

**WEST OXFORDSHIRE DISTRICT COUNCIL**  
**LOWLANDS PLANNING SUB-COMMITTEE - 14<sup>TH</sup> DECEMBER 2015**  
**UPDATE AS TO PLANNING POSITION AT THE MASON ARMS,**  
**SOUTH LEIGH**  
**REPORT OF THE HEAD OF PLANNING AND STRATEGIC HOUSING**  
**(Contact: Phil Shaw, Tel: (01993) 861687)**

(The report is for information)

**1. PURPOSE**

To update Members as to the current planning position regarding various matters at the site.

**2. RECOMMENDATION**

That Members note the report.

**3. BACKGROUND**

- 3.1. The Mason Arms is the only Public House in South Leigh. It was operational until fairly recently whereupon the pub ceased to trade and the site ownership changed. Members will also be aware from recent press reports and the parallel reports that have been placed before Cabinet regarding the status of the pub as an Asset of Community Value (ACV) that the planning position at the pub has been changing and that this has given rise to considerable community interest. The two matters (ACV and planning position) are essentially separate but given the degree of interest and in the interest of transparency this report has been prepared to seek to clarify the position.
- 3.2. The pub, which is listed, has a series of outbuildings to the rear which are used ancillary to the use of the pub and form part of the planning unit with it. One of these outbuildings was until recently used by the publican as his private accommodation (hereafter referred to as the managers flat) with the first floor space above the pub itself used as letting rooms. The managers flat and the pub were physically linked by a range of buildings incorporating the kitchen and storage areas associated with the pub.
- 3.3. Upon the sale of the pub by the last landlord/owner, a new owner moved into the managers flat. The buildings were still physically linked and an element of caretaking of the pub building was being undertaken by the occupier of the flat. As such it was not clear at that time that a breach of planning control had actually occurred. An application for a Certificate of Lawful use of the managers flat as a separate unit was submitted but was withdrawn shortly after submission.
- 3.4. More recently the site has been physically divided by the erection of a new fenced enclosure dividing the garden and parking space between the two elements, blocking of a connecting doorway that linked the two elements and re use of a different vehicular access to the flat. The pub has also passed into separate ownership distinct from the managers flat. Officers have advised the owner that as a matter of fact and degree this is now sufficient to evidence a sub division of

the planning unit to create a separate dwelling such that a breach of planning control has now occurred, along with a breach in respect of the physical works to create the sub- division.

- 3.5. When officers last visited site the owner had recently moved out of the managers flat such that at present officers have no evidence that there is on-going unauthorised occupation (although clearly this position could change very quickly). The planning agent acting for the owner accepts that there is a breach of planning control and has indicated that an application seeking to regularise the breach will be submitted shortly. This approach is encouraged under the terms of the Councils enforcement policy and officers have advised as to the key issues likely to be of relevance in the determination of any such application - which will need to be determined on its own merits if and when received. In the interim, with the building apparently unoccupied, no immediate planning harms arising from the breach and with an application promised shortly, it is not currently considered expedient to consider the taking of enforcement action until such time as the putative application has been considered and determined in accordance with the timetable agreed with the owners agent.
- 3.6. As regards the pub itself, this is not trading and no other alternate use has commenced. It is in a sound wind and weather proof condition. There are no powers that can force the pub to trade but control can be exercised over alternative uses of the building that of themselves need planning permission. In light of the above there is no breach of planning control associated with the pub in and of itself albeit that it forms part of the planning unit with the ancillary buildings and land where there is a breach. It is also understood that this part of the site is to be put back onto the market as a pub shortly - although upon what terms is yet to be clarified. A meeting has been scheduled with the current owner to seek to better ascertain his intentions. Again therefore in the absence of an identified immediate harm it is not considered expedient to take action at this stage.
- 3.7. Thus in conclusion (and wholly separate from the ACV process) there is an identified planning breach in the physical works and separation of the flat from the remainder of the planning unit. Currently the site is not being occupied, no direct harms are arising from the breach that warrant immediate action and a retrospective application is in the course of preparation which will act as a vehicle to assess the planning merits of the potential subdivision and works undertaken.

#### **4. ALTERNATIVES/OPTIONS**

- 4.1. Members could decide that enforcement action should be taken at this stage. However, in the absence of identified immediate harms arising and with the contravener following the Councils enforcement policy of seeking to regularise matters before formal action is considered this is not considered appropriate. In any event it would require a separate report as matters arising from the Human Rights Act would need to be considered before any formal action could be taken.
- 4.2. Alternatively members could decide to do nothing as regards the breach, but given that the works affect a listed/curtilage listed building and may impact on the longer term viability of the site as a community facility (in planning rather than ACV terms in this context) this is equally not considered appropriate at this stage.

- 4.3. The option of on-going dialogue seeking to ascertain both owners intentions, secure a retrospective application where the merits can be debated and decided upon in an open and transparent manner and with the potential to consider a parallel report for enforcement (should the application be refused) is considered the best means to arrive at an informed decision that balances the community interest with the need to ensure that due process is followed.

## **5. FINANCIAL IMPLICATIONS**

None at this stage.

## **6. RISKS**

None at this stage.

## **7. REASONS**

The Council has a legal duty to preserve and enhance listed buildings and has planning policies that in general terms seek to retain community uses wherever possible.

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Date: 26<sup>th</sup> November, 2015

Background Papers:  
None