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Ms Emily Brookes BSc MSc
Senior Planning Officer
North Team
Development Management
Economy and Environment Herefordshire Council

Dear Ms Brookes,

**Re-Consultation on Planning Application 222734
Proposed 3 bed dwelling and change of use of pub garden at the Old Boot Public House, Wellington**

I write on behalf of Wellington's Community Pub Group, elected to represent a committee of local residents who passionately want our pub back and more than 300 residents who bought shares in our first attempt to buy the pub in 2022.

Our committee writes to further object to the latest correspondence submitted by the applicant's architects Synergy in their report dated 13th April 2023. We would like to comment in order of their points 1 to 6 as follows:

1. Principle of Housing Development at this location

In section 1 of their report it alleges that any development here will not impact upon the public house facility, as the land is not required for the pub's trading needs as '*only a small portion of the garden is required for a sales area*'. That is absolutely not the case. The proposed development will lose approximately 50% of the rear garden all of which has extensively been used over many years as a beer garden for both food and drink sales as well as for events. This is clearly evidenced by the photographs in Appendix 1 accompanying this letter.

The proposed development will also impact upon the use and size of the car park, as access to the house must have a negative impact on the number of car parking spaces. This aspect is covered in more detail in the Highways section 5 part of this letter.

The report makes no mention as to the loss of the garage or any alternative structure to replace it, as the building is essential for the storage of tables, chairs and other equipment. This will have a major negative impact on the business, as the photographs in Appendix 1 clearly show how the stored tables and chairs were frequently used in the many garden events; all of which would need to be stored somewhere else for the business to remain viable. Several of the photographs we provide clearly show that the garden area has been used for far more than 18 covers that the report alleges is the maximum usage. Counting some of the photos showing tables and chairs, we estimate that there have been more than 60 covers in the garden on many occasions each year; these events typically spanning several days over the bank holidays from Easter to August, plus other special events such as wakes, weddings, special birthdays, fun weeks, royal occasions and anniversaries.

It is interesting to read in the report that an un-named '*experienced publican*' suggested to the applicant that the garden could be a burden. This is the exact opposite of the information we have, which was directly obtained from the last pub manager. They had extensive experience of running this facility and tell us that all the use of the garden was crucial to the viability of their business during the warmer spring to autumn months.

As to the land to the front of the pub being used as an alternative to the rear garden, this is very unattractive to us because it would create issues to the amenity of the neighbours opposite. It would also pose risks to children and pets, as it lies adjacent to the busy village road, rather than benefiting from the seclusion and security of the gated and hedged rear garden. Likewise, the ambience at the front is not good as it is noisy, it is open and not private and it remains in the entire shade of the pub all day as it is north facing. We are also concerned about front located seating, as this area is much smaller and situated on steeply sloping land which makes it inaccessible to disabled persons. The land at the front is also used as the main access into the pub and for its waste storage area, again making it unattractive and therefore making a front beer garden far less viable for the business.

We are perplexed as to why the applicant comments that there were only two events in the garden in the last ten years. This was absolutely not the case and perhaps relates to an ill worded Freedom of Information (FOI) request about Temporary Event Notices (TENs). Perhaps the author of the report is not aware that a TEN is not required where there is no amplified music, as the entire garden area already benefits from a licence designating it for alcohol sales under the Licensing Act 2003. It also presumes that the previous ownership over the past 10 years correctly applied for a TEN for bands, which appears not to be the case given our photographic evidence presented in Appendix 1.

I'm afraid that the only thing in section 1 of their report that is accurate or that we welcome is the retention of the conservatory.

So in summary, whereas the applicant maintains that the community facility shall not be lost as a consequence of residential development, in reality this is exactly what will happen and what our local planning policies seek to prevent.

As the proposal removes 50 % of the pub's garden as well as its smoking shelter and garage store, building on the garden will diminish the licensed business's ability to operate. We therefore confirm that this application remains contrary to Herefordshire Council's Core Strategy (CS) policy SC1 and the Wellington Neighbourhood Development Plan (NDP) policies W1 and W8.

2. Design and Impact Upon Conservation Area

The Community Pub Group note that the Council's Historic Building Officer originally objected to the development on the basis of its negative impact upon the Conservation Area. We would not wish to doubt such an expert opinion and therefore do not wish to comment further, other than to agree that this visible village centre location will have a significant impact upon the Wellington Conservation Area. Therefore any housing design and its materials must be of the highest architectural standard given the local vernacular. On this matter you will see in section 3 below that regardless of the merit of any design, we contest that any acoustic fence that will negate the environmental health officer's objection on noise grounds will have to be higher than the first floor windows. We struggle to see how that in itself would not have a negative impact upon the Wellington Conservation Area.

We therefore maintain that the dwelling will not contribute to the established character of the Wellington Conservation Area and that it is therefore contrary to the requirements of CS policy LD4 and SS6.

3. Amenity

The impact of noise upon the adjacent Southbank bungalow is not comparable as there is a very tall and dense evergreen hedge shielding this property, which also does not have first floor windows overlooking the beer garden.

The acoustic fence offered by way of mitigation for the proposed house will not have any impact whatsoever upon the noise sensitive bedrooms as their overlooking windows will be way above this fence line. From the plans submitted it is clear that the upstairs will be where the new occupants will be trying to sleep and would comment that the pub's premises licence grants a terminal hour of 23:00 in the weekdays and 24:00 on the weekends and this cannot be reduced through the planning regime as it was set by the Licensing Act 2003. We would also comment that garden patrons are also permitted by their licence to allow 30 minutes to finish their drinks, meaning noise in the garden until 00:30 on the weekends.

We would further comment that as the consulted planning application concerns a new house, no planning condition could be attached to the public house and its garden to reduce the hours of operation. The concerns over noise are well made in the Environmental Health Officer's objection to the initial application, which still stand in our opinion.

On this matter it is our view that the acoustic fence would need to be to the height of the proposed roof (some 5m and not 2m high) and that there should also be no windows overlooking the garden. However, as mentioned in section 2 above, this will surely have a detrimental impact upon the visual attributes of the proposed house and its setting within the Conservation Area, as fencing of this height would be more in keeping within the setting of an urban motorway.

Again, we have provided ample evidence in Appendix 1 that there have been more than 2 events in the last ten years, with the last pub manager confirming that there were events on most bank holiday weekends from Easter to August, often incorporating the Friday, Saturday and Sunday evenings on each occasion.

Despite the acoustic fence offered and for the reasons stated, we remain of the view that disturbance and statutory noise nuisance will be caused and as such the proposal will be in conflict with CS policies SD1 and SC1 and NDP policies W1 and W5.

4. Impact upon a Community Facility

We strongly object to the applicant's statement in 4.3 of the report about the Old Boot not being viable, as in former ownership the pub has been a destination venue attracting people countywide. In the late 1990s up until the late 2000s it even provided vouchers in a national broadsheet newspaper and won local awards. It was so busy that customers' cars parked all the way down the village street several hundred yards either way.

However, we accept that the market has changed in the past decade or so and that the previous tenants struggled with energy prices and a very high rent. This is why it is absolutely imperative to protect what merits the pub retains for any future business, including its attractive large garden setting.

As to alternative community facilities referred to in the report, the pub should be retained because the nearby 'Social Club' is not a comparable alternative, being a private club which does not provide food and which has no beer real garden. Likewise the Wellington Community Hall is a privately rented facility and is not a licensed venue where the residents can eat and drink, as it is a village hall rented out for private functions only.

We also object to the statement in 4.3 that '*the pub has been marketed and made available for community use without success*' as the community group had raised £264k of the agreed sale price of £275k through shares and donations and only failed to buy the pub as a licensed premises because the previous owner accepted an offer above the one which we had previously agreed. He also gave the community no proper opportunity to consider the option of raising more, instead going for a quick sale to a company that clearly does not intend to operate the premises as a pub.

As we managed to raise 96% of the agreed asking price last time, we are confident that we can raise funds again to the current market value, as we are more rehearsed and have approached other funders since. Our group is therefore poised to make a new offer and has retained significant funding from its previous donations and its fund raising events, such that the market value price can be more easily reached. This of course presumes that we are actually given the opportunity to buy it again at its true current market value as a pub, rather than be offered it with an inflated development

option or offered it with compromised trading viability as a consequence of the loss of land and storage facilities.

As to the applicant's comment in paragraph 4.7 about the community group not accepting the applicant's offer for a loan to buy the residual part of the property after the development of the house, this is because:

- We have our own funds,
- We have the ability to raise additional capital with much more favourable terms, and
- We need the entire garden, its garage and its smoking shelter to make the business work and do not believe that the pub would be viable without these facilities.

We would also comment that paragraph 4.9 can be proven to be misleading given the views of the last pub manager: and that paragraph 4.10 is also incorrect, as the car park will be impacted by the access essential to access the proposed new house.

The report does not acknowledge in paragraph 4.11 the essential role that the garage plays in the viability of the pub, as no alternative outbuilding is being offered to store the equipment, tables and chairs currently stacked within. This underscores the applicant's ignorance as to how the pub was used and what it needs to regain its viability.

The issues raised in the report's paragraphs 4.14 to 4.16 concerning the use of the front of the building as a beer garden are covered in section 1 above, as the community group is aware of the issues that this area would cause. That is the loss of amenity to the opposite houses, the danger of a roadside location to children and pets, its position in the shade, its impact upon the Conservation Area and its sloping/stepped land's inaccessibility for disabled persons and wheelchairs.

Likewise, we have provided extensive photographic evidence in Appendix 1 of how ALL of the beer garden was frequently used to cater for the several hundred residents who attended events, not least the August 2021 Community Pub Music and beer Festival. We have also explained above in section 1 why the report's paragraph 4.18 is incorrect in its assertion that there were only two events in the beer garden in the last 10 years.

The proposed scheme would therefore undermine the operational ability of the public house by reducing the outside trading area from approximately 528.8m² to 157.4m², thereby reducing the venue's ability to seat as many people in the garden and reducing its ability to hold future events which have in the past been crucial to the income of the business.

We therefore remain of the strong view that by constraining the pub's trading space, its commercial viability would be greatly undermined and therefore will become significantly less attractive to a potential buyer wishing to continue its operation as a licensed business. The proposal therefore remains contrary to SC1 of the CS and W8 of the NDP.

5. Highway Impact

The report does not clarify how the proposed property would be accessed and the impact this would have on the pub car parking spaces.

We presume that the applicant will also have to comply with the various statutory standards for visibility splays although will leave that for the highway officer to comment upon.

On the basis that there continues to be inadequate information about the highway aspects of the application it remains unclear to us if the proposal accords with policy MT1 and NDP policy W5.

6. Foul Water and Habitats Regulations Assessment

The housing application lies within the hydrological catchment of the River Lugg which remains in an unfavourable condition due to elevated phosphates. As this is partly caused by housing developments, the proposal must surely be contrary to CS policies SD4 and SD3, with SS1, SS6 and LD2 also applicable.

This is because the application is not supported by any mitigation which will make the phosphate in the foul waste water nutrient neutral nor is it supported by any phosphate credits. On the matter of phosphate credits, you will be aware that this solution will be unlikely for many, many years for this application because of the over demand for credits as a result of a backlog in planning applications going back to 2018.

We therefore object on the basis of CS policies SD4 and SD3.

We would also like to draw your attention to the precedent set by the recent planning appeal at the Rosie (now the Secret Garden) at nearby Holmer (PINS Ref APP/W1850/W/17/3173815). Here there was a very similar planning proposal for a new house in the grounds of the pub, although the planning inspector concluded that the proposal would have a negative impact on the viability of the pub by virtue of the noise and disturbance that the house would suffer. This appeal concerned a house proposed in the car park area of the Rosie, which is much, much further away from their beer garden than that proposed house at Wellington where it overlooks the immediately adjacent garden areas.

On a final note the Community Pub Group would like to reiterate that it still wishes to purchase the Wellington Pub for the community as a licensed premises and is confident that it can raise the funds to do this, provided it is sold at its true current market value. However, given the advice contained within our business valuation report we would not be interested in the purchase of the premises should its secluded garden be halved and a new house built overlooking the garden and its trading area. That would be a major calamity for the community.

I hope that these comments are of assistance in the planning authority's determination of this application.

Yours faithfully

David Wood
Chairman of the Wellington Community Pub Group

Attached – please refer to Appendix 1, providing photographs and a narrative of the beer garden's previous use.