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**APPEAL STATEMENT
of
COLIN SHARPE DipTP MRTPI**

For and on behalf of

**Mr & Mrs T Gridley
The Dog and Partridge Public House
Tosside BD23 4SQ**

**APPEAL STATEMENT against the decision by Ribble
Valley Borough Council to refuse planning permission
(2016/0708) and Listed Building Consent (2016/0709)
for the change of use of a public house, owners' living
accommodation and Bed and Breakfast facility into two
dwellings**

AT

**THE DOG AND PARTRIDGE PUBLIC HOUSE,
TOSSIDE, BD23 4SQ**

**LPA Refs: 2016/0708 AND 2016/0709
Our Ref: Gri/754/2266/CS
Date: May 2017**



Chartered Surveyors ■■■ Planning & Development ■■■ Land Agents
Valuers ■■■ Property Agency ■■■ Property Management



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1. INTRODUCTION AND BACKGROUND INFORMATION

1. Gary Hoerty Associates has been instructed by Mr & Mrs T Gridley to submit an appeal on their behalf against the decisions by Ribble Valley Borough Council to refuse planning permission and Listed Building Consent for the change of use of a public house, owners' living accommodation and bed and breakfast facility into two dwellings at The Dog and Partridge Public House, Tosside. Both applications were considered by the Council's Planning and Development Committee on Thursday 10 November 2016 when both were refused, in accordance with the officer's recommendations.
2. In respect of the application 2016/0708, planning permission was refused for the following two reasons:
 - (1) *The proposal is considered contrary to the NPPF and Policies DM4, DMH3, EN5 and EN2 of the Ribble Valley Core Strategy insofar that the proposed development would fail to preserve the special historic interest of the listed public house and would, consequently, harm the character and appearance of the Forest of Bowland Area of Outstanding Natural Beauty contrary also to the advice in NPPF and policy EN2 of the Ribble Valley Core Strategy.*
 - (2) *The proposal is considered contrary to the NPPF and Policies DMG1, DMG2 and DMB1 of the Ribble Valley Core Strategy insofar that the proposed development would result in the loss of a substantial proportion of the commercial floor area within this tourism and community facility, which would harm the rural economy and the vitality of the local area.*
3. In respect of application 2016/0709, Listed Building Consent, was refused for the following single reason:
 - (i) The proposal is considered contrary to the NPPF and Policies DMG1, DME4, Key Statement EN5 of the Ribble Valley Core Strategy insofar that the proposed development would fail to preserve the special historic interest of the listed public house.

2. THE APPEAL SITE AND SURROUNDINGS

4. The appeal relates to the public house and car park of The Dog and Partridge on the north side of the B6478 in the small settlement of Tosside. The site is adjoined to the west by open fields; to the north (rear) by open land and dwellings off Longtons Lane; to the east by St Bartholomew's Church and its grounds; and to the south (on the opposite side of the road) by a development comprising two dwellings and a holiday let on a site formerly occupied by a commercial garage

and one dwelling. The Community Hall, known as the “Tosside Community Link” is on the opposite side of the road to the south east of the application site.

5. The Dog and Partridge and the adjoining Church are both Grade II Listed Buildings; and the whole of Tosside is within the Forest of Bowland Area of Outstanding Natural Beauty (AONB).
6. The Dog and Partridge is a traditional country pub of squared water-shot sandstone construction with a stone slate roof. It is a two storey, four bay building with an off-centre front entrance porch and a secondary entrance at the western end of the front elevation.
7. At the rear, behind the lean-to single storey former stores and outbuildings attached to the historic building, is a two storey modern extension connected into the upper main floor by a glazed link. This was authorised and built in 2005 and is an attractive extension that is visually separate from the main historic building.
8. This new part of the building currently provides three en-suite bed and breakfast guest bedrooms at first floor, including a family or group bedroom, and a cafe area at ground floor. There is a ground floor entrance and foyer area, leading from the rear external parking and seating area.

3. THE PROPOSED DEVELOPMENT

9. The applications sought full planning permission for the change of use of the building to form two dwellings.
10. The larger of the two dwellings would occupy the main original front part of the building and would comprise kitchen, lounge, two snugs, utility/boiler room and two storage rooms on the ground floor; four bedrooms, dressing room and two bathrooms on the first floor with an attic room at second floor level.
11. The smaller of the two dwellings would be formed in the more recent addition to the rear of the main building and would comprise lounge/diner, kitchen, hall, study/office, laundry room and w.c. on the ground floor, and three bedrooms, all with en-suite facilities, on the first floor.
12. The proposal does not require any alterations to the external appearance of the building. All existing door and window openings would be retained and utilised to serve the rooms of the two dwellings; and no additional openings are either required or proposed.
13. Internally, the proposed conversion scheme requires only three doors between the old and new parts of the building to be blocked up. Details of this internal work were submitted with the planning application and also the application for Listed Building Consent.

14. Each of the dwellings would be provided with its own residential curtilage, access and parking spaces as shown on the submitted plans.

4. PLANNING HISTORY (General)

15. The following is a list of the most recent planning applications relating to the site, the first five of which were submitted by different applicants prior to our clients' purchase of the property in 2003:

- 1) 1997/0688 – Change of use of function room to living accommodation – approved
- 2) 1997/0689 – Change of use of function room to living accommodation (LBC) – Granted
- 3) 1998/0216 – Change of use from public house to bed and breakfast and dwelling – refused
- 4) 1998/0595 – Change of use to form guest house with cafe bar – refused
- 5) 1999/0110 – Change of use to a single dwelling – refused
- 6) 2004/0323 – Demolition and rebuilding of restaurant with first floor accommodation over and alterations to lean-to toilets and construction of bottle store – Approved with conditions.
- 7) 2004/0611 – Listed Building Consent (LBC) application for the removal of part of the external stone skin on the front and rebuilding first floor extension with pitched roof, new lean-to extension to form a bottle store and other minor alterations – Listed Building Consent Granted.
- 8) 2005/0282 – Porch on front elevation – Approved with conditions.
- 9) 2005/0283 – Porch on front elevation – LBC Granted with conditions.
- 10) 2008/0196 – Change of use of part of existing ground floor to mountain bike storage and service area – Approved with conditions.
- 11) 2012/0729 – Change of use from public house, bike hire and dwelling to hotel, bike hire and dwelling – Refused and appeal dismissed.
- 12) 2016/0708 & 2016/0709. The planning permission and Listed Building Consent applications to which this appeal relates.

- 13) 2017/0171 and 2017/0173 – Applications for planning permission and Listed Building Consent for the change of use of existing two storey rear extension from Bed and Breakfast guest rooms and cafe to one dwelling. Current applications – no decisions to date.
16. The following applications relate to the site of the former commercial garage, “Smithy Garage” on the opposite side of the road to the south of the application site:
- 1) 3/2007/1105 – Construction of 3 holiday cottages, change of use of outbuildings to a holiday cottage and alterations to dwelling – Refused
 - 2) 3/2008/0125 – Construction of 3 holiday cottages, change of use of outbuildings to holiday cottage and alterations to dwelling (resubmission) – Approved with conditions.
 - 3) 3/2009/0640 – Extensions and alterations to dwellings, creation of new vehicular access and access alterations; erection of one dwelling, conversion of building to form holiday cottage and change of use of paddock to residential curtilage – Approved with conditions
 - 4) 3/2010/0128 – Replacement house type at Plot 2 – Approved with conditions
17. We are of the opinion that a consideration of the planning history of the appeal site and the Smithy Garage site as outlined above provide some context for the consideration of this appeal. We therefore refer to the previous applications below as appropriate.
18. Application 1998/0216 for the change of use of the public house to bed and breakfast and dwelling was refused for reasons that the development would lead to the loss of a community facility and would be detrimental to the rural economy; and that insufficient evidence had been provided to indicate that adequate attempts had been made to secure an alternative employment use or maintain the existing use. In relation to this refusal we would make the following points:
- As long ago as 1998, a previous owner of this public house considered it appropriate and necessary to seek its change of use to bed and breakfast and a dwelling. We would suggest that, had that previous owner been able to run a profitable public house, he would not have submitted that application. He still sought to retain some tourism related business (the bed and breakfast).
 - There is an indication in the reasons for refusal that, had sufficient evidence been provided, the application might have been approved.

- There is no reference in the reasons for refusal of any negative impacts of the proposed change of use on either the function or the fabric of the Listed Building.
19. The same previous owner then submitted application 1998/0595 for the change of use of the public house to form a guest house with café/bar and dwelling, in order to retain a larger business element at the property than in his previous application. The application was, however, refused for the reason that the reduced scale of the community facility (through the loss of the public house) would result in loss of vitality and viability of Tosside Village and would damage the rural economy. In relation to this refusal we would make the following points:
- The previous owner appears to have been genuinely seeking to retain a business/tourism facility but was prevented from doing so by the planning refusal.
 - The Council's planning officer considered the proposal to be acceptable, but his recommendation of approval was overturned by Committee.
 - Again, there is no reference in the reason for refusal to any detrimental effects on the Listed Building.
20. A different previous owner then sought permission for the change of use of the public house to a dwelling with no retained business element (1999/0110). Permission was refused for a reason similar to that given for the refusal of the previous application. In relation to this refusal, we would make the following points:
- The applicant was a new owner who, it would appear, also had difficulty operating a viable public house business.
 - It is evident from the Committee Report that no evidence was submitted with the application that any attempt had been made to market the property for continued commercial use prior to the submission of the application. As this was contrary to a requirement of Policy EMP11 of the Districtwide Local plan, we accept that that particular application had little chance of approval.
21. The remaining previous applications have all been submitted by our clients following their purchase of the Dog and Partridge in 2003.
22. Applications 2004/0323 and 2004/0611 sought planning permission and Listed Building Consent for a development at the rear of the Listed Building involving the demolition and rebuilding of restaurant with first floor accommodation over and alterations to lean-to toilets and construction of bottle store. Both applications were approved and the development has been carried out. The new

part of the building formed by this approved development currently provides three en-suite bed and breakfast guest bedrooms at first floor level, including a family or group bedroom, and a café/breakfast room on the ground floor. There is a ground floor entrance and foyer area leading from the rear external parking and seating area. In relation to these two permissions we make the following comments:

- The considerable financial investment in building the extension to provide bed and breakfast accommodation (in order to supplement any income from the public house) is ample proof of our clients' intention to operate a tourism and local community based business at the Dog and Partridge. Their considerable financial investment in the fitting of a commercial kitchen is further proof of their intentions and commitment.
 - Our clients have sought in their advertising to take advantage of their location close to the Gisburn Forest bike trails, as evidenced by their website.
23. In seeking to take further advantage from their proximity to the bike trails, our clients obtained planning permission for the change of use of part of the ground floor to a mountain bike storage and service area (2008/0196). This permission was implemented for some time and is a further example of our clients' continued efforts at operating a viable business from the property. In the longer term, however, this venture did not prove successful as the cyclists using the trails generally bring with them all the bikes and equipment that they need.
24. As the bike storage, hire, sales and servicing part of the business was not the success for which they had hoped, our clients submitted a further planning application in 2012 (2012/0729) for the change of use from public house, bike hire and dwelling to hotel, bike hire and dwelling. In simple terms this proposal involved utilising the new rear part of the building as a hotel with café/bike shop, but also using the existing commercial kitchen in the main older part of the building in association with this proposed "business" part of the building. The remainder of the main historic building was to be used as a private dwelling by our clients.
25. That application was refused for the following reason:

The proposed development is contrary to Policies G1, G4(c), ENV1, H15 (iv) and RT1 (i) of the Districtwide Local Plan, the Council's adopted Supplementary Planning Guidance Note Retention of Public Houses in Rural Areas, Policies DMG1, DMG2, DMH3, DMH4 and DMB3 and Key Statements EN2 and EC3 of the Core Strategy 2008/2028 Regulation 22 Submission Draft, and guidance within paragraph 28 of the NPPF. If approved, the development would lead to the loss of a valuable community facility, without sufficient justification, which would be to the detriment of the rural economy and vitality of the area, and would

impact on the provision of suitable tourist facilities within this particular area of the Forest of Bowland AONB.

26. An appeal against the refusal was dismissed. We consider a detailed examination of the reason for refusal and certain aspects of both the officer's report to committee and the Appeal Inspector's Decision Letter (both at Appendix 1) to be relevant to the consideration of this appeal. Such an examination, therefore, comprises the next section of this Appeal Statement.

5. DETAILED CONSIDERATION OF APPLICATION/APPEAL 2012/0729

The Reason For Refusal

27. The application was refused on 18 January 2013 prior to the adoption of the Council's Core Strategy in December 2014. The policies of the Districtwide Local Plan and the SPG "Retention of Public Houses in Rural Areas" are therefore no longer part of the Development Plan and were, therefore, not relevant to the determination of the applications to which this appeal relates. The Policies and Key Statements of the Submission Draft Core Strategy that are referred to in the Reason for Refusal have been incorporated into the adopted version of the Core Strategy and are therefore relevant to the consideration of this appeal. Paragraph 28 of NPPF also, of course, remains applicable.

Officer's Report To Committee

28. The report refers to the receipt of 31 letters of objection and a petition signed by 45 people, the contents of which are summarised by 24 points in the report. In the Appellant's Grounds of Appeal Statement for the subsequent Appeal, our client Mrs Gridley responded to those objections as follows:

"In response to the refusal of our planning application, and addressing the negative issues raised in the objection letters, I offer the following. We still are and have made every effort to keep this business running, even at a loss for so long! Over 9 Years. We are not proposing to loose the pub as a community facility the business is just being transferred to an area which is new build, is up to present insulation regulations, which makes it more cost effective to heat etc. It fulfils Health and safety and modern requirements to run a small business in the attempt to make it profitable.

We purchased the Dog and Partridge November 2003 we ran it as a bar until February 2004, to get the feel of the clientele. We closed for complete refurbishment including re wiring, plumbing, none slip floors, new gents and ladies wcs, a commercial kitchen, bar, complete new cellar cooling equipment, pumps etc, we spent hundreds of thousands of pounds of our own money making it what it is today.

We re-opened December 2004, operating Tuesdays - Sundays Bar and started food in May 2005 Fridays-Sundays. This increased in 2006 to Thursdays-Sundays and then in 2007-2011 we opened Wednesdays-Sundays.

We stopped doing food during the week, in winter 2011 but still continued at weekends because the amount of business was not making it viable. The recession and fuel increases have hit us hard due to our rural location.

We opened Whelpstone Cafe in 2008 2009 2010. Put up directional signs and boards to advertise, but these were constantly being ripped down and destroyed. The website was created for the Dog and Partridge and Whelpstone cafe to promote the business. We took professional advice and created Gisburn Forest Bikes @ Dog and Partridge so when someone went to 'google' Gisburn Forest we came up. We started getting people staying from up and down the country. Appendix 11 Receipts for website and new signs We used the new website and signs to promote and advertise the new business, we started selling helmets, gloves etc and doing mountain bike hire to attract tourists to the area, put in free bike wash facilities.

In 2005 we built the extension at the rear of the property to enable us to take in paying guests. This clearly contradicts the resident's claims that were we deliberately running a business down! We have worked our socks off trying to diversify to keep this business.

Ex employee Claire Robinson states pool/darts were profitable, obviously she did not realise that what you take over the bar is not profit, its turnover, out of that you have wages, light, heating, cost of the beer, cost of the ingredients to give as a free supper, add all this up and deduct from the takings, it was not profitable! If it had been we would not have stopped pool and darts winter 2011.

I confirm that pool was set up at the Community Hall whilst we had 2 teams playing at the Dog and Partridge. This was 2 years before we stopped opening on a Wednesdays and Thursdays. I also wish to clarify that pool was not established at the Dog and Partridge stated in the objection letter when we purchased it. Nor did the previous owner Betty Rigby of 5 years have a pool team or even a pool table! It was closed for 18 months previous to this. Residents state the Dog and Partridge was a successful business before we purchased it. Please note the rateable value was then £1550 per annum which is very low. Rateable values increase as businesses become more profitable.

Some residents state that we did not join in, this is a contradiction see petition page 5 which confirms that we always did supper for the bonfire night up until 2yrs ago when the Community Hall decided to do it themselves. The Halloween Party at the D&P; I will confirm that I always will and always did stick to the licensing hours. Last orders are 11 o'clock (it would have been abused if I would

have allowed it). The bar staff including myself always had confrontation issues when calling last orders.

Tosside Community Hall was built in 2004 to replace the Institute. The Institute did not have a bar, we were asked to do the bar at the Community Hall when they had functions but when it looked like we were making money they asked us for a percentage or a contribution of the takings. They applied for their own licence to which no locals or anyone else but us objected.

We opened at Christmas for 5yrs. It was not the profitable time of year people expect. We now take our annual holidays over Christmas as this is the most expensive time of year for us to heat the premises and with the adverse weather conditions it does not attract the tourists."

29. We requested in our Planning Statement for applications 2016/0708 and 2016/0709 that the above comments from our client be given full and proper consideration in the determination of the applications.
30. The case officer made the following two points at the beginning of his consideration of the proposal in application 2012/0729:
 - *The main consideration with regards to this application is the loss of the remaining Public House within Tosside, whether there has been sufficient justification provided in support of this and whether the benefits of the proposed new use outweigh the loss.*
 - *The scheme proposes no alterations to the property, a Grade II Listed Building, as part of this application, and there are no issues in relation to the proposals impact upon the amenity of the occupiers of adjacent dwellings or its impact upon highway safety at this location.*
31. With regards to the second of those points, this current proposal also does not involve any alterations to the exterior of the listed building and, internally, would require just three doors to be blocked up. No new door openings or the removal of any sections of wall are necessary or proposed. With regards to the effects upon the "fabric" of the listed building, we therefore consider the proposal that is the subject of this appeal to be acceptable.
32. Also in relation to the second point above, in our opinion, the proposed use of the building as two dwellings would have less of an impact upon both highway safety and the amenities of nearby residents than the effects of the previous "mixed use" proposal that the planning case officer considered to be acceptable.
33. In his concluding paragraph, the case officer for application 3/2012/0729 commented that the information submitted with the application was not considered to be sufficient to fully justify the assurances of the applicant that the

business is not considered to be economically viable. We did not concur with the case officer's conclusion in respect of this particular aspect of the previous application; and respectfully suggested that perhaps too much weight had been given to the (in some instances unfounded) comments and allegations of local residents, and too little weight to the factual evidence submitted by our clients.

34. Notwithstanding the above comment, in order to address this requirement in the applications that are the subject of this appeal we submitted Profit and Loss Accounts for the years 2008 to 2016 and details of takings for the bar and food for four weekends in June and July 2016. This evidence will be discussed in detail later in this Appeal Statement.

Appeal Decision Letter

35. The Appeal Inspector stated that the main issues in the consideration of the Appeal were:
- i) *Whether the proposed change of use would preserve the special architectural or historic interest of the listed public house and would safeguard the character and appearance of the Forest of Bowland Area of Outstanding Natural Beauty; and*
 - ii) *Whether the effect of the proposal on the provision of community and tourist facilities in the local area, the rural economy and the vitality of the area would be justified, in accordance with development plan policies and the associated guidance.*
36. The first of these issues, of course, did not form a part of the Council's reason for refusal of the application. Therefore, prior to the decision being made, the Inspectorate emailed the case officer for the application and our client's previous agent in the following terms:

"The Inspector as decision maker has a statutory duty under s66(i) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

As such in addition to the issues raised in the Council's decision notice, a further main issue that she will take into account in determining the appeal will be:

"Whether the proposed change of use will preserve the special architectural or historic interest of the listed public house."

The parties were given the opportunity to comment on this aspect of the case, in response to which the previous agent commented:

"No internal physical alterations to the building are required to effect the change of use except for the removal of a partition wall to the existing ground floor office in the modern extension at the rear of the building and the relocation of the modern bar fitting from the existing lounge of the public house to the proposed guest lounge/dining area. None of these works involve any alteration to the historic fabric of the building. There are no proposed external alterations to the building or its curtilage. We have demonstrated that the public house side of the business is not viable. The change of use from public house, bike hire and dwelling to hotel, bike hire and dwelling will provide a viable use which will secure the long term future of the building."

37. Notwithstanding that this had not been an issue in the determination of the planning application (and had not been included as a reason for refusal of any previous applications at the site) the Inspector cited the loss of the function of the public house as a reason to dismiss the appeal. The following are some of the points on this particular issue that are made in the Decision Letter:
- a. The Dog and Partridge is a traditional country pub, which is listed Grade II. The Dog and Partridge pub is one of the most prominent buildings in Tosside; it sits at its heart in an attractive roadside setting, close to the Church, the community centre and the historic stone marker at the central road junction. In this context, it is a designated heritage asset of considerable significance; both due to its architectural interest and its traditional function within the settlement.
 - b. The proposal is for changes of use within various parts of the building, but with no physical alterations.
 - c. As a result of the proposal, the main historic building, the two storey public house, would become wholly residential and would be used as a private dwelling for the appellant.
 - d. The National Planning Policy Framework (the Framework) sets out that heritage assets are an irreplaceable resource that should be conserved in a manner appropriate to their significance. An applicant should be required to describe the significance of any heritage assets affected to enable an understanding of the potential impact of the proposal on their significance. No heritage assessment of the listed building has been provided, other than its listing description and this provides little information as to its history, the original layout of the spaces within the building or their functions.
 - e. From what I have seen, at present the use of the main historic part of the building seems to have remained largely as it was built (albeit that some layout alterations have been made) with the ground floor in use as a public house and the upper floor in residential use.

- f. Although no physical alteration would be made, the functional significance of the building (which from the list description, was purpose built as a public house) and its central status in village life would be lost through the proposal. With the proposed change of use, all of the historic ground floor accommodation would be removed from public access and the traditional use of the public house would be fundamentally altered. Thus, the change of use at the main ground floor of the building would cause substantial harm to the special historic interest of the listed building, through the loss of its historic function as a public house.
 - g. The Framework requires a balanced judgement to be taken having regard to the scale of harm and the significance of the heritage asset. Great weight should be given to the asset's conservation. In this case, I judge that the harm arising from the proposed change of use would be substantial.
 - h. If the building was to fall out of use and, where no viable use that would enable its conservation can be found in the medium term through appropriate marketing, then, in such circumstances, the Framework requires the harm arising from the proposal to be weighed against the benefit of bringing it back into use.
 - i. In terms of the effect on the listed building, even if it was necessary to alter the balance of residential to commercial space, the current proposal would not be the only means of achieving this and I conclude that it would fail to preserve the special historic interest of the listed building.
38. The Inspector therefore accepted that the proposal would not cause harm to the fabric of the Listed Building, but considered the loss of the "function" of the ground floor of the historic part of the building (as a public house) to represent a justifiable reason to dismiss the appeal.
39. In ideal circumstances we would not disagree with the Inspector's intentions, but she accepted that her understanding of the historic function of the building was based on somewhat limited evidence (see points (d), (e) and (f) above). In submitting the applications to which this appeal relates, we therefore sought to provide additional information to address the Inspector's concerns.
40. To address point (d) we submitted a Heritage Asset Statement (HAS) and further evidence which indicates that the building has NOT always been used as a public house, but has had various uses over the years, as different owners have reacted to changed circumstances. In response to point (e) our evidence indicates that the use of the historic part of the building has NOT remained largely as it was built. Therefore, in our opinion, the Inspector's conclusion at point (f) is not supported by the evidence. The proposed use of the main ground floor of the building as a dwelling would lead only to the loss of the current function, NOT its only historic function. The historic evidence that we have submitted to support this current proposal will be discussed in more detail later in this Appeal Statement; and the evidence itself is Appendix 2 to the Statement.

41. The Inspector also considered that insufficient information had been provided to support the contention that the continued operation of a public house in the historic part of the building was not viable. In the submission of the applications that are the subject of this appeal, we sought to address that point through the inclusion of financial evidence in a separate Financial Statement that we requested to be treated as “exempt information” not for viewing by members of the public. The Financial Statement, however, was not made available to Members of the Planning and Development Committee who resolved to refuse the applications. We consider that, had they been aware of the financial evidence members might have voted differently. That evidence is therefore provided for the Inspector’s information as Appendix 3 to this Statement.
42. The Inspector also commented that, as the appellants were looking to re-focus the business, rather than close it, they had not sought to sell the property as a business and that, as such, no evidence of marketing was submitted with the application. As the current proposal does seek to close the business, details of marketing were appended to the applications and are Appendix 4 to this Appeal Statement; and will be discussed later in this Statement.

6. CONSIDERATION OF PLANNING HISTORY OF THE SMITHY GARAGE SITE

43. As shown at paragraph 16, permissions were first granted for developments of holiday cottages and then for a development comprising one dwelling and one holiday cottage. With the most recent permission having been implemented, there is now a dwelling and a holiday cottage where, in the past, there used to be a general store, post office and petrol filling station. It therefore appears evident that Tosside, and the location in more general terms, had been unable to support the viable provision of petrol, food and general provisions, and post offices services, such that the businesses ceased operating, to be replaced by what is a primarily residential use.
44. We would make the point that the three services previously provided at the Smithy Garage site are all more important to the general level of attractiveness of a settlement and the quality of life of its residents than the provision of food and drink in a café, restaurant or public house. The loss of those services, however, is a result of changing economic times and, whilst regrettable, has had to be accepted by local residents. We contend that the difficulty being experienced by our clients in operating a viable public house/restaurant is also the result of changing times and is absolutely no fault of their own. We would further contend that the loss of the public house/restaurant (which is partly due to it not being used by local residents anyway) would have significantly less of a detrimental effect on local residents than the loss of the more fundamental services previously provided on the Smithy Garage site.

7. PLANNING POLICY CONSIDERATIONS

General

45. Local Planning Authorities are required to determine planning applications in accordance with the statutory development plan unless material considerations indicate otherwise. In order for this Appeal to be allowed the proposal must satisfy, as far as possible, the guidance contained within the National Planning Policy Framework (NPPF Adopted March 2012) and the relevant policies of the Ribble Valley Core Strategy (Adopted December 2014).
46. We set out below extracts from the relevant documents in order to assess the planning application against all the appropriate policies and guidance.

National Planning Policy Framework (NPPF)

47. The adoption of the National Planning Policy Framework in March 2012 means that it is now the main national planning policy guidance influencing planning decision making and replaces a substantial number of documents previously in place. *“The National Planning Policy Framework sets out the Government’s planning policies for England and how these are expected to be applied, it sets out the Government’s requirements for the planning system only to the extent that it is relevant, proportionate and necessary to do so.”*
48. We do not consider it appropriate or necessary in this Statement to refer to the general “sustainability” requirements of NPPF with which the Inspector will be well acquainted. We will, therefore, refer only to the “heritage” aspects that are relevant in this particular case.
49. Paragraph 55 states that *“to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstance.”* A number of such circumstances are then stated, the relevant one of which to this case is:
- *“where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets”*
50. Paragraph 126 states:
- “Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so,*

they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance. In developing this strategy, local planning authorities should take into account:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;*
- the desirability of new development making a positive contribution to local character and distinctiveness; and*
- opportunities to draw on the contribution made by the historic environment to the character of a place."*

51. Paragraph 128 states:

"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."

We consider that, through the evidence submitted with the applications and comprised in this Appeal Statement and its appendices, we have satisfied the requirements of NPPF paragraphs 124 – 128.

Ribble Valley Core Strategy

52. The Policies and Key Statements of the adopted Core Strategy that are mentioned in the Reasons for Refusal of the applications to which this appeal relates are as follows:

Key Statement EN2 – Landscape

Key Statement EN5 – Heritage Assets

Policy DMG1 – General Considerations

Policy DMG2 – Strategic Considerations

Policy DMH3 – Dwellings in the Open Countryside and AONB

Policy DME4 – Protecting Heritage Assets

Policy DMB1 – Supporting Business Growth and the Local Economy

53. We will discuss below why we consider the appeal proposal to satisfy the relevant requirements of the above stated Key Statements and Policies, with amplification on some aspects to be provided later in this Statement.

54. We consider the proposal to be fully compliant with Key Statement EN2 in that it would have no significant effects upon the landscape of the AONB. The external

areas that would provide the curtilages (including access and parking spaces) for the two dwellings are the same areas that previously have provided the parking areas for the public house and the owners' accommodation, and the outside eating/drinking areas for the public house. The visual effects on the wider landscape would therefore be minimal.

55. For reasons explained in detail elsewhere in this Statement, we consider the proposal to comply with the general presumption in Key Statement ENV5 in favour of the conservation and enhancement of the significance of heritage assets and their settings.
56. We do not consider that the current proposal would contravene any of the requirements of Policy DMG1 relating to design, access, amenity or infrastructure. In relation to the environmental requirements, the only one that is of relevance is the need to protect and enhance heritage assets and their settings, which is covered in detail in this Statement.
57. We do not consider that the proposal would cause any serious harm to the Council's development strategy and will therefore comply with the principal intention of Policy DMG2. In respect of the location of the site within the AONB, it is stated that regard will be paid to the economic and social well-being of the area, but that the most important consideration will be the protection, conservation and enhancement of the landscape and character of the area avoiding where possible habitat fragmentation. We consider that the proposal does not have any effects upon the landscape or habitats; and, for reasons that we state in Section 10 of this Statement we consider the application to be acceptable with regards to its effects upon the economic and social well being of the area.
58. We consider the proposal to convert the building to form an additional dwelling (to the existing manager's dwelling) to be fully compliant with the relevant second requirement of Policy DMH3.
59. As the proposal does not cause harm to the significance of the heritage asset (the Listed Building) and does not involve the demolition or loss of any important historic fabric from the Listed Building, the relevant requirements of Policy DME4 are all, in our opinion, satisfied.
60. The relevant requirements of Policy DMB1 are that *"proposals for the development, redevelopment or conversion of sites with employment generating potential in the plan area for alternative uses will be assessed with regard to the following criteria:*
 - *The economic and social impact caused by the loss of employment opportunities to the Borough and*

- *Any attempts that have been made to secure an alternative employment generating use for the site (must be supported by evidence such as property agents details including periods of marketing and response) that the property/business has been marketed for business use for a minimum period of six months or information that demonstrates to the council's satisfaction that the current use is not viable for employment purposes)".*

61. For reasons explained in Section 10 of this Statement, the employment opportunities provided over the years by the Dog and Partridge have been minimal (with takings insufficient to support even one full-time worker). Therefore, we contend that the loss of this limited employment would have little or no economic or social impact on the Borough.
62. Evidence of marketing for an 18 month period is also appended to this Statement and the lack of any meaningful response to this marketing is explained and discussed in Section 8 of the Statement. We consider that the requirement for marketing has been satisfied; and, for reasons given in Section 10 of this Statement, we consider that we have provided information that demonstrates that the current use is not viable for employment purposes. Although Point 5 of Policy DMB1 only requires compliance with either of its two requirements, we consider that we have provided evidence that satisfies both.
63. We, therefore, consider that the proposal satisfies all the relevant requirements of Policy DMB1.

8. EVIDENCE RELATING TO MARKETING

64. As can be seen at Appendix 4, the property was advertised for sale as a commercial property for the 18 month period between 20 April 2014 and 2 November 2015.
65. In response to the advertising, there were only two expressions of interest and both were only tentative enquiries that were not progressed. One was from a person who had no intention to operate a business, but convert it into a number of dwellings. The second was from a person who was intending to operate an alternative business, but decided quite quickly that the Dog and Partridge was not a suitable property or location for his intentions.
66. We consider that our clients have made appropriate and adequate attempts to sell the Dog and Partridge as a commercial property. They cannot be faulted for the lack of any meaningful response to the advertising. In our opinion, the very limited response is also not surprising. We do not see how anyone else could put more effort into operating the existing pub and bed and breakfast business than our clients, or how anyone else would achieve more success.

67. We also consider that there are two fundamental and related reasons why virtually no interest was shown by anyone seeking to use the property for any alternative commercial use. The first is that (other than for a tourism related use) the isolated location of the property would be unsustainable from an operational and profitability point of view. The second, related, reason is that the Local Planning Authority would also be likely to see this as an inappropriate and unsustainable location for most types of alternative commercial use. Therefore, anyone with such an intention could have difficulty obtaining the necessary change of use planning permission.

9. EVIDENCE RELATING TO HERITAGE

68. A Heritage Asset Statement (H.A.S) is within Appendix 2 of this Statement.
69. The loss of the “function” of this listed building as a public house had not caused any concern to the Local Planning Authority in its consideration of any of the applications for Change of Use, including the previous most recently refused application 2012/0729. The Appeal Inspector for that refused application, however, did cite this as a reason for dismissing the appeal, but we consider there to be fundamental flaws in her arguments for reaching this conclusion.
70. The listing description is given at paragraph 2.3.2 of the H.A.S. This begins “public house, probably late C18th”. The previous Inspector stated “which from the list description, was purpose built as a public house”. We would question whether the wording of the listing description does relate to the original purpose or (in our opinion, more likely) to the use at the time the building was listed.
71. The previous Inspector stated that the proposed change of use of the main ground floor of the building “would cause substantial harm to the special historic interest of the listed building, through the loss of its historic function as a public house. We have appended to this Statement Notes on the History of Tosside that appeared in the Parish magazine in 1989 and 1990. These Notes make it perfectly clear that the building has not always been a public house (even if this was its original use) but has been used for numerous different purposes. It has changed uses over the years to adapt to different circumstances. Therefore, if this appeal is allowed, and this part of the building becomes part of a dwelling it would only lead to the loss of the current function. It would also represent the latest change of use of the building in order to respond to changed circumstances.
72. We also consider it important to comment that the loss of the “function” of the public house could be brought about, without the need for planning permission, through a permitted development change of use from Class A4 to Class A1 or Class A2 under Part 3 Class A of the GPDD 2015.
73. So, in our opinion, the proposed development would not cause any significant harm to the function of the Listed Building. As the works to the fabric of the

building are also only minor internal works, we do not consider there to be any reasons for refusal relating to effects upon the Listed Building. The appended H.A.S. supports our conclusions on this particular aspect of the proposal.

74. The proposal will therefore lead to less than substantial harm to the Listed Building such that, as stated in PPG paragraph 134, this needs to be weighed against the public benefits of the proposal, including securing its optimum viable use. For reasons given in this Statement and the Heritage Asset Statement, we consider that we have demonstrated that the proposal will secure the optimum viable use of this Listed Building. The proposal is therefore fully compliant with NPPF in this regard.

10. EVIDENCE RELATING TO FINANCIAL MATTERS

75. Appendix 3 to this statement comprises the following:

1. Trading and Profit and Loss Account for the period 2008 to 31 March 2012 for Gisburn Forest Bikes Ltd.
2. Trading and Profit and Loss Account for the period 2013 – 5 April 2016 for K G Gridley as a sole trader.
3. Bar and Food Takings over five weekends June/July 2016.

We will now examine and comment upon the appended information.

76. The information for the period 2008 to 31 March 2012 relates to the operation of the business over that period as a Limited Company under the title Gisburn Forest Bikes Limited. This company name was part of our clients' intention of gaining benefit, through their advertising strategy etc. from their proximity to the Gisburn Forest Bike Trails. The financial figures for this period relate to all the aspects of the business combined, including the food and drink aspects. As can be seen, these figures also include the payment of Directors' salaries and wages. With the payment of salaries and wages included this resulted in an overall loss for the Limited Company before taxation in each of the five years leading up to 31 March 2012. The losses ranged from £31,676 to £40,140.
77. The information for the period 2013 to 5 April 2016 relates to the operation of the business over that period by Mrs Gridley as a sole trader. The figures for this period relate to all aspects of the business; namely the bed and breakfast and food and drink aspects. It will be noted, however, that these figures do not include the payment of any Directors' salaries or wages. Even without such payments it will be noted that, over the four years, the net loss/profit ranged from a loss of £3,249 to a profit of £2,977. With an appropriate amount added for salaries/wages there would again have been a substantial loss for each of the four years.

78. During the last four years Mrs Gridley has operated the business with assistance from her husband but, due to very limited takings, their overall income has had to be supported by Mr Gridley working as a builder.
79. The figures relating to bar and food takings over five weekends June/July 2016 are exactly what they say they are. They are the “takings” for food and drink over those five weekends and do not pay any regard to the costs of the “ingredients” of the food and drink, wages and fuel for heating, lighting and cooking. Whilst the takings over the period were £1,081, the profit (if any) would be negligible and, in our opinion, certainly would not justify the time and effort put in by our clients in keeping the public house open during these weekends.
80. There has been criticism that our clients have only opened the public house at weekends and not during the week. We consider such criticism to be unjustified. The attached figures show that, even at weekends, our clients were effectively operating at a loss in respect of the public house element of the business. We would assume that they would attract even less custom/takings if they were to open on weekdays. We contend that no one can be forced to operate at a loss and, if a meaningful profit was being made at weekends, our clients would open on weekdays.

11. RELEVANT APPLICATIONS IN THE RIBBLE VALLEY

81. Whilst we appreciate that all planning applications and appeals are determined on their own merits, we consider that the Inspector should be aware of a number of relatively recent planning permissions by Ribble Valley Borough Council for the change of use of public houses to residential use. Appropriate documents for the cases that we will discuss below are at Appendix 5 of this statement.
82. Under reference 2009/0076 permission was granted in April 2009 for the change of use from Public House to residential (one dwelling) with ancillary bed and breakfast at the **Craven Heifer, Chipping Road, Chaigley, BB7 3LX**. In the Delegated Item File Report (DIFR) for that application, the case officer commented that “it is noted that attempts to run a number of pub/restaurant businesses at this site have been unsuccessful with perhaps the isolated location of the building playing a part.”
83. We consider the same comment and conclusions to be relevant to the Dog and Partridge. Although it is within the settlement of Tosside, it is a very small settlement that certainly does not have sufficient residents to support a viable public house/restaurant. The Dog and Partridge is therefore reliant upon “passing trade” to support this aspect of the business and, in that regard, it is in a more isolated location than the Craven Heifer.

84. Under reference 2012/0356 permission was granted in August 2012 for the redevelopment of the redundant public house and hotel with conference facilities to form 3 private residential properties at the **Moorcock Inn, Slaidburn Road, Waddington, BB7 3AA**.
85. At the time of consideration of that application, the buildings had been un-used since the business had closed in 2010 due to it no longer being commercially viable. The buildings were therefore in a seriously deteriorating condition. As attempts to sell the property for commercial purposes had been unsuccessful, the Council considered the conversion of the main part of the building into three dwellings (with other parts of the building being demolished) to be acceptable.
86. Permission 2012/0356 was not implemented but permission was granted under reference 2014/1119 in May 2015 for the demolition of all buildings on the site and the creation of one (large) dwelling. This more recent permission has also not been implemented.
87. We consider the Moorcock to be an example of a public house/restaurant/hotel in an isolated location becoming commercially unviable and being forced to close. This led to the deterioration of the buildings before permission was granted for the use of the site for solely residential purposes. As the Dog and Partridge is a Listed Building we consider that this appeal should be allowed in order to enable its necessary maintenance.
88. Under reference 2014/0583 permission was granted in September 2014 for the change of use to residential (4 flats) of the **Black Bull Public House, Rimington, BB7 4DS**.
89. In documents submitted with that application it was claimed that the business had been in decline since 2006 and, despite the best efforts of a number of owners, had become unviable and was closed in 2013, for the third time in five years. Attempts to sell the property had been unsuccessful. This included giving the local community the opportunity to purchase the business through its designation as an Asset of Community Value. The Council therefore considered the conversion of the public house into four flats to be acceptable and accordingly granted permission.
90. We would contend that, as Rimington is a much larger village than the small settlement of Tosside, the chances of the Black Bull operating successfully as a public house were considerably greater than the Dog and Partridge. The Council, however, accepted the evidence put forward that, despite the best efforts of a number of different owners/operators, the Black Bull could not be operated as a viable public house and granted planning permission for its conversion to residential use with no retained business use. We consider the circumstances and evidence that we have put forward for the Dog and Partridge to be similar to those of the Black Bull, and we therefore feel that this appeal should be allowed.

91. Under reference 2009/0119 permission was granted for the change of use of land and buildings from restaurant with manager's flat to 1 No dwelling at **The DeTabley Arms, Ribchester Road, Clayton le Dale PR3 3ZQ**. The Council must have accepted that this property (that is in a prominent location between the A59 and Ribchester) was not capable of viable operation as a business and, therefore, granted permission for its residential use with no retained business element.

Under reference 2010/0202 permission was subsequently granted for the change of use and conversion of The DeTabley Arms to form six dwellings. This most recent permission for a more intensive residential conversion has been implemented.

92. Under reference 2016/0815 permission was granted for the change of use from public house with manager's accommodation to form 5 dwellings including side extension and alterations, along with the creation of gardens, garages and parking areas at **The Eagle and Child, Whalley Road, Hurst Green, BB7 9QJ**.
93. The Eagle and Child is a "building of townscape merit" on the main road within the Conservation Area of the Tier 2 Settlement of Hurst Green and is adjoined by a terrace of three dwellings that is designated as a Grade II Listed Building. Policy DMG2 states that development within a Tier 2 Settlement must meet at least one of six stated considerations. Key Statement DS1 states that the total number of houses to be located within Tier 2 Settlements over the plan period is zero such that only housing which meets an identified local need, or where a clear benefit can be demonstrated, will be acceptable in such settlements.
94. The following is a paragraph from the Delegated Item File Report (D.I.F.R) for application 3/2016/0815:

"It is not considered that the proposed development would meet any of the considerations listed within Policy DMG2, however the pub has been vacant since March 2015 and evidence has been submitted with the application to demonstrate that the building has been unsuccessfully marketed and that the continued operation as a Public House is not financially viable. As such there is a legitimate concern that the building will continue to remain vacant and fall into a state of disrepair unless an alternative use can be found."

95. It is also stated in that DIFR that the re-use of a vacant building (designated as a building of Townscape Merit) within the Conservation Area would bring a number of benefits; and that the Council's regeneration officer was also supportive of the proposal to bring the vacant building back into use. These factors contributed to the decision to approve application 3/2016/0815.

96. It is our understanding, however, that the applicant, Mr M Bell, acquired The Eagle and Child when it was vacant with the sole intention of developing it for residential use. He never operated it as a public house but marketed it "To Let" from October 2015 to April 2016. Evidence of the unsuccessful marketing was submitted with the application and this evidence was a factor in the Council's decision to approve the application.
97. With the applications to which this appeal relates we also submitted evidence of unsuccessful marketing and financial information which we considered proved that the continued operation of the public house was not financially viable. We also made the point that, unless permission was granted for the change of use of the public house into a dwelling, the use would cease permanently and The Dog and Partridge, a Listed Building (more important than a building of Townscape Merit) would fall into a state of disrepair. Our applications, however, which sought to prevent a Listed Building from deteriorating in condition, were, of course, refused. We do not consider it appropriate that a building must have to close and consequently deteriorate in condition (as happened at The Moorcock Inn and The Eagle and Child) before permission is granted for an appropriate change of use.
98. We consider that the planning permissions that we have referred to above, are all examples of the Council's acceptance that, despite the best efforts of owners/operators some public house/restaurant businesses have proved to be unviable and the Council has accepted their change of use to residential without a requirement for any business use (with the exception of the small bed and breakfast use at The Craven Heifer). For the reasons that we have put forward in this Statement we consider that the Council's determination of these applications at The Dog and Partridge should have been consistent with the planning permissions that we have referred to above. As the applications were however refused we therefore respectfully suggest that this appeal should be allowed.

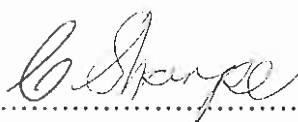
12. SUMMARY AND CONCLUSION

99. Our clients have owned and run the Dog and Partridge since 2003. During this period they have seen customer numbers to the public house continually fall over the years. They have therefore sought, at considerable expense, to diversify the business to take advantage of changed circumstances. Despite their efforts, however, for reasons given in this Statement, their business is no longer viable.
100. The deterioration in the business is symptomatic of the general decline of rural pubs due, amongst other things, to the increased popularity of drinking at home and the smoking ban.
101. The Dog and Partridge is not the only community facility available to the residents of Tosside. Tosside is a very small village and there are very few potential customers within walking distance of the pub. This means that most

customers arrive by car. There is also another pub, The Crowtrees Inn, on the Crowtrees Holiday Park offering drinks, bar meals and restaurant with conspicuous signage advertising that it is open to non-residents. This pub is 1.4km by road from The Dog and Partridge and as such is a realistic alternative venue for local residents. The fact that it is not in the village centre in our opinion is not a relevant factor as most customers arrive by car.

102. Perhaps the greatest challenge to The Dog and Partridge as a community meeting place for villagers or as a venue for meetings of clubs and societies as might be expected to take place in a local pub, is the Tosside Community Hall which opened in 2004. This building has a licensed bar, car parking for 41 cars, a hall capable of accommodating 200 people and a room for 20 people. It also has a catering kitchen, audio visual equipment and high speed broadband and a well-designed, regularly updated website. A list of regular activities published on their website indicates that there are activities at the Community Hall in the daytime and in the evenings. Many of the listed activities would have traditionally occurred in public houses such as games nights, quiz night, whist and dominoes. Tosside Community Hall is a very significant community facility which serves its community well.
103. Around about the same time as the Community Hall was opening our clients were obtaining planning permission for an extension to the building, in order to form bed and breakfast accommodation. This extension has been constructed and provides accommodation to a very high standard. The layout of the bedrooms etc. seeks to attract cyclists visiting the nearby Gisburn Forest Cycle Trails , a visitor attraction which, itself, has received considerable financial investment in recent years. Our clients' advertising of this element of their business also concentrates on this particular potential "market" for their accommodation.
104. Despite their best efforts, however, even this aspect of their business is not as successful as they would have hoped, because cyclists tend to come to Gisburn Forest from relatively local areas (Liverpool, Manchester, Cheshire, Lancashire, Yorkshire) enjoy their day's cycling and drive home.
105. The more recently opened cafe at Gisburn Forest has also impacted upon our clients' business; as has the Old Vicarage Tea Rooms that has been operated since planning permission was granted by Craven District Council in 2012 (72/2012/12376) for the change of use from residential to A3 use to form a tea room and tea garden selling hot and cold lunches and refreshments. Although in the neighbouring Borough, this Tea Room is less than 100m away from the Dog and Partridge. It has also recently been licensed to sell alcohol and would, perhaps, be better described as cafe/bistro than tea rooms. The recently granted licence also means that there are now three premises in Tosside licensed to sell alcohol (plus the nearby Crowtrees Inn).

106. Overall, similar to the other cases referred to above in Section 11 of this Statement, the business has become unviable. We, therefore, request that, as in those cases, this appeal should be allowed such that planning permission (and, in this case, Listed Building Consent) is granted for the use of the whole building for residential purposes in the form of two dwellings.
107. We would respectfully contend that no beneficial purpose has been served by the Council's refusal of these applications as those decisions cannot force our clients to operate an unviable business. The public house is presently closed, but the bed and breakfast use is still in operation. Leaving the main historic part of the building with no viable use would only serve to increase the chances of the Listed Building deteriorating in condition due to lack of finances for necessary maintenance.
108. We consider that we have provided evidence within this Statement and its appendices which proves that the proposed change of use (and minimal alterations to the fabric of the building) would have minimal effects upon both the historic interest of the building and the vitality of the rural economy; and that the benefits of securing the future maintenance of the Listed Building outweigh any minimal harm to those interests that might be alleged.
109. We consider, therefore, that the proposal represents the optimal viable use of the heritage asset and would be appropriate enabling development to secure the future of this heritage asset such that both aspects of the second bullet point of NPPF paragraph 55 will be satisfied.
110. Overall, we consider that the proposal satisfies all the relevant policies and guidance within the Council's adopted Core Strategy and NPPF such that the three reasons for refusal of the two applications are without foundation. We therefore respectfully request that this appeal be allowed.

Signed..........Date.....10 May 2017.....
Colin Sharpe DipTP MRTPI

