aluminium sliding gate to access the parking courtyard; and
 - Cosmetic improvements, including repainting etc.
- 3.3 The footprint and floor area of the existing building is to remain as existing, with no increase in floor space.
- 3.4 The new boundary treatment to Penwood Lane will comprise hedging sat atop a low level red/orange brick wall, consistent with neighbouring properties.
- 3.5 The parking courtyard provides 3no. off-road vehicular spaces, together with the storage of bicycles and waste/recycling bins.
- 3.6 The associated landscaping works deliver high quality external amenity space for future residents.
- 3.7 Overall, the proposals will bring a vacant building back into use. The development will inject significant investment into the site and has been carefully considered to restore, preserve and enhance the historic character of the building, responding to the appeal decision.

4. Planning Policy Context

- 4.1 This section of the Planning Statement outlines the principle nation and development plan policies that are relevant to the determination of this application.
- 4.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that when determining a planning application, regard is to be had to the Development Plan and that determination shall be made in accordance with the Development Plan, unless material considerations indicate otherwise.
- 4.3 In the context of this application the Development Plan comprises:
- The Black Country Core Strategy (2011)
 - Saved Polices of the Wolverhampton Unitary Development Plan (2006)
- 4.4 The National Planning Policy Framework (NPPF), National Planning Practice Guidance (NPPG) and Supplementary Planning Documents/Guidance (SPD/Gs) are also important material considerations.

National Context

National Planning Policy Framework (NPPF)

- 4.5 At the national level, planning guidance is contained in the NPPF which was updated in September 2023. The NPPF is an important material consideration and seeks to secure positive growth in a way that balances economic, environmental and social progress for this and future generations.
- 4.6 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise (Paragraph 2). The National Planning Policy Framework must be taken into account in preparing the development plan and is a material consideration in planning decisions.
- 4.7 At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 11) which is seen as the golden thread running through both plan making and decision taking. Indeed, paragraph 11 states:

“Plans and decisions should apply a presumption in favour of sustainable development.

For decision-taking this means

- c. *approving development proposals that accord with an up-to-date development plan without delay; or*
 - d. *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:*
 - i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*
- 4.8 In this respect, paragraph 8 explains that there are three overarching objectives to achieving sustainable development:
- a. *“an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*

- b. *a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and*
- c. *an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.”*

4.9 The NPPF’s advice of delivering a sufficient supply of homes is set out at paragraphs 60-80.

4.10 Paragraph 60 states that it is important that councils provide a variety of land to support the Government’s objective of significantly boosting the supply of homes.

4.11 Paragraph 62 states that planning policies should reflect the needs of housing for different groups in the community. This includes size, type and tenure.

4.12 Chapter 8 of the NPPF relates to the promotion of healthy and safe communities. Paragraph 93 requires planning policies and decisions to:

- c. *“guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs;”*

4.13 As we go on to demonstrate, the Old Stags Head is no longer economically viable as a public house; furthermore, the community continues to benefit from access to a range of similar services and facilities to meet their day to day needs.

4.14 In the context of these proposals, Chapter 11 (Making Effective Use of Land) is highly relevant. Paragraph 120, Part d) encourages local planning authorities to:

- d. *“promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing...”*

4.15 This goes to the heart of the application proposals, which seek to bring a vacant building into use for residential purposes.

4.16 Chapter 12 (Achieving Well-designed Places) (Paragraph 130) reiterates that planning policies and decisions should ensure that developments are well functioning, visually attractive, sympathetic to the local character, and provide a strong sense of place. Paragraph 126 acknowledges that good design and the creation of high quality, beautiful and sustainable places is fundamental to what the planning and development process should achieve.

4.17 The application site falls within the designated West Midlands Green Belt as such the Policies contained within Chapter 13 of the NPPF are relevant to the determination of the application.

4.18 Paragraph 147 sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

4.19 Paragraph 149 states that an LPA should regard the construction of new buildings as inappropriate in the Green Belt subject to a number of exceptions including, inter alia, alterations of a building provided that it does not result in disproportionate additions over and above the size of the original building.

4.20 Section 16 of the NPPF deals with ‘conserving and enhancing the historic environment’. The key paragraphs include 194 – 195. They are worded as follows:

“In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. (194)

Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between heritage asset’s conservation and any aspect of the proposal. (195)”

4.21 The NPPF also sets out guidance relating to transport, flood risk, drainage, and biodiversity

Local Context

Black Country Core Strategy (2011)

4.22 The Black Country Core Strategy has been adopted by four the Black Country Local Authorities (Dudley, Sandwell, Walsall and Wolverhampton). It sets out the spatial framework into which various Action Plans should be plugged.

4.23 The policies relevant to this application include:

- CSP4 – Place-making
- HOU1 – Delivering Sustainable Housing Growth
- HOU2 – Housing Density, Type and Accessibility
- TRAN2 – Managing Transport Impacts of New Development
- ENV1 – Nature Conservation
- ENV2 – Historic Character and Local Distinctiveness
- ENV3 – Design Quality
- ENV5 – Flood Risk, Sustainable Drainage Systems and Urban Heat Islands
- WM5 – Resource Management and New Development

4.24 Policy CSP4 requires all development to demonstrate a clear understanding of the historic character and local distinctiveness of the area and show how proposals make a positive contribution to place-making and environmental improvement.

4.25 Policy HOU1 is a strategic policy which seeks to deliver sustainable housing growth across the black country, prioritising the redevelopment of previously developed land.

4.26 Policy HOU2 recognises the need for the Black Country to deliver a range of types and sizes of residential accommodation. Paragraph 3.12 of the supporting text notes that:

“The Black Country suffers from a lack of housing choice, which limits its ability to attract more households in Social Groups A and B...Factors most likely to attract A and B households are proximity to professional and managerial jobs, the appearance of the surrounding area and good schools. It will be important, therefore, that the various elements of the Core Strategy work together to achieve a level of transformation necessary to attract to A and B households at the required levels.”

- 4.27 Policy TRAN2 resists new development proposals that result in significant transport implications.
- 4.28 Policy ENV1 seeks to safeguard and protect nature conservation and improve the biodiversity and geodiversity of the Black Country.
- 4.29 Policy ENV2 requires all development to protect and promote the special qualities, historic character and local distinctiveness of the Black Country. No development is required to preserve and, where appropriate, enhance local character and the historic environment, paying particular attention to statutorily designated heritage assets.
- 4.30 Policy ENV3 sets out the overarching design aspirations for development within the Black Country. The supporting text acknowledges the importance of providing high quality buildings, architecture and spaces.
- 4.31 Policy ENV5 steers development towards those areas with a low probability of flooding and requires proposals to incorporate Sustainable Drainage Systems (SUDs).

Wolverhampton Unitary Development Plan (2006) – Saved Policies

- 4.32 The Unitary Development Plan was adopted in June 2006 and forms part of the Development Plan for Wolverhampton. While several of its policies were superseded following the adoption of the Black Country Core Strategy, a number were saved and are applicable to the proposal. These include:
 - D6 – Townscape and Landscape
 - D9 – Appearance
 - D12 – Nature Conservation and Natural Features
 - HE1 – Preservation of Local Character and Distinctiveness
 - HE3 – Preservation and Enhancement of Conservation Areas
 - HE4 – Proposals Affecting a Conservation Area
 - HE5 – Control of Development in a Conservation Area
 - C3 – Community Meeting Places
 - H6 – Design of Housing Development
- 4.33 Policy D6 requires development proposals to reinforce local distinctiveness and respond to the site and its context.
- 4.34 Policy D9 requires buildings, structures, boundary treatments and landscape features to make a positive contribution to the locality. Developments are expected to be of an appropriate form, incorporate good quality detailing and use high quality materials.
- 4.35 Policy D12 seeks to ensure development proposals demonstrate consideration of natural features including trees, hedgerows and habitats.

- 4.36 Policy HE1 requires all development proposals to take account of the character of the area in which they are sited. Policy HE3 builds on this and seeks to ensure developments preserve and enhance conservation areas.
- 4.37 Policy HE4 continues by requiring proposals to pay particular attention to, and precisely define, the impact of the development on the scale, proportions, character, materials and detailing of the conservation area and its setting.
- 4.38 Policy HE5 sets out overarching considerations for development in a conservation area. Proposals are expected to preserve and enhance the area's character and appearance.
- 4.39 Saved Policy C3 'is of particular relevance to the application proposals as it seeks to safeguard community meeting places, including public houses. The Policy States:
- “Proposals involving the loss of community meeting places, including clubs, public houses and community centres, will only be permitted if it can be demonstrated that:*
- 1. There is no longer a need for the facility;*
 - 2. There are other existing facilities, in locations that are reasonably accessible including on foot by members of the community served, which would accommodate any community activities displaced by the proposed development;*
 - 3. The proposal would involve the replacement of the facility in an equally convenient location; or*
 - 4. It would not be possible to retain the facility or provide an alternative facility because, despite all reasonable efforts, this would not be economically viable.”*
- 4.40 Saved Policy H6 requires all housing development to be of a high standard of design and confirms proposals will be considered on the basis of the policies set out within the design chapter (Chapter 4). It is acknowledged that high quality design is essential and that poor quality residential developments will be resisted.

5. Matters at Issue

5.1 Having set the planning context against which the proposals should be judged in the preceding section, we now consider the proposals against that guidance, alongside any other relevant considerations. We do so under a number of headings below.

Principle of Development

5.2 UDP Policy C3 seeks to safeguard the loss of community facilities, unless it can be demonstrated that there is no longer a need for the facility; there are other facilities within reasonably accessible locations; and that it would not be possible to retain the facility or provide an alternative because it would not be economically viable.

5.3 The acceptability of the loss of the public house has been rigorously assessed against the requirements of Policy C3 and paragraph 93 of the NPPF both as part of the previous planning application (Ref. 22/00045/FUL) and appeal processes.

5.4 In short, it is concluded that:

- There is no overriding need for the facility;
- There is ample alternative provision of community meeting spaces within reasonably accessible locations; and
- The retention of the public house does not represent a viable proposition.

5.5 For the reasons set out at Paragraphs 25 – 41 of the Appeal Decision, the Inspector concluded that the loss of the public house is acceptable, in principle, and in accordance with the requirements of UDP Policy C3:

“The proposal complies with Policy C3 of the UDP and paragraph 93 of the Framework.”

5.6 Given there have been no changes in the policy position since that decision and, indeed, a worsening position in respect of viability, it follows the proposed development complies with the requirements of Policy C3 and is acceptable, in principle. There is no reason why it could be considered otherwise.

5.7 In the interest of completeness, the application is supported by an updated viability technical note, prepared by Colliers, which should be read in conjunction with the preceding detailed viability report. Consistent with the Inspectors conclusions, this further demonstrates compliance with Policy C3 of the Wolverhampton UDP.

5.8 Overall, in respect of the principle of development we conclude as follows:

- There is no longer a need for the facility.
- The surrounding locality benefits from alternative public house provision within reasonable walking distance.
- Alternative community facilities are available within reasonable walking distance of the site to accommodate community meetings/activities.
- The site is vacant and has not met a community ‘need’ for over 5 years.
- The re-commencement of the public house use would result in a loss making venture.
- The Old Stags Head does not meet the required attributes to successfully reposition itself as a food-led business.

- The UK economy and public house market conditions have damaged the trade potential of the pub.
- It would not be economically viable to retain the public house.

5.9 All of these feed into the viability position with which the Inspector is in agreement with. The proposals are, therefore, acceptable in principle.

Appropriateness of Residential Use

5.10 New residential development is welcomed, in principle, at all levels of Planning Policy.

5.11 Paragraph 120, Part d) of the NPPF encourages local planning authorities to promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing.

5.12 The proposed change of use of the Old Stags Head will result in the creation of a single, 5-bedroom home in accordance with the Core Strategy's aspiration for Wolverhampton to provide larger homes for growing families.

5.13 It will also bring a vacant and underutilised building back into meaningful use and will make a small contribution to meeting the Black Country's challenging housing targets.

Green Belt Matters

5.14 As the application site is within the designated West Midlands Green Belt one of the key issues is to establish whether the proposals represent inappropriate development in the Green Belt, having regard to the NPPF and relevant development plan policies.

5.15 In the context of the application proposals Paragraph 149 of the NPPF states that the construction of new buildings should be regarded as inappropriate in the Green Belt. Notwithstanding this, it continues by setting out a number of exceptions including:

(a) "The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building."

5.16 The proposals do not include any extension of the existing building nor do they include the construction of any new development footprint. Rather, the development comprises minor external alterations, landscape improvement works and replacement boundary treatments.

5.17 Spatially, the proposed works do not result in disproportionate additions to the existing building and do not harm the openness of the Green Belt whatsoever. To the contrary, spatially, the footprint of built development across the site will be reduced, following the demolition of the existing garage/outbuilding.

5.18 In this regard, the works fall squarely within the tolerances of paragraph 149(a) and constitute appropriate development in the Green Belt.

Heritage Impact and Design Considerations

5.19 Paragraph 194 of the NPPF, states that:

"In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance."

5.20 Paragraph 199, requires that:

“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”

5.21 The NPPF goes on to state at paragraph 200 that

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

5.22 Policy ENV2 of the Black Country Core Strategy requires all development to protect and promote the special qualities, historic character, and local distinctiveness of the Black County.

5.23 UDP Policies HE3 and HE4 require development proposals to preserve and enhance conservation areas and pay particular attention to and precisely define the impact of development on designated heritage assets and their setting.

5.24 The Old Stags Head is not statutorily or locally listed, however, is recorded on the Wolverhampton and Walsall Historic Environment Record. It is, therefore, a non-designated heritage asset located in the Vicarage Road, Penn Conservation Area.

5.25 The site is also within the setting of The Church of St Bartholomew, which is listed at Grade II* and includes a number of listed structures/scheduled ancient monuments within its grounds, including the walls and gate piers.

5.26 Whilst much of the heritage significance of the building stems from its use, for the reasons set out above this has now fallen away and is not viable. As such, the site is vacant and in need of significant rejuvenation and investment.

5.27 The application proposals provide an opportunity to secure, preserve and enhance the conservation value of the building and improve its role within the locality and Penn Conservation Area.

5.28 With regard to visual impact, the alterations can only be viewed positively. Indeed, the proposed external alterations and landscape works have been carefully considered to enhance the appearance of the property and improve the quality of the space in which it sits.

5.29 The removal of the unsightly commercial paraphernalia, including ventilation, ducting and cooling equipment, together with the demolition of the existing concrete garage/outbuilding, declutters the site and substantially improve the appearance of the building. In turn, this improves the sites visual relationship with the street scene and Penn Conservation Area, particularly when viewed from the south and east.

5.30 The relationship with Penwood Lane is further improved through the introduction of a new boundary treatment, comprising hedging sat atop a low level red/orange brick wall. The new boundary treatment is sympathetic to the character of the street scene, is wholly consistent with neighbouring boundary treatments and represents a significant improvement over and above the existing 1.8m close boarded fencing.

5.31 Cosmetic improvements to the existing rear extensions, including the replacement roof, installation of new fascia’s and fenestrations and repointing/re-rendering, significantly improve the aesthetics of the building and provide an opportunity to enhance biodiversity and ‘green’ the site through the installation of a green roof system.

- 5.32 The associated hard and soft landscaping works to provide a high-quality living environment for future occupiers, whilst creating an improved sense of place when appreciated from within the wider public realm and Conservation Area.
- 5.33 The hard landscaping materials include resin bound gravel to parking area and stone pavements for the approach to the building. These are wholly in keeping with the character of the site and its surroundings.
- 5.34 In short, the external alterations are of a high design standard and deliver a significant betterment to the visual appreciation of the site.
- 5.35 Overall the conversion of the building and associated works save a non-designated heritage asset in the long term and secure its optimum viable use. The external alterations will not result in any harm to the Vicarage Road, Penn Conservation Area. Rather, the proposal delivers significant enhancements and heritage benefit.
- 5.36 Accordingly, the proposals satisfy the objectives of the statutory duty of the Planning (Listed Buildings and Conservation Areas) Act 1990, national policy set out in the NPPF, policies HE3 and HE4 of the UDP and Policy ENV3 of the BCCS.
- 5.37 A full assessment of the heritage significance of the building, its associated setting and the wider conservation area, and the impact (or not) of the proposals on the designated heritage assets (the setting of The Church of St Bartholomew and the Vicarage Road, Penn Conservation Area) is contained within the supporting Heritage Statement, prepared by Donald Insall Associates.

Amenity

Living Standards for Future Occupants

- 5.38 The proposed development will result in the creation of a high quality family home. The dwelling will be finished to a design standard and will provide light, spacious, modern living accommodation, that benefits from traditional and historic features.
- 5.39 The dwelling far exceeds nationally described minimum internal space standards and is not overlooked by neighbouring residents.
- 5.40 Future residents will benefit from generous external amenity spaces, including lawned gardens and a hard surfaced courtyard/patio. These spaces are of a high design quality and offer a mix of external uses which are appropriate for a family.

Impact on Neighbouring Residents

- 5.41 The site is substantially screened on its northern, eastern and western boundaries, furthermore all new window openings are contained to the ground floor and will not result in any direct window to window relationships. The proposal does not, therefore, give rise to any overlooking issues.
- 5.42 As the proposal does not include any new build development, it does not change the daylight and sunlight environment of neighbouring properties in any way.
- 5.43 The proposals will also introduce a family home in an established residential location. The change of use from a public house will, therefore, reduce the typical 'comings and goings' associated with such facilities, resulting in a betterment to the noise environment of neighbouring residents.
- 5.44 In recognition of the above, the proposed development would not cause harm to the amenity of neighbouring residents by virtue of loss of light, loss of privacy or noise pollution.

Ecology

- 5.45 The application site is not located within an identified SSSI or area of local or national conservation importance.
- 5.46 As the proposal does not include any alteration to the roof and given the existing garage/outbuilding proposed to be demolished is not suitable to support bats, the development does not give rise to any ecology issues.
- 5.47 To the contrary the ecological and biodiversity value of the site will be enhanced through the installation of a sedum roof above the existing rear extensions and following the introduction of new hedgerow planting.

Arboriculture

- 5.48 All trees will be retained on site as per the existing arrangement. Furthermore, as the proposals do not include any excavation the development is not considered to cause harm to protected root systems.
- 5.49 The development does not, therefore, give rise to any arboricultural issues.

Highways and Transport

- 5.50 Vehicular access to the property will be provided by means of an existing driveway to the east side of the property. A new sliding gate will be installed to provide secure access, this will be set back from the pavement edge to enable vehicles to clear the adjoining highway.
- 5.51 3no. off road car parking spaces will be located to the east of the building within the parking courtyard. The parking provision is sufficient to serve a 5-bedroom family home.
- 5.52 Based on this information, the proposed development would not result in any highway safety concerns

Drainage and Flooding

- 5.53 The application site is located within Flood Zone 1 and is not situated in close proximity to any watercourses. It is, therefore at low risk of fluvial and surface water flooding.
- 5.54 Where new hard surfacing is proposed for the parking courtyard, this will be permeable to promote sustainable urban drainage.
- 5.55 It is also proposed that excess water from roofs and hard surfacing will be harvested and re-used on site for the maintenance of the garden.
- 5.56 Based on this information the proposed development would not give rise to and flood risk or drainage issues.

Waste

- 5.57 Wheelie bins for waste and recycling will be provided within the parking courtyard. Collection arrangements will remain as per the existing arrangements for the site and neighbouring residents.

Sustainability

- 5.58 Improvements to the existing building fabric and services will be made to achieve a very good energy performance rating with low running costs.
- 5.59 It is the clients aspiration that the building will better the minimum standards set out in Part L of the Building regulations where feasible.

5.60 Additional sustainability measures including the flow restrictors and low level lighting etc. will be incorporated throughout.

6. Conclusions

6.1 A previous application (Ref. 22/00045/FUL) for the change of use and extension of the Old Stags Head public house was refused in October 2022. for four reasons. The main issues are included:

1. *“The loss of the pub, considered a valued community facility.*
2. *The harm caused to the character and appearance of the Vicarage Road (Penn) Conservation Area by reason of:*
 - *the loss of the pub, a commercial building.*
 - *the design, scale and massing of the proposed rear extension.*
 - *the design and scale of the front boundary treatment, parking area and retaining structure.*
 - *the absence of a proposal for the pub car park.*
3. *Whether the proposed rear extension is inappropriate development in the Green Belt.*
4. *Whether the proposed development would cause harm to the health and preservation of retained protected trees.”*

6.2 As part of an appeal against the decision (Ref. APP/D4635/W/23/3319946) the Inspector found the change of use of the public house to a dwelling to be acceptable in principle. Confirming that the development complied with the requirements of UDP Policy C3 and Paragraph 93 of the NPPF.

6.3 The outstanding matters of contention, i.e. an extension to the building and introduction of a new retaining wall, have been omitted from this revised proposals.

6.4 As such, the proposals will not have an impact on the openness of the Green Belt, nor would it cause harm to any designated or non-designated heritage asset. On this basis, there are no reasons why the application proposals cannot be approved.

6.5 Our conclusions are, therefore, as follows:

- The proposals would comply with UDP Policy C3 and it has been robustly justified that the loss of the public is not considered to cause harm to the community, given it has been vacant for a sustained period of time, is no longer viable for a community use and is located in close proximity to alternative facilities.
- The loss of the public house has also been rigorously assessed through the appeal process, with the Inspector confirming full compliance with UDP Policy C3 and paragraph 93 of the NPPF.
- There can be no, in principle, objection to the proposed change of use.
- The proposed development would result in the creation high quality family for which there is an identified need.
- The proposals will secure the optimum viable use of a non-designated heritage asset and will preserve and enhance the character of the building and its associated setting.
- The proposals will bring a vacant building back into use and, in doing so, will help to meet the City Council’s identified need for housing.

- The development will inject significant investment into the site and has been carefully considered to restore, preserve and enhance the historic character of the building whilst delivering modern family accommodation.
- The proposals direct new residential development to a sustainable location.
- The proposals will not cause harm to the Vicarage Road, Penn Conservation Area or the nearby Grade II* Listed Church of St Bartholomew.
- The external alterations are modest in nature, however, substantially improve the appearance of the building, its associated setting and its relationship with the street scene and wider public realm.
- The proposals are wholly compatible with local policies and design specific requirements.
- The proposals will deliver significant economic, environmental and social benefit to the locality.
- The proposal does not give rise to any highway safety, drainage and flooding or ecological issues.

6.6 Having regard to all of the foregoing, it is considered that the application proposals fully comply with the provisions of the Development Plan and, accordingly, should be granted consent without delay.



Old Stags Head Public House, 65 Church Hill, Penn,
Wolverhampton, WV4 5JB

Planning Statement

Document 1

Decision Notice ref. 22/00045/FUL

CITY OF WOLVERHAMPTON COUNCIL
Town and Country Planning Act 1990
Town and Country Planning (Development Management Procedure) (England) Order
2010 (as amended)

Agent

Mr James Hodgkins
Simply Planning Limited
Suite 204, Cheltenham House
Temple Street
Birmingham
B2 5BG

Applicant

Mr Jasdeep Sahota
3B1Y
C/O Agent

Our Ref:	22/00045/FUL
Site:	The Old Stags Head 65 Church Hill Wolverhampton West Midlands WV4 5JB
Proposal:	Change of use and extension of The Old Stags Head Public House, to provide a 6-bed family home (Use Class C3). Erection of retaining wall in rear garden.

City of Wolverhampton Council as the Local Planning Authority hereby **Refuse** permission for the development described in the above application.

The reason(s) for the Council's decision to refuse permission is (are):

1. The proposal would result in the loss of a valued community meeting place. Although viability and marketing information has been submitted with the planning application, at the request of the applicant this has undergone an independent review by Morgan & Clarke commissioned by the Council. This provides an alternative assessment of the viability of a freehold purchase and subsequent refurbishment concluding that acquiring the property at the right price, a purchaser with development/refurbishment finance and enthusiasm could come forward to establish and maintain a viable business. This evidence raises concern that a targeted marketing campaign focused on the rejuvenation of the closed property in a continuation of the on-licenced trading has not been undertaken. The Council maintain the purchase price paid by the applicant reflected the hoped-for residential development, and any subsequent marketing has set the price of the premises unrealistically high, and given the level of investment required in the building's fabric would therefore exclude prospective purchasers who could retain the community

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Date: 7th October 2022

meeting place. There are thus significant shortcomings associated with the marketing exercise undertaken, which is an important factor in leading the Council to conclude that 'all reasonable efforts' have not been made to retain the facility or provide an alternative facility. Overall, the requirements of this policy come down to an onus on an applicant to demonstrate there is no longer a need for the facility, that other existing facilities, in locations that are reasonably accessible including on foot by members of the community served, which would accommodate any community activities displaced by the proposed development or that it would not be possible to retain an economically viable facility despite all reasonable efforts. As such, the loss of the public house would lead to an unacceptable impact on the local community, corroborated by the significant number of objections received which confirm there is a local need and support for its retention, along with an application having been made by the Penn Residents' Association to the City of Wolverhampton Council of a nomination for The Old Stags Head to be listed as an Asset of Community Value under The Localism Act 2011. The proposal is therefore contrary to Saved Policy C3 (Community Meeting Places) of the Unitary Development Plan. This policy is consistent with the NPPF which encourages planning policies and decisions to plan positively for local community facilities and, where appropriate, to guard against the unnecessary loss of valued facilities and services. Within the NPPF public houses are identified as community facilities.

2. The existing site and its use contributes positively to the historic interest, character and appearance of the Vicarage Road (Penn) Conservation Area not only through the physical presence and features of the building but through its long-established use as a public house, being the only commercial building in the Conservation Area, this is given significant weight by the Local Planning Authority. The Heritage Statement underplays the importance of the existing commercial use and resulting activity which contributes to the character. The loss of this use is harmful to the character and appearance of the Conservation Area. The design, scale and massing of the substantial rear extension would appear out of context and incongruous with the traditional form of the public house. The scale and design of the proposed front boundary treatment is not appropriate for this location. The formation of the parking area and retaining structure adjacent to the front garden of 1 Pennwood lane will result in the loss of an existing natural boundary feature, which adds to the character of the Conservation area by forming part of the established landscape character and pattern of the immediate locality, where property boundaries are generally marked and strengthened by natural vegetated features.

In addition, that no works are proposed to the existing public house car park which would be permanently divorced from the application site is a concern. Without a holistic consideration of the entire site, this would be vulnerable to decline and detriment to the Conservation Area.

For the reason stated above, the proposal fails to enhance or preserve the special

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interest of the Vicarage Road (Penn) Conservation Area. The LPA does not consider the evidence submitted convincingly demonstrates that the conversion to a single dwellinghouse is the optimum viable use of the building in heritage terms. Accordingly, the limited public benefits put forward would not outweigh the identified harm to the conservation area. Such harm is contrary to Saved UDP Policies HE1, HE4, HE5, D6, D8, D9, D12, and policies CSP4 and ENV2 of the BCCS. Together, and amongst other things, these policies require that development is of a high-quality design which respects its surroundings, and that where it affects heritage assets it preserves or enhances the assets and is accompanied by sufficient detail to demonstrate this. The proposal would also conflict with the overarching aims of Section 16 of the NPPF on conserving and enhancing the historic environment

3. The Local Planning Authority consider the proposed extension would result in cumulatively disproportionate additions to the building over and above the size of the original dwelling and would adversely affect the openness of the Green Belt. It would therefore constitute inappropriate development within the Green Belt. There are no very special circumstances to outweigh this harm. The proposed development would therefore be contrary to Saved UDP Policies G1 (Protection of the Green Belt), G2 (Control of Development in the Green Belt) and G3 (Control of Development Conspicuous from the Green Belt), and the National Planning Policy Framework.
4. Insufficient information has been submitted with the planning application to demonstrate that raised levels at the rear of the retaining wall lack would be able to be undertaken in such a manner that would not have a detrimental impact on the health and preservation of the retained protected trees on site and the amenity that they provide to the area. Proposals would therefore be contrary to Saved UDP policies – N7 (The Urban Forest); HE1 (Preservation of Local Character and Distinction); HE5 (Control of Development in a Conservation Area) and D6 (Townscape and landscape), and D12 (Nature Conservation and Natural Features).

Reason for refusing planning permission

The Governments objective is to significantly boost the supply of housing and the proposal would provide one family dwelling in this location. Given the small scale of the proposal and that there is no dispute over the Council demonstrating a five-year housing land supply, the provision of the housing attracts only very limited weight. Further tempered by the fact even in use as a pub, the Old Stags Head is capable of providing ancillary residential accommodation. Although the scheme would provide a good standard of accommodation, not harming residential amenity, highway safety or ecology, this is to be expected and therefore is a neutral factor in the planning balance. Overall, the benefits collectively attract limited weight.

Conversely, the proposal would result in the permanent loss of the historic use, an extension and boundary detail which is out of context and incongruous with the traditional

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form of the public house, and would not therefore preserve the character and appearance of the Vicarage Road (Penn) Conservation Area in accordance with Section 72(1) of Planning (Listed Buildings and Conservation Areas) Act 1990, causing harm to this designated heritage asset, and the applicant has failed to convincingly demonstrate that the conversion to a single-family dwelling is necessary to secure the optimum viable use of the building. The proposed conversion of the public house would result in the loss of a valued community meeting place leading to an unacceptable impact on the local community. The proposal would represent inappropriate development in the Green Belt with no very special circumstances case is stated. Finally, insufficient information is provided to demonstrate that protected trees would be protected in conjunction with the construction of the retaining wall.

These matters attract significant weight, for the reasons stated above the development would be contrary to the Development Plan as a whole, the overall planning balance is against the proposed conversion of the existing public house to residential use and there are no material considerations or collective weight of benefits that would outweigh this harm.

NOTE FOR INFORMATION

Any policies referred to on this decision notice are the policies of the Black Country Core Strategy (BCCS), adopted 3rd February 2011 and the saved policies of the Wolverhampton Unitary Development Plan (UDP), adopted in June 2006, unless otherwise stated. The BCCS and UDP can be viewed at the Planning and Building Control Reception on the second floor of the Civic Centre or alternatively on the Council's Website, at www.wolverhampton.gov.uk

In dealing with the application, the local planning authority has worked with the applicant in a positive, creative and proactive manner, however, the development fails to improve the economic, social and environmental conditions of the area, in accordance with paragraph 38 of the National Planning Policy Framework (July 2021).

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

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- Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 0000) or online at <https://www.gov.uk/appeal-planning-decision>.
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

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Old Stags Head Public House, 65 Church Hill, Penn,
Wolverhampton, WV4 5JB

Planning Statement

Document 2

Appeal Decision ref. APP/D4635/W/23/3319946



Appeal Decision

Hearing Held on 21 September 2023

Site visit made on 21 September 2023

by Jonathon Parsons MSc BSc DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2023

Appeal Ref: APP/D4635/W/23/3319946

The Old Stags Head, 65 Church Hill, Penn, Wolverhampton WV4 5JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Jasdeep Sahota (3B1Y Ltd) against the decision of Wolverhampton City Council.
 - The application Ref 22/00045/FUL, dated 17 January 2022, was refused by notice dated 7 October 2022.
 - The development proposed is the change of use and extension of The Old Stags Head Public House, to provide a 6-bed family home (Use Class C3). Erection of retaining wall in rear garden.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council refused planning permission for the proposal on the basis of detrimental harm to the health of trees due to the proximity of retaining walls. The Council now raises no objections subject to an appropriately worded planning condition requiring arboricultural protection measures. In this regard, there would be no raised levels within the root protection areas (RPAs) of these trees and, walls would be outside of the RPAs. There is no reason to disagree with the Council's revised view and no need to consider this issue further.
3. The Old Stags Head public house was formally registered as an Asset of Community Value, a day before the hearing, which will be considered within this decision. At the hearing, plans, cross-sections and visualisations were presented that showed parts of the public house to be demolished, the retaining walls and the completed development in context. They show no material changes to the proposal and are considered within this decision. The site and surrounding area was visited on the date indicated above, rather than additionally on another date, as suggested at the hearing.

Main Issues

4. The site is within the Green Belt and so the main issues for the appeal are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;

- the Openness of the Green Belt;
- heritage assets, having regard to the Vicarage Road (Penn) Conservation Area and The Old Stags Head public house, a non-designated heritage asset (NDHA);
- the provision of community facilities; and
- whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

5. Paragraph 149 of the Framework establishes that new buildings or development are inappropriate unless they fall within listed exceptions. The exception at dispute is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
6. Main parties have calculated the volume and footprint of the existing public house as of 1 July 1948, and calculated the resulting cumulative increase based on the retained side extension and proposed extension. In terms of volume increase, it would be approximately 80%. For footprint increase, the main parties' calculations differ, but even taking the appellant's lower calculation on footprint, it would be 100%. Such increases would be significant.
7. Disproportionate is not defined in the Framework and there is also no local plan policy, guidance or appeal decision to assist. Determining disproportionate is therefore a matter of judgement taking into account the nature of the proposal. Judging disproportionateness purely on volume and footprint increases would be a crude type of measurement taken on their own.
8. The proposed extension would be narrow in width, set in significantly from the ends of the building, set down significantly from its roof ridge, designed with a flat roof and partly subsumed with a rising ground slope. However, it would extend considerably beyond the back of the building, being far greater in depth than that of the original. It would also have a height of nearly 6m and its flat roof would be above the roof eaves level of the building. Taking into the account the extension's depth, height and design relationship with the host building, along with the increases in volume and footprint, the proposal would result in a significant cumulative and disproportionate increase in size.
9. No other exceptions have been put forward under Framework paragraphs 149 or 150, the latter covering other forms of development considered exceptions, and nor are any considered relevant, based on the nature of the scheme. For all these reasons, the proposal represents inappropriate development in the Green Belt.

Openness of the Green Belt

10. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

11. Taking the appellant's figures, the two storey extension would have a footprint and volume of approximately of 110m² and 540m³. It would reach a height of almost 6m and would extend considerably back into the site, although rear extensions and an outbuilding would be demolished to accommodate this. With retention of the original pub building and side extension, demolition of rear extensions and outbuilding, there would be a development footprint decrease of approximately -9.4% and a volume increase of approximately 13%.
12. The public house is within a built-up area of the village of Penn and suburban area of Wolverhampton. It directly fronts onto Pennwood Lane and its junction with Sedgeley Road, and beyond this, the former car park. The building has a wide frontage, screening much of the proposed extension from the public realm. Vegetation screens the development from Pennwood Ridge, a dwelling behind the site. However, due to its height and extent, public views of the extension would be visible in gaps either side of the frontage building above fencing and gates.
13. The Black Country Green Belt Study (BCGBS)¹ assessed the appeal site in relation to the five purposes of the Green Belt detailed in paragraph 137 of the Framework. In accordance with the BCGBS, the site makes a weak/no contribution to the purposes of checking the unrestricted sprawl of large built-up areas and the preventing of the merging of neighbouring towns. The purposes of preserving the setting and special character of historic towns, and assisting urban regeneration are not relevant. For the purpose of assisting the safeguarding of the countryside from encroachment, the BCGBS does identify the site as retaining some degree of openness and a relationship with surrounding countryside. The site is compromised by urbanising development within and adjoining it, but it still retains a spacious landscaped quality bordering the countryside and therefore, there is a limited conflict with this purpose.
14. Taking into account the visual and spatial aspect of the loss of openness, and the other considerations, including the limited conflict with one of the five purposes for Green Belt designation, the greater effect on the openness of the Green Belt would be small and the harm would be limited.

Heritage Assets

15. The public house was in use until it ceased trading in October 2018. Opposite, there is a large hard surfaced area that was used for vehicle parking for the public house but this is not part of the proposal. The NDHA is two storey, with single storey side and rear extensions, and lies within the Vicarage Road (Penn) Conservation Area.
16. Its frontage has cream coloured paint brickwork and varied sized timber casement windows, and is sited hard up against the pavement edge. The two storeys comprise three bays, with an off-centre entrance with a projecting pitched roof canopy above, which is sited between large windows. There is a large ground floor fascia sign and a small window on the other end of the

¹ Black Country Green Belt Study – Stage 1 and 2 Report, including Appendices, prepared by LUC, September 2019.

building on the frontage. At the first floor, there are smaller windows. There are white painted surrounds around the windows. The roof is pitched with flank gables, with one side comprising lower height double pitched roofs with a valley in between.

17. The Council details the public house's existence since at least 1818. As a central facility serving the community, in proximity to a medieval church, St Bartholomew's, and a village green, it reflects the historic layout of the village. A context that was much more rural in character prior to more recent 20th century development within the area. It had a community function, forming an important aspect of people's collective memory and identity, with its activity and a role in the social interaction of the village.
18. The public house has been extended to the side and rear. The windows are modern, despite being timber, and the front entrance has been relocated from where it was formerly. Some brickwork has been patched up poorly and there is detracting commercial paraphernalia, including ventilation vents, external wiring, and satellite dishes. There is also hard surfacing, modern fencing and a dilapidated outbuilding. Nevertheless, the building has a traditional aesthetic reflecting its public house origins when Penn was a rural village. Its external form, use of materials and external detailing, and its historical community use, are architectural and historic qualities that contribute to its significance as a NDHA.
19. The Vicarage Road (Penn) Conservation Area comprises traditional designed housing, green space and mature landscaping, as well as the NDHA, and derives its settlement pattern from the late 17th century. It also has public amenities including the church, its hall, and schools. There is a range of buildings of differing styles and ages, but the prevailing qualities are of traditional design, use of high quality materials, many buildings finished with red brick and tiling, and landscaped surroundings. Much of the Conservation Area borders onto open countryside. Whilst the village has been developed in the 20th century, many of its buildings retain a traditional rural appearance reflecting the area's historic development, as emphasised within the Vicarage Road (Penn) Conservation Area Appraisal and Management Plan.
20. For all these reasons, the significance and special interest of the Conservation Area derives from its traditional and rural architecture, and its historic development as a village within the countryside. Forming a central historical part of the Conservation Area and having a rural aesthetic, the NDHA has qualities contributing to its significance and contributes positively to the Conservation Area.

Effects of proposal

21. The rear extension would be centrally located to the back of the public house, stepped back from either end, and would replace existing unsightly single storey extensions and additions. It would be constructed with facing brick to match the existing building. There would be a striking contemporary design, with a flat sedum roof, and floor to ceiling glazing within slim constructed metal window and door framing. The proposal would secure re-use of a NDHA within the Conservation Area and the building's main façade would be

retained, repaired and unsightly paraphernalia removed, such as vents, satellite dishes, etc, representing heritage benefit.

22. No objections are raised to the principle of a contemporary design but in this instance, the bulk of this two storey extension, with little physical articulation, its extensive glazing, and flat roof would contrast markedly with the older traditional design of the public house. The extension would extend considerably back into the site, with its depth far greater than that of the original building. The flat roof would jar awkwardly with the pitched roof due to its extent and position above the main eaves of the host building. Despite clarification, there would also be extensive retaining walls, with little visual relief, alongside the access and parking areas that merge with the extension giving rise to detrimental massing. By reason of its size and design, the extension would not be subservient and together with its extensive retaining walls, would adversely affect the rural character and appearance of the original building.
23. There would also be a vehicular entrance with electric sliding gate and brick wall adjacent to 1 Pennwood Lane. There is existing fencing here but the proposed boundary treatments would be more substantive and urbanising. They would contrast with the landscaped and informal lower height mix of low brick walls and railings, hedges and open frontages, which contribute to the semi-rural qualities of the Conservation Area. The change of use would also result in the loss of the historic public house use, including its role as a community facility, and activity associated with it, within the core of the Conservation Area. Such loss of visible activity would not be compensated by the activity of a single dwelling that would be less public.
24. For all these reasons, the proposal would adversely affect the architectural and historic qualities of the NDHA and its significance. It would also harm the significance and special interest of the Conservation Area, by failing to preserve its character and appearance, as a whole, in conflict with S72(1) of the Planning (Listed Buildings and Conservations Areas) Act 1990.

Community facilities

25. The public house was previously owned by a major brewery company and operated successfully as a tenancy for many years. Parties have agreed it historically traded as a drink led community local with a basic food offering, comprising classic pub dishes. However, it was sold to a public house operator in 2013 until it ceased trading in 2018 and during this time, struggled to successfully operate as a public house given changes of licensees, temporary closures and bad reviews.
26. For proposals involving the loss of public houses, Policy C3 of the Wolverhampton Unitary Development Plan (UDP) 2001 -2011 seeks to limit the loss of such facilities. The policy details requirements to be addressed, 1. there is no longer a need for the facility; 2. there are other existing facilities, in locations that are reasonably accessible including on foot by members of the community served, which would accommodate any community activities displaced by the proposed development; 3. the proposal would involve the replacement of the facility in an equally convenient location; or 4. it would not be possible to retain the facility or provide an

- alternative facility because, despite all reasonable efforts, this would not be economically viable.
27. Main parties have agreed that any new public house offering would be food-led with strong local drink sale element, and that destination food custom would be important. Operators could include an entrepreneur style of owner/operator running the business. Penns Residents Association are also wanting to run it as a community public house/facility.
28. To address requirement 4, the appellant has submitted a viability report (VR)² and a Structural Report³. Within the VR and the Council's Report as to Viability Issues 2022 (RVI22)⁴, revenue/cost appraisals detail Fair Maintainable Turnover (FMT) and Gross Profit from drink and food sales, and costs, including operational and finance, to derive annual profit/loss. The appellant's VR and RV122 details an Annual Loss and Profit respectively. The main differences between parties relate to the amount of food sales, Gross Margins from drink and food sales (profit after subtracting the costs of goods) and finance costs, due to the repair and refurbishment costs being substantially higher within the appellant's appraisal.
29. In terms of overall FMT, the Council's higher figure of food sales accounts for a difference of approximately £57k. However, the public house is located on the edge of the Wolverhampton urban area, with large areas of surrounding countryside, and as a result has a diminished customer population base, compared to many other public houses within the area, that are generally sited within more populated residential areas. The surroundings are pleasant with the church, the nearby common and network of footpaths leading to other areas but there are no overriding setting advantages, such as waterside location, or historic interest features, such as tourist attraction, to encourage destination-led trade.
30. Based on my site visit, the kitchen is not large, sited behind the bar with an entrance to its side. The overall dining floorspace is also not large compared to many of the other public houses in the area. Under the appellant's VR, the dining area would provide for about 40 covers whilst the outside courtyard, when available, would provide a similar amount. The size and position of kitchen was considered no impediment by third parties involved with the operation of the public house. The Council's consultant suggested a full menu could be offered, with a couple of specials, but the public house struggled to be successful between 2013 and 2018 for the reasons indicated.
31. During this period, licensees signed up to a franchise agreement with the pub operator. As indicated by the appellant's VR, these agreements entailed the pub operator covering the majority of costs (all stock, overheads and all repairs/decoration) whilst the self-employed licensee would receive a percentage of net turn-over, usually between 15% and 20%, and pay council tax and public liability insurance. No detailed evidence has been put forward to prove why such agreements are problematic for licensees.

² Viability Report, Old Stags Head, 65 Church Hill, Penn, Wolverhampton WV4 5JB, Colliers, March 2023.

³ Summary Condition Survey, The Old Stags Head, 65 Church Hill, Penn, Wolverhampton WV4 5JB, Colliers, March 2023.

⁴ Report as to Viability Issues, The Old Stags Head, 65 Church Hill, Penn, Wolverhampton WV4 5JB, Morgan and Clarke, May 2022.

32. The nearby Spring Hill public house shows high food sales in its accounts, but it is directly not comparable given its larger size, higher FMT, and restaurant focus, with an emphasis on fish. The Council's higher food sales is also influenced by their consultant's experience with a Dorset local public house but this is located within a different part of the country. There are also 6 other public houses within about a mile of The Old Stags Head and more beyond this radius. Whilst this could indicate a buoyant market, it also indicates clientele would have a range of facilities to choose from, and therefore offers competition for food sales. For all these reasons, the appellant's figures on food sales and overall FMT are more persuasive and realistic.
33. Turning to Gross Profit on drink and food sales, the Council assumes a margins of 65.5% as opposed to the appellant's 56%. The appellant's margin is driven by the need for good value food to attract and sustain loyalty, and UK Hospitality data. The UK Hospitality data used is for 'Community local category of public houses' rather than managed public houses. It is dated but there is no evidence that external factors affecting margins, such as energy costs, have improved. Energy costs are a significant part of trading entities affecting the pricing of goods and there is no evidence before me that energy prices have recovered to levels previously. There is a higher margin within Spring Hill's accounts but for the reasons indicated, this public house is not directly comparable. For all these reasons, the appellant's Gross Profit figure, lower by about £63k compared to the Council's, is again more persuasive and realistic.
34. The appellant's VR incorporated a refurbishment/repair costs figure of £720k derived from a CS whereas the latest Council Report as to Viability Issues 2023⁵ (RVI23) indicates a cost of £250k. The CS includes a substantive cost for contractor and professional fees, more relevant for a corporate operator than an entrepreneur or community operator, where such costs may be borne differently. In the absence of a full detailed structural survey, costs relating to the restoration of roofs, walls and internal features are not justified.
35. Sensitivity analysis (SA) of the revenue/cost appraisals was undertaken using a refurbishment/repair costs of £250k and £437,637 (with contractor and professional fees deducted). For these costs, the Council's SA showed a profit but the appellant's SA analysis showed a Loss of -£6,505 and a Profit of £6,408 for these cost values. The Council's SA shows Profit sufficient for an operator to make a satisfactory income and living, but the appellant's SA does not. The Council's SA incorporates a higher Gross Profit based on its higher FMT and Gross Profit margin. For the reasons indicated, the appellant's figures and viability assessment are more persuasive and realistic on these matters and therefore, the viability of a public house has not been proven.
36. The site has been marketed at a price higher than the agreed asking price assumed in both the revenue/cost appraisals. However, irrespective of whether the marketing has been carried out acceptably, the appellant's revenue/cost appraisal demonstrates that a public house use would be unviable and therefore, attracting an owner or partnership to operate the public house would be extremely difficult.

⁵ Report as to Viability Issues, The Old Stags Head, 65 Church Hill, Penn, Wolverhampton WV4 5JB, Morgan and Clarke, May 2023.

37. Penns Residents Association put forward the ACV nomination and it intended to use the public house as a Hub in a Pub, with a variety of uses being considered, café, local cultural archive, visitor centre, meeting place for community groups as well as a public house. The association has been registered as a community interest Company (CIC) and it is looking to gain charitable status to benefit any community use operation. Following ACV nomination, plans are being developed, including a coffee shop and funding assessed. The association is looking to gain 'Levelling Up' grant funding of 80% with it providing 20% for its community facility scheme. The headquarters of the governments Levelling Up department is based in Wolverhampton. Meetings are held regularly with many representatives having experience in fund applications.
38. However, there is no evidence of any successful grant application and whilst there is clear community support, there is little detail on whether funds from the community will be secured, even if there is a grant given. Furthermore, the business plan/model is still being developed and as indicated above, the appellant's revenue/cost appraisal does not demonstrate viability. For these reasons, only limited weight can be given to the ACV listing at this stage.
39. Under UDP Policy C3, the public house use would be unviable as a public house and requirement 4 would be satisfied. Turning to other policy requirements, there is substantial support for the retention of the public house. It was used as a meeting place for the local community, including local groups, family events, events associated with the church and nearby school, receptions, as well as pub events, like quizzes, and has been listed as an ACV.
40. However, limited weight is given to the ACV and under the policy, consideration has to be given to community facilities provided by the public house and not to those, which could be provided. There are six public houses and facilities nearby, like the Golf Club and church hall, within about a mile. Corporate public houses may be less welcoming and lack a sense of being a local facility, but the alternative public houses provide for a range of tastes, including drinks and food options, entertainment, and sports viewing. Pedestrian access to the two of the nearby public houses would be along highways lacking dedicated footpaths but there are other public house facilities within reasonable walking distances taking not much more than 10 minutes. Furthermore, the topography of the area is not so severe to discourage walking especially along pavements. In terms of meetings, it is inevitable that rooms for meetings can be booked up but there is no detailed evidence of difficulties, especially if booked ahead.
41. For all these reasons, the remaining policy requirements are satisfied, and the loss of the public house use has been justified based on the evidence before me. The proposal complies with Policy C3 of the UDP and paragraph 93 of the Framework, which states decisions should guard against the unnecessary loss of valued and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

Heritage, Green Belt and Planning Balance

42. The proposal would secure the re-use of a vacant building and a dwelling use would prevent the building falling into a poor state. Evidence indicates a public

house use is not viable. The external appearance of the NDHA would be repaired and improved through the demolition of unsightly extensions and paraphernalia, and re-use would prevent the buildings deteriorating in appearance and significance. A family dwelling would be created meeting needs within the city. There would be improvement to the building's energy efficiency beyond that required under building regulations which would reduce harmful carbon emissions during the lifetime of the development. During construction and repair/restoration, there would be employment benefitting the local economy. However, the significance of the NDHA would be adversely affected. Given the adverse nature of the design, scale and massing of the scheme, this harm would be overriding and determinative.

43. The degree of harm to the significance of the Conservation Area, as a designated asset, would, in terms of the Framework, be less than substantial. In accordance with paragraph 202 of the Framework, the harm should be weighed against the public benefits of the proposal. There are heritage, social, environmental and economic benefits but the proposal would fail to preserve the character and appearance of the Conservation Area. Given this, the benefits would not be sufficient to outweigh the less than substantial harm identified and the considerable importance and weight this carries for the Conservation Area. Accordingly, the proposal would conflict with Policies HE1, HE4, HE5, D6, D8, D9 and D12 of the UDP and Policies CSP4 and ENV2 of the Black Country Core Strategy 2011, which collectively and amongst other matters, require high quality design that respects its surroundings, and that where it affects heritage assets, it preserves or enhances assets.
44. For the Green Belt balance, the creation of a family dwelling, improvement to the building's energy, economic benefits during construction, securing a use for the NDHA in a Conservation Area and removal of unsightly commercial paraphernalia on the building would provide benefits that weigh significantly in favour of the proposal. However, Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Although limited, there would be harm to the openness of the Green Belt. The Framework establishes substantial weight should be given to any harm to the Green Belt.
45. In addition to the Green Belt harm, the proposal would harm the significance of a NDHA, and the significance and special interest of a Conservation Area, the latter attracting considerable weight. For these reasons, 'Very special circumstances' do not exist as the harm to the Green Belt by reason of inappropriateness and other harm is not clearly outweighed by other considerations. Accordingly, the proposal would conflict with Policies G1, G2 and G3 of the UDP, which collectively and amongst other matters, states inappropriate development will not be permitted except in special circumstances.
46. For all these reasons, the proposal would conflict with the development plan taken as a whole. There would be no material considerations to indicate that the proposal should be determined other than in accordance with the development plan and therefore, planning permission should be refused.

Conclusion

47. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathon Parsons

INSPECTOR

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S Beck

Penns Residents Association

Resident

Resident

Resident

Resident

Resident

Documents received at and after the hearing

1. Black Country Green Belt Study – Stage 1 and 2 Report, prepared by LUC , September 2019.
2. Black Country Green Belt Study – Appendices (namely Pages 171 – 172)
3. Plans, cross-sections and visualisations, drawing number: 2009-PL-31-B. drawing number: 2009-PL32-A, view from courtyard looking east (indicative visualisation), view from yard looking west (indicative visualisation) and demolition overlay – Drawing number: 2009-PL-12-D.
4. Appellant’s Sensitivity Analysis (SA) of its viability assessment, having regard to repairs and decoration of 50k, 100k, 150k, 200k, 250k and 300k, Colliers International, 21 September 2023.
5. Appellant’s SA of Council viability assessment, having regard to repairs and decoration of £250K, Colliers International, 21 September 2023.
6. Council SA of its viability, having regard to repairs and decoration of 250K, 427,637, Morgan and Clarke, 25 September 2023.
7. Letter clarifying status of Penns Residents Association as a Community Interest Company and progress in taking on the public house as a community facility, dated 25 September 2023.
8. Letter from Council, with updates on Local Plan status, numerical analysis on size increase on site, and bat condition, dated 26 September 2023.
9. Letter from appellant’s agent, with confirmation of acceptability of bat condition, and numerical analysis size on size increase on site, dated 29 September 2023.
10. Letter from appellant’s agent, commenting on Council’s SA and Penns Residents Association as Community Interest Company and progress in taking on the public house as a community facility, 4 October 2023.



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