DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H06-0210-21**	**Applicant:**	**Mr G Franklin**
Proposal:	Change of Use from Public House to two dwellings, including alterations.		
Location:	The Chequers 3 Main Street Gedney Dyke		
Terminal Date:	4th June 2021		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
32	Community, Health and Well-being
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2019

Section 5 - Delivering a sufficient supply of homes
Section 8 - Promoting healthy and safe communities
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	1	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
IAN MARSHMAN - HISTORIC ENVIRONMENT OFFICER	0	0	0	1

SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
OTHER STATUTORY BODIES	3	0	0	0
RESIDENTS	19	0	0	1

CASE OFFICER ASSESSMENT

PROPOSAL

Full planning permission is sought for a change of use of The Chequers Public House (including first floor residential accommodation) to two dwellings. Some alterations are also proposed at the side and rear, plus removal of a low level wall.

The application is accompanied by information indicating that the property has been marketed since July 2015, without success. It is also accompanied by accounts dating from September 2016 to when the restaurant/bar closed in December 2017, including costs incurred afterwards.

It should be noted that the building/land was listed as an asset of community value on 31 July 2018.

SITE DESCRIPTION

The site is located on the western side of Main Street, Gedney Dyke close to the southern fringe of the village. It is occupied by a former restaurant and bar, plus an associated car parking area. Houses are situated to the north and south of the site, plus opposite.

RELEVANT HISTORY

H06-0246-18 - Full - Change of use from public house to two dwellings - Withdrawn 30 July 2018.

CONSULTATION RESPONSES

Gedney Parish Council

Supported.

LCC Highways/SUDs

Does not wish to restrict the grant of permission.

South Holland Internal Drainage Board

It has been brought to my attention that there are existing drainage issues at this site which the Board requires the applicant to resolve. Firstly the watercourse to the rear of the site has been piped without written consent from the Board in contravention of Section 23 of the Land Drainage Act 1991. A representative of the Board has visited the site and notes that the pipe size is smaller than required to convey water efficiently.

We are aware of a second pipe within the site which runs from a roadside gully towards the watercourse to the rear of the site. LCC Highways has investigated flooding issues in this area and have determined that this pipe may be collapsed or blocked, which may be the cause of flooding and drainage issues currently affecting neighbouring properties.

We should like to resolve these drainage issues with the applicant via direct communication to avoid having to enter enforcement proceedings.

Community Officer

The Chequers was listed as an asset of community value on 31st July 2018. This is due to expire on 31 July 2023 (5 years).

LCC Archaeology

Although the Chequers has previously been identified as a potential community asset, it can also be considered as a non-designated heritage asset in the terminology of the National Planning Policy Framework. Its conservation is therefore encouraged by local and national planning policy, and any harmful changes should be considered in the planning balance, with the aim of avoiding or minimising harm wherever possible (NPPF 189-190 & 197, SE Lincs Local Plan Policy 29).

The County Council Historic Places Team have recently been researching the building as part of a project to catalogue photographs taken by the Spalding based Soames Brewery in the 1950s and 60s, which have recently been donated to us.

The Rt. Hon. Sir John Hayes MP

Object. I understand that The Chequers is currently listed as an Asset of Community Value, but the owner has requested that it be removed from the Community Asset Register. I would urge that, before such action is even considered, a comprehensive review of the valuations obtained by the owner and that of the Community Group is undertaken, along with closer scrutiny of their negotiations. I would suggest that an independent current valuation is obtained. I appreciate The Chequers has been closed for some time now, but the residents believe that it could, once again, become the hub of the community breathing new life into the village. I am aware that the local Community Group remain committed to this project.

Furthermore, the post office and shop have closed in the village, leaving the residents with only the village hall and the public house. The loss of this amenity would have a detrimental impact on Gedney Dyke and beyond.

Public

Objections received from the owner/occupiers of properties within the village and surrounding area (main points summarised):

Loss of last remaining pub within the village - community/public asset; Has been in the village for over 200 years; Only real community asset left in the village - have lost shop, post office and school; Contrary to SELLP Policy 32; Paras 83 and 92 of NPPF says that councils should seek to plan positively for the provision of pubs and to resist their loss: Pubs play a vital role in local communities; Listed as an Asset of Community Value; Public house viability test not undertaken; Marketing exercise questionable; Pub has only been offered for sale at well above market value; Should be re-valued and an appropriate offer made; One of top pubs in region during 1990's; Decline due to mis-management, alienating the locals and casual drinkers; Still a hope that it will re-open as a pub which would be a great asset post Covid; Focal/meeting point/historic social hub within the village; Pure greed; No need for additional housing; Unsustainable location for new housing; Accentuate drainage problems on the site caused by dyke being filled in at rear and blocked pipe; Increase in traffic on a dangerous corner; lanes serving the site unsuitable for additional residential development; unsuitable; Access for plot 1 on a road junction/corner and close to another hazardous domestic vehicular access; Increased demand on infrastructure; Village will become a dormitory; Ground floor bedrooms will create flood risk; Would be much more successful as a traditional local pub as opposed to an a la carte style restaurant; Insufficient information accompanying the application; Devaluation of property within village.

Information from Applicant's Agent

Our client purchased the property and proceeded to extend and completely refurbish the premises in 2010. The business did not succeed, and our client was effectively subsidising the operation of the pub out of his own pocket. The business closed on 24 December 2017.

The property was marketed between 2015 and 2017 via a succession of specialist property marketing companies. In July 2015 Davey and Co marketed the property, but no buyer was found. The property was then marketed by Christie & Co the following year, similarly without success and in 2017 the property was put to auction via Brown & Co but failed to sell.

A Full Planning Application was submitted on 9 March 2018, reference H06-0246-18 and was to be considered at a Planning Committee meeting of 25 July 2018 with a recommendation of approval. The Application was withdrawn prior to its determination in light of the considerable interest from the local community the proposal was attracting.

On 3 July 2018 the Chequers Public House became registered as an Asset of Community Value under the provisions of Chapter 3, Part 5 of the Localism Act 2011. Following the addition of the premises to the List, a local community group was formed which then notified the council that it intended to make a business case to buy the premises. A bid was submitted in writing to the owner, but this fell significantly short of a reasonable offer in relation to the asking price and was based on their own valuation.

In the time since the community made the unsuccessful offer, there has been no further contact between our client and the community group.

PLANNING CONSIDERATIONS

The main issues in this case are:
- Whether the proposed change of use is acceptable in principle and is a sustainable form of development;
- Character/appearance and Heritage;
- The likely affect upon the amenity of nearby residents;
- Highway safety;
- Other material considerations, including flood risk and drainage.

Principle/Sustainability

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

The site is located within the settlement boundary for Gedney Dyke as set out in the South East Lincolnshire Local Plan, 2019 (SELLP). Gedney Dyke sits within the 'Other Services and Settlements' tier of the Spatial Strategy (Policy 1). Policy 1 states that within the settlement boundaries of the Other Service Centres and Settlements (as shown on the Inset Maps) development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities.

SELLP Policy 32 specifically relates to community facilities. It states that the redevelopment or change of use of an existing community facility will be permitted only if an assessment has been undertaken which has clearly shown that the facility is:
a. surplus to requirements; or
b. not economically viable; or
c. unfit for purpose"

The above policies are consistent with advice within the National Planning Policy Framework (2019) (NPPF). Para 83 states that planning policies and decisions should enable the retention and development of accessible local services and community facilities, including public houses. Paragraph 91 sets out that planning policies and decisions should aim to achieve healthy, inclusive and safe places which promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other. Lastly, paragraph 92 states that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs; and ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community.

Assessing the proposal against criterion a) of Policy 32 of the SELLP, it is clear, given the level of objection from the local community, that it is a valued facility in the village. Since it is the last public

house it cannot be argued that it is surplus to requirements from a community point of view.

Concerning criterion b), financial evidence has been submitted to demonstrate that the public house is not economically viable. The accounts date from September 2016 through to when the pub closed in December 2017.

CAMRA has formulated a standard, objective test to assist decision makers to make a fair, open and informed judgement on the question of viability. This test addresses what the business could achieve if it were run efficiently by management committed to maximise its success. To assess trade potential, a number of criteria are used. They are outlined below:

Local Trade - The facility is located in a small village with a relatively small catchment area. The applicant has indicated that few locals used the bar/restaurant, although it has been argued that this was because it was run as an a la carte restaurant and not as a traditional local.

Customer Potential - The facility is not in a well visited/popular location and is not within a popular tourist area.

Competition - There are no other pubs/bars/restaurants within the village. However, there are others relatively close; for example, within Holbeach.

Flexibility of the Site - The existing facility does not appear to have been underused and has been well maintained. Physically, there is scope for expansion.

Parking - Satisfactory parking is available on site.

Public Transport - There is not frequent/reliable public transport to/from the site.

Multiple Use - The bar/restaurant is the sole remaining facility of this nature within the village. There is limited scope for alternative uses such as a bed and breakfast, shop, etc, because the site is within a small village with a small catchment area and not in a popular tourist area.

Partial Loss - This is not applicable in this case.

Competition Case Studies - There are still some remaining pubs in villages within the district. However, many seem to be struggling financially due to the general decline in the UK pub sector over recent years, as a result of changing social habits.

The Business (Past and Present) - The applicant has indicated that they did not receive local support, although it has been argued that this was because it was not run as a traditional public house. Trading figures have been provided, albeit not for the last 4 years. The applicant purchased the property and extended/refurbished it in 2010. The planning statement accompanying the application indicates that the business was not profitable and that the applicant was subsidising the operation out of his own pocket. The business closed on 24 December 2017. Financial accounts from September 2016 indicate that the public house was suffering a financial loss and that it was not financially viable.

The Sale - The applicant's agent has indicated that various efforts have been made to sell the business as a going concern but have been unsuccessful to date. The property was marketed between 2015 and 2017 via a succession of specialist property marketing companies. In July 2015 Davey and Co marketed the property, but no buyer was found. The property was then marketed by Christie & Co the following year, similarly without success, and in 2017 the property was put to auction via Brown & Co but failed to sell. A pre-auction bid was made by a local pub operator but was well below the low reserve and was not considered to be a serious offer.

On 3 July of 2018 the Chequers Public House became registered as an Asset of Community Value under the provisions of Chapter 3, Part 5 of the Localism Act 2011, after being nominated by Gedney Parish Council. Following the addition of the premises to the List, a local community group was formed which then notified the council that it intended to make a business case to buy the premises. According to the applicant' agent, a bid was submitted in writing to the owner, but this fell significantly short of a reasonable offer in relation to the asking price and was based on their own valuation.

In the time since the community made the unsuccessful offer, it is understood that there has been

no further contact between the applicant and the community group.

Summarising, therefore, it is recognised that the facility is the only remaining bar/restaurant within the village and that it has not recently been used as a traditional pub/restaurant. It is also noted that a local pub operator and community group have put in offers, albeit well below a minimum valuation provided by the auctioneer/estate agent. Against these factors, the settlement is small with restricted immediate population. The applicant has indicated that it was not well supported by locals. It is not within a popular tourist area and is not well served by public transport. Recent financial accounts indicate that the public house was suffering a financial loss and that it was not financially viable. It reflects the general decline in the UK pub sector over recent years. It is considered that these negative factors outweigh other matters in favour of retaining the facility and that it is no longer sustainable/viable.

In respect of Policy 22 criterion c), the applicant's agent has indicated that the building is in good order both internally and externally.

Concluding, therefore, it is considered that the applicant has satisfactorily demonstrated that the public house is no longer sustainable/commercially viable. The proposal therefore complies with criterion b) of Policy 32 of the SELLP, which is consistent with advice within the NPPF.

It is recognised that the building was registered by this Authority as an Asset of Community Value in July 2018 for a period of 5 years. Whilst this is a material planning consideration, it is not sufficient reason to refuse the application in this particular case. It is also noted that the original nomination was by Gedney Parish Council, who now support the proposal.

In terms of housing policy, the site is inside Gedney Dyke Settlement Limit as defined in the SELLP. Policy 1 (Spatial Strategy) of the SELLP indicates that within Other Service Centres, including Gedney Dyke, development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps to meet the service needs of other local communities. Development will normally be limited to committed sites and infill.

In this case, the site is brownfield and is within the village envelope. The site is in a sustainable location and considered suitable for housing. The proposal therefore satisfactorily accords with Policy 1 of the South East Lincolnshire Local Plan, 2019 in locational terms.

Character/Appearance and Heritage

The building is not listed or within a conservation area. However, it was erected in approximately 1793 and is considered a non-designated heritage asset in the terminology of the National Planning Policy Framework. Its conservation is therefore encouraged by local and national planning policy, and any harmful changes should be considered in the planning balance, with the aim of avoiding or minimising harm wherever possible (NPPF 189-190 & 197, SE Lincs Local Plan Policy 29).

In this case, use of the building as residential would ensure its long-term conservation. Some external alterations are proposed at the side and rear and also internally. They include revised fenestration and the removal of a low level garden wall. They are relatively minor and would not materially harm the character or appearance of the existing building.

The proposal therefore satisfactorily accords with Policies 2, 3 and 29 of the SELLP in this respect.

Amenity

The building presently has a use as a restaurant bar with residential above. In terms of amenity, the proposed use would be less intensive and have less of an impact upon the occupiers of nearby residential property in terms of noise, general disturbance, lack of privacy, etc. Property devaluation is not a material planning consideration and therefore carries no weight.

The proposal therefore satisfactorily accords with Policies 2 and 3 of the SELLP in this respect.

Highway Safety

A new access would be formed on the south western side of the building to serve unit 2, including removal of a low garden wall. The existing access would serve unit 1. Concerns have been raised by local residents on highway safety grounds, especially in relation to the new access, which is

close to a corner and the junction with Lowgate.

However, satisfactory off street parking and turning facilities are provided for each dwelling. Moreover, the proposal would generate less traffic to and from the site. LCC Highways have been consulted and consider that the proposal would not result in an unacceptable impact on highway safety.

The proposal therefore satisfactorily accords with Policies 2, 3 and 36 of the SELLP in terms of highway safety and parking requirements.

Other Material Considerations

Flood Risk - The application is for a change of use. Paragraph 164 of the National Planning Policy Framework, 2019 indicates that such applications should not be subject to the sequential or exception tests, but should still meet the requirements of a site-specific flood risk assessment.

In this case, the site is located within Flood Zone 3 of the Environment Agency's Flood Maps and the proposal is classed as "more vulnerable". However, the proposal involves the re-use of an existing building, plus the South Holland Strategic Flood Risk Assessment (2017) indicates that the site is within an area identified as no hazard. No objections are therefore raised on flood risk grounds, but it is nevertheless recommended that future occupants sign up to the Environment Agency's free Floodline Warnings Direct Service.

The proposal therefore satisfactorily accords with Policy 4 of the SELLP and advice within the Framework in terms of flood risk.

Drainage - Foul water is currently disposed of via a package treatment plant and surface water via soakaways. The applicant's agent has indicated that there are no proposals to alter the existing drainage arrangements.

Concerns have been raised relating to a blocked drain at the rear/side of the site. This has been taken up with the applicant's agent, who has responded as follows:

"The section of dyke at the rear of the Chequers was piped shortly after my client purchased the property approximately 10 years ago. The work was carried out with the approval of South Holland Internal Drainage Board. The water in the pipe remains free flowing. In general, the flooding issues relate to the dykes in the vicinity of the Chequers being either poorly maintained, or routinely having garden rubbish thrown in them. The pipe was inspected yesterday (23 March 2021) by a drainage engineer who has confirmed the current situation. My client was advised last year that there was some flooding at the roadside which was due to the drain running down the side of the Chequers becoming blocked. The drain was flushed out and is working properly, he has an invoice for the work to that effect."

Planning Balance

Policy 32 of the SELLP states that the redevelopment or change of use of an existing community facility will be permitted only if an assessment has been undertaken which has clearly shown that the facility is surplus to requirements, not economically viable, or unfit for purpose. It is consistent with advice within the National Planning Policy Framework (2019) (NPPF). In this case, information has been submitted satisfactorily demonstrating that the existing public house is no longer sustainable/commercially viable. Moreover, the site is brownfield and is within Gedney Dyke Settlement Limit. It is therefore suitable for housing.

It is recognised that the building was registered by this Authority as an Asset of Community Value in July 2018 for a period of 5 years. Whilst this is a material planning consideration, it carries limited weight in this case and does not outweigh factors in favour of the proposal. It should be noted that the original nomination was by Gedney Parish Council, who now support the proposal.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in

discharging its functions) to:
A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Conclusion

No objections are raised to the proposal on character, heritage, amenity and highway safety grounds. In terms of flood risk, the site is within an area of no hazard within the South Holland Strategic Flood Risk Assessment (2017). Means of drainage would fundamentally remain the same and can be addressed by means of a condition. Issues raised relate to a drain at the rear and fall within the remit of the South Holland Internal Drainage Board.

The proposal therefore satisfactorily accords with Policies 1, 2, 3, 4, 29, 30, 32 and 36 of the SELLP, 2019.

RECOMMENDATION

The application was referred to Chairman's Panel on 28 May 2021, where a delegated decision was accepted.