

**TOWN AND COUNTRY PLANNING ACT 1990**

**S78 APPEAL**

**STATEMENT OF CASE**

**Change of Us from A4 (Public House) to C3 (Single Dwelling)**

**Site at:**

**The Cabinet  
High Street, Reed  
Royston  
SG8 8AH**

**For:**

**Mr R Newman**

**LPA Ref:**

**16/02113/1**

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*LF/17065\_SoC*

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**The Cabinet, High Street, Reed, Royston, SG8 8AH**

**Appellant's Statement of Case**

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1	Extract of the Minutes of the Planning Control Committee held 20 July 2017.
2	Peter Spelman Viability Report.
3	Miller Assessment Appendix 2

## 1.0 **BACKGROUND**

- 1.1 This Statement of Case (**SoC**) sets out the Appellants' case in support of this appeal, on behalf of Mr R Newman ("the **Appellant**"). The Appellant seeks full planning permission for the change of use of The Cabinet Public House (A4) to a single dwelling (C3), at High Street, Reed, SG8 8AH.
- 1.2 The application was made for the 'change of use from A4 (Public House) to C3 (Single Dwelling)' (the **Development**) and was registered by North Hertfordshire District Council (the **Council**) on 1 September 2016 under ref:16/02113/1 (the **Application**). The statutory period for the determination of the Application was the 27 October 2016. This was further extended to enable additional viability information and work to be undertaken.
- 1.3 The Application was to be reported to the Planning Committee (the **Committee**) on 20 July 2017. The officer's recommendation was the 'unconditional planning permission be granted'. However, Members resolved to refuse the application. The Minutes of the Planning Control Committee at attached at **Appendix 1**.
- 1.4 The Committee voted to refuse the Application contrary to officer's recommendation for the following reason:
- "In the opinion of the Local Planning Authority, the change of use of these premises to residential use would lead to the loss of a valuable community facility, the last public house in the village of Reed. The change of use therefore conflicts with the requirements of Paragraphs 28 and 70 of the National Planning Policy Framework and Policy ETC7 of the North Hertfordshire Submission Local Plan (2011-2031)."*
- 1.5 In accordance with relevant guidance, attached to the appeal form are copies of the application form and the Council's decision notice.

- 1.6 Until 2011 The Cabinet trading as a public house comprised of a bar/reception area, snug bar, main restaurant, catering kitchen, customer toilets and beer cellar, with associated managers accommodation at first floor.
- 1.7 The dominant trade within the last 5yrs of trading prior to closure was food, with an ancillary drinks function.
- 1.8 The property benefited from circa 25 car parking spaces located to the southern side of the property.
- 1.9 The site has been actively marketed since its closure in 2011 by two different Estate Agents and one Auction House. The price guide varied from £495,000 to £350,000.
- 1.10 On the 2 April 2014, the property was listed as an Asset of Community Value following a nomination by the Parish Council.
- 1.11 On the 13 June 2015, the then owners notified the Council of their intention to sell the property, thus triggering the Interim Moratorium Period of 6 weeks.
- 1.12 The Interim Moratorium Period expired on the 23 August 2015 and no interest was made in purchasing the property. Accordingly, the Full Moratorium Period was not triggered. As of the 13 January 2017 the Council listed the property as no longer being protected.
- 1.13 The property proceeded to be sold via a local auction house and was purchased by the Appellant in November 2015.
- 1.14 At the time of purchase the building was in a serious state of deterioration, it was not watertight and had not been subject to any repairs or maintenance since its closure in 2011.

## 2.0 **APPEAL SITE AND SURROUNDINGS**

- 2.1 The appeal property is a two storey, timber clad building located on the east side of the High Street. The building is wide, although relatively shallow in depth, and sits fairly close to the lane frontage, with a car park and rear garden.
- 2.2 There is a change in levels at the front of the property, with steps up and a patio area in front.
- 2.3 To the north and west the property is bounded by residential properties, to the south and east is open space and agricultural land.
- 2.4 There are no retail properties on the High Street, with the street name being exceptionally misleading, as it is not a traditional 'high street' but a quiet rural residential road.

## 3.0 **PROPOSED DEVELOPMENT**

- 3.1 The proposal seeks a retrospective Change of Use from A4 (Public House) to C3 (single residential dwelling).
- 3.2 All alterations are subject to separate listed building consent applications and do not form part of this appeal.
- 3.3 The application was made in full and was supported by a suite of technical reports and documents demonstrating the lack of viability of the use of the property as a public house and compliance with Local Plan policy.
- 3.4 Given the various viability reports undertaken as part of the application process and criticisms made by third parties, a further viability report has been undertaken and is attached at **Appendix 2**.

## 4.0 **RELEVANT PLANNING POLICY**

### **National Policy Guidance**

4.1 The evidence of the Appellant will consider the relevance of the National Planning Policy Framework (NPPF) which was published on 27 March 2017. The NPPF advises that there are three dimensions to sustainable development: economic; social and; environments and that:

*“For decision-taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless:*

- *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
- *Specific policies in this Framework indicate development should be restricted.”*

4.2 The NPPF comprises a number of sections containing policy that are relevant to this planning proposal, namely:

- (i) Section 3: Supporting a Prosperous Rural Economy
- (ii) Section 6: Delivering a Wide Choice of High Quality Homes.
- (iii) Section 8: Promoting Healthy Communities
- (iv) Section 12: Conserving and Enhancing the Historic Environment.

### **Development Plan**

4.3 In this instance, the Development Plan is comprised of the Saved North Hertfordshire District Local Plan No. 2 (1996).

4.4 The LPA have also submitted their emerging Local Plan 2011-2031 to the Planning Inspectorate for consideration, Hearing Sessions commenced on the 13 November 2017. Given the advanced stage of this Plan, it is considered to be a material consideration and given weight, in accordance with the scale set out in Paragraph 216 of the NPPF.

### **Saved North Hertfordshire District Local Plan (1996)**

4.5 The following policies are considered relevant to the consideration of this appeal:

- Policy 6: Rural Areas Beyond the Green Belt.
- Policy 16: Areas of Archaeological Significance and other Archaeological Areas.
- Policy 26: Housing Proposals.
- Policy 55: Car Parking Standards.
- Policy 57: Residential Guidelines and Standards.

### **North Hertfordshire Submission Local Plan 2011-2031**

4.6 There are no specific policies within the adopted Local Plan that deal with the conversion of public houses into residential use. Given the advanced stage of the emerging Local Plan and hearing sessions been planned for November 2017 and January, February & March

2018, it is considered that these emerging policies can be afforded significant weight, in accordance with paragraph 216 of the NPPF.

4.7 The following policies are therefore considered to be relevant to the consideration of this appeal:

4.8 **Policy SP10: Healthy Communities** seeks to provide and maintain healthy, inclusive communities for residents.

4.9 **Policy ETC7: Scattered Local Shops and Services in Towns and Villages** will enable planning permission to be granted for the loss or change of use of any shops, services, or facilities outside the defined retail hierarchy where:

- a) There is another shop, service or facility of a similar use available for customers within a convenient walking distance; and
- b) The proposed replacement use would complement the function and character of the area.

An exception criterion (a) will only be permitted if it can be demonstrated that the unit has remained vacant for a year or more, and documentary and viability evidence has been provided that all reasonable attempts to sell or let the premises for similar uses in that period have failed.

4.10 **Policy HE1: Designated Heritage Assets** enables planning permission to be granted where proposals i) enable the heritage asset to be used in a manner that secures its conservation and preserves its significance; ii) incorporates a palette of materials that make a positive contribution to local character and distinctiveness, where it is appropriate and justified.

4.11 **Policy CGB1: Rural Areas Beyond the Green Belt** seeks to grant planning permission where the development: a) is infill within the built core of a category B village; b) meets a proven local need for community facilities and services or rural housing; c) is strictly necessary for the needs of agriculture or forestry; relates to an existing rural building; d) is a



modest proposal for rural economic development or diversification; or f) would provide land or facilities for outdoor recreation and cemeteries that respect the generally open nature of the rural area.

4.12 **Policy CBG4: Existing Rural Building** states that planning permission for the re-use, replacement or extension of buildings in the Green Belt or Rural Area beyond the Green Belt will be granted where: a) any existing building to be converted does not require major extension or reconstruction; b) the resultant building(s) do not have a materially greater impact on the openness, purposes or general policy aims of the Green Belt or Rural Area beyond the Green Belt than the original building(s); and c) any outbuilding(s) are sited as close as possible to the main building(s) and visually subordinate to them.

4.13 **Policy HC1: Community Facilities** states that the loss of community facilities will only be permitted where it is justified by: i) the provision of replacement facilities, either on site as part of the development proposal or in an alternative appropriate location; ii) showing that there is no local need for the facility or service and that any appropriate alternative community use of the existing premises to meet local need is not required; or, iii) demonstrating that the facility, or any reasonable replacement, is not and will not be viable on that site.

4.14 **Policy D3: Protecting Living Conditions** supports the grant of planning permission for development proposals that do not cause unacceptable harm to living conditions.

#### **Supplementary Planning Documents**

4.15 The following document is also considered to be relevant to the consideration of the appeal:

- o Vehicle Parking at New Development SPD (September 2011)

## 5.0 THE APPELLANT'S CASE

### Reason for Refusal

5.1 The planning application was refused for the following reason:

*"In the opinion of the Local Planning Authority, the change of use of these premises to residential use would lead to the loss of a valuable community facility, the last public house in the village of Reed. The change of use therefore conflicts with the requirements of Paragraphs 28 and 70 of the National Planning Policy Framework and Policy ETC7 of the North Hertfordshire Submission Local Plan (2011-2031)."*

### Comments on the Reason for Refusal

5.2 The reason for refusal cites Paragraph 28 and 70 of the National Planning Policy Framework, along with Policy ETC7 of the emerging Local Plan as justification for the refusal of this proposed change of use.

5.3 Paragraph 28 states the following:

*"28. Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:*

- *support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings;*
- *promote the development and diversification of agricultural and other land-based rural businesses;*
- *support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside.*

*This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres; and*

- *promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.”*

5.4 Paragraph 70 of the NPPF expands on paragraph 28 further. Paragraph 70 states:

*“To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:*

- *plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;*
- *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;*
- *ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community; and*
- *ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.”*

5.5 Policy ETC7 is stated in full at paragraph 4.9 above.

### **Response to Reason for Refusal**

5.9 Policy ETC7 has two criterion to enable a grant of planning permission to be forthcoming for the change of use of any shops, services or facilities outside the defined retail hierarchy:

a) there is another shop, service or facility of a similar use available for customers within a

convenient walking distance; and b) the proposed replacement use would complement the function and character of the area.

- 5.10 For the purposes of this policy, the supporting text advises that a 'convenient walking distance' is up to 800m.
- 5.11 When assessing the proposed change of use against criterion a), albeit closed since 2011, The Cabinet was the only public house within the Village and therefore no alternative provision remains. Policy ETC7 provides an exception to criterion a, stating: *"An exception criterion (a) will only be permitted if it can be demonstrated that the unit has remained vacant for a year or more, and documentary and viability evidence has been provided that all reasonable attempts to sell or let the premises for similar uses in that period have failed."*
- 5.12 The pub closed in 2011, following the departure of Angus Martin, the last tenant. This is an agreed point of fact with both the Local Planning Authority and the third parties. On this basis, the exception clause to Policy ETC7 is therefore applicable.
- 5.13 The application was submitted with a supporting viability assessment undertaken by Steve Culverhouse (dated November 2016). This assessment sought to consider the Cabinet public house as both as a fine dining venue or as a wet-trade only venue. The assessment concluded that the businesses would result in a loss of £67,000 and £24,000 respectively if operating in 2015. These figures were reached on an assumption that the pub was fully equipped and sufficiently set up for use as a public house with bar and catering facilities.
- 5.14 What is known is that, in 2015, when the pub was purchased by the Appellant, the building was in a poor state of repair, in need of roof repairs to prevent leaking and other structural repairs that would have been necessary to make the building wind and water tight following at least 4 years of decay.

- 5.15 The Culverhouse viability assessment does not therefore factor in the additional cost of building renovations and additional investment to make the building fit for purpose and fully operational as a public house.
- 5.16 The LPA instructed Trinity Solutions to independently review the Culverhouse assessment and to consider whether the report adequately deals with the relevant matters regarding options for viability as set out in the CAMRA Public House Viability Test---is the applicant's conclusion fair and reasonable? and is the applicant's conclusion supported by evidence and/or fair and reasonable expert opinion regarding that the business could achieve if operated by a manager? (Trinity Report 12<sup>th</sup> December 2016 page 4)
- 5.17 The Trinity Report concludes that the Culverhouse assessment does not fully address all the matters set out in the CAMRA Public House Viability Test, but does address them adequately with regard to the specific circumstances of The Cabinet and adequately to enable viability to be assessed.
- 5.18 Similarly on matters of viability, the Trinity report considers some of the methodology used in the Culverhouse report lacks veracity, however, the overall conclusion is consistent with the conclusions of the Trinity investment appraisals and is fair and reasonable.
- 5.19 Furthermore, the Trinity report concludes that whilst some of the evidence used and expert opinion expressed in the Culverhouse assessment is of a broad and general nature, it does support the overall conclusion arrived at and is consistent with the evidence used and expert opinion expressed by Trinity.
- 5.20 The Trinity Solutions report concludes that The Cabinet is no longer viable.
- 5.21 A local resident group (Save the Cabinet Action Group (SCAG)) independently instructed Anthony Miller to undertake an independent viability assessment (June 2017) of The Cabinet. Unsurprisingly, this viability report concludes that The Cabinet remains viable, with

an operator running the pub as a traditional real ale outlet and could make a profit in the region of £55,000 per annum after interest on capital has been considered.

- 5.22 Unlike the earlier two reports, this Miller assessment takes no account of the cost of buying the property or the capital spend required to enable the pubic house to re-open and operate. It wrongly assumes The Cabinet is open and trading.
- 5.23 On this basis, the findings of the Miller assessment are flawed and cannot be considered to be a reasonable assessment of viability.
- 5.24 Following a review of the Culverhouse assessment, Mr Miller produced further representations on the matter of viability (26 June 2017). Whilst the report spends much time criticising the Culverhouse assessment, it does take time to add to the earlier viability assessment. There is now an inclusion of a freehold purchase, at a value of £200-£250K and costs of conversion in the region of £125-£175K, with an estimated annual rental from a community tenant of £26,500pa. This would result in a net income of circa £52,000.
- 5.25 Given the criticisms of both the Trinity assessment and the Culverhouse assessment and the difference of opinion between the parties, the Appellant commissioned a fresh viability assessment that seeks to consider all the points raised and consider all the factors to assess the viability of The Cabinet as a public house.
- 5.26 A balanced decision has been reached on the market value of the property as a public house in need of some repair. It is of note that the last marketed price guide for the property was £350K. It is noted that the Trinity report considered the matter of viability based on a purchase price of £375K and lower value of £240K.
- 5.27 At the time of purchase, the building was in a state of dilapidation with extensive works required to both the core fabric, as well as fixtures and fittings to enable the property to be used as a public house. A reasonable value of £175K is assigned for this work. The Trinity

assessment allowed for £150K for this work and the Miller report allowed for between £125-£175K.

- 5.28 In terms of funding the purchase and refurbishment it is assumed a loan will be taken out and that a 4% interest rate would apply. The Spelman assessment assumes a percentage loan, as opposed to a 100% repayment loan. This would equate to an annual cost of £26,568. The Trinity assessment, based on the lower purchase value of £240K and £150K refurbishment loan, assumes an 8% interest rate, equating to a £44,837 annual repayment. The Miller Further Representation suggests a £20,000 annual repayment on a £375K loan (presumably based on a 10 year repayment as per the appendix to the Further Representations).
- 5.29 In order to assess viability, given that the pub is not operating and hasn't been for many years, there is a need to establish what the Fair Maintainable Trade (FMT) for the business would be if it were to re-open. The RICS define FMT as "the level of trade that a reasonably efficient operator would expect to achieve on the assumption that the property is properly equipped, repaired, maintained and decorated". FMP is "the level of profit that a reasonably efficient operator would expect to achieve based on the above assumptions". In 2010, following an appeal, the Rateable Value (RV) was set at £22,750 by the Valuation Office Agency. Both the Spelman assessment, Trinity assessment and Culverhouse assessment agree that this RV would have been based on an estimated turnover of between £200K - £250K. The Miller Further Representations assesses this to be anywhere between £200K - £400K. Please note that turnover figures supplied to the Valuation Office are not available to third parties.
- 5.30 The Spelman assessment has estimated a potential net turnover (FMT) of £260K per annum, the Trinity Assessment estimates an average of £278,500 per annum and the Miller Further Representations estimates £325K per annum.

5.31 In addition to the FMT, regard must be given to the cost of running the business, staffing, cleaning, licenses etc. The Spelman assessment estimates an operating cost of £101,400 per annum, the Trinity assessment estimates a cost of £214, 933 rising per annum. The Miller assessment assumes a cost of £152,500 per annum.

5.32 There are many areas within the assessments where the four consultants are broadly in agreement. However, the areas of dispute are as follows:

- Cost of purchase of the property.
- Cost of loan repayments.
- The estimated FMT and FMP.
- Operational costs.
- Potential profit

I will review each of these in turn.

#### Cost of Purchase of the Property

5.33 The extensive evidence submitted clearly demonstrates that the property was marketed for a lengthy period of time and that the price guide has periodically been re-adjusted downwards to seek to sell the property. The original price in August 2011 was £495,000 and was put to auction in 2015 with a guide price of £350,000.

5.34 The property was not marketed as a dwelling house, but as a public house.

5.35 The value of the property estimated for the purposes of viability of £350K is considered to be fair & reasonable.

5.36 That said, the Trinity assessment undertook two viability assessments, one based on the purchase price of £375K and one based on a lesser purchase value of £240K.



### Cost of Loan Repayments

- 5.37 Both the Trinity assessment, Culverhouse assessment and Spelman assessment have based loan values and returns on the normal lending market. The Miller assessment and Further Representations assume a loan via the Public Loan Works scheme only.
- 5.38 The Public Works Loan scheme, as set out in third representations, is a Government scheme by which Parish Council's can borrow money to buy an asset for the benefit of their parishioners. The loan would be repaid by an annual rent from the purchased property, which would cover both the capital and interest on the loan.
- 5.39 As with any loan, there is a requirement to prove that the money is secured against a profitable business, one that will not fail, one that can service the loan.
- 5.40 The Cabinet is a closed pub, closed for some considerable time, with an inability to re-lease or sell for its lawful purpose in its current state. It has a succession of failed businesses and a large capital spend is required to bring the property back to a reasonable standard before the public house can even open for trade. On this basis alone, this would be a risky loan and difficult to obtain.
- 5.41 Of four independent viability assessments, two conclude that the pub would be completely unviable and return a loss year on year. One concludes that the potential return would be significantly less than 10%, such that it would not be viable for the tenant and only the third party viability assessment shows that after a rental payment of £26,600 a profit of £26,100 would be achieved.
- 5.42 On the reasonable assumption that a public house landlord (often a couple) would expect an annual salary of circa £30,000, a profit of £26,100 for a tenant is unlikely to be sustainable as a business model.

5.43 It should be noted that the Miller assessment is achieved based on a significantly higher FMT than the other three viability assessments. If a lesser FMT is achieved, this profit margin would be reduced.

5.44 At the time of writing, the Parish Council have not secured a Public Works Loan. There have been no formal offers made to the Appellant for the purchase of the property as a public house and as an Asset of Community Value, the property was appropriately advertised via the Local Planning Authority, with no prospective purchaser coming forward.

5.45 The Miller assessment and Further Representations are therefore based on criteria that is too narrow and is only deliverable if reduced loan repayments are achieved via a Public Works Loan.

#### The Estimated FMT

5.46 Three of the viability assessments conclude that the last recorded RV in 2010 would likely be based on an FMT of between £200K and £250K.

5.47 On the basis of this information and given the market conditions, both the Spelman and Trinity assessments assume an FMT of between £260K and £280K at the date of their reports.

5.48 These provide balanced & reasonable estimates based on the size of the settlement, previous evidence and the extent of competition locally, as well as the need to re-establish a business.

5.49 The Miller assessment, at his appendix 2, provides us with a list of RV's for 9 other pubs local to Reed. (**Appendix 3**) Whilst this document provides an RV for The Cabinet, in 2010, as 35,000, this was appealed and reduced to £22,750.

5.50 In 2017, only 3 of the 9 local pubs exceeded the RV of The Cabinet in 2010. With three independent viability experts advising that a RV was likely to give an FMT of between £200K and £250K, it means that most of the local pubs have an FMT of significantly less than this. Only the Fox and Duck at Therfield appears to have a significantly higher turnover.

5.51 Based on Miller's own evidence, a likely FMT of £325K for an unestablished / start up business, within the first or second year, is highly unlikely and is not being achieved in most of the other local pubs.

#### Operational Costs

5.52 Operational costs can vary depending on the success of the business, the nature of people employed (older or younger) and variables such as rates, consumables and charges.

5.53 The Spelman assessment is modest in its assumptions, where as the Trinity assessment is fairly high. The Miller assessment sits comfortably in the middle.

5.54 If the Spelman assessment adopted Miller's estimated operational costs, as an owner occupied pubic house, a loss of £36,743 would result. As a property free of a tie lease, a loss of £37,460 would result. Under management, a loss of £66,743 would result.

5.55 As demonstrated, it doesn't take much for a pubic house to be making a limited profit and a single variable changes making it unprofitable.

5.56 The Miller assessment and Further Representations are overly narrow in their assessment and only consider viability if a Public Works Loan is available, alongside an ambitious FMT. This is not considered to be a realistic viability assessment when consideration is given to the detail, as set out above.

- 5.57 The Culverhouse and Trinity assessments both conclude that the business would be unviable. The Spelman assessment seeks to take a more balanced approach to viability, having regard to the previous assessments, with three variables of a wet/food business being operated. All three variables result in marginal profit being made but well below the expected 10% return on capital employed. With a median approach to operational costs, this marginal profit readily becomes a significant loss.
- 5.58 Similarly, having regard to the RV (2015) of most other local pubs, there is a high likelihood that the more balanced FMT of between £260K and £280, is also ambitious.
- 5.59 As an aside, the Miller Further Representations states that "*the site has sufficient land to enable development of ancillary or compatible other uses such as a farm or convenience shop which the Planning Authority specifically recognises is important and missing from the village.*" This statement fails to recognise the listed status of the property, its location within the conservation area and more importantly its lack of relationship with the core of the settlement. Whilst also failing to identify the lack of parking and the impact such an offer would have on the road. Moreover, the lack of passing trade and further significant investment would likely render such an option, in its own right, unviable.
- 5.60 It is considered that both the Appellants evidence and that of the Council has robustly demonstrated that this property is no longer viable as a public house.
- 5.61 It is worth highlighting that policy ETC7 does not require the Appellant to provide viability evidence in the form provided, but to demonstrate through evidence that the property has been marketed for a sufficient period of time for the sale or lease of the property for its lawful use or for something similar and that the marketing of the property for sale has failed.
- 5.62 The level and nature of marketing of the property has not been disputed, albeit a number of potential lessees/purchasers have not opted to proceed for whatever reason.

- 5.63 Given the property was listed as an Asset of Community Value (ACV) in 2014, additional marketing of the property was also required prior to being sold on the open market.
- 5.64 Notification of the intention to sell the property was served on the Council on the 13 July 2015. The Interim Moratorium Period expired on the 23 August 2015 with no intentions to bid being lodged to the vendor or vendor's agent.
- 5.65 It is therefore considered that the Appeal fully satisfied the exceptions criteria set out in policy ETC7.
- 5.66 Similarly, criterion b) of policy ETC7 has been accepted as satisfied by the Council. The village is predominantly residential and there are residential properties around the public house. The character is therefore predominantly residential and the conversion of the public house into a residential dwelling will only enhance that character. It is certainly not introducing an alien use into the village that would detract from its character or function.
- 5.67 It is therefore considered that criterion b) is duly satisfied.
- 5.68 In recommending approval within the Committee report, the Council's Officers agreed with the assessment made above, that, following an independent review of the evidence submitted by the Appellant, the requirements of Policy ETC7 of the NPPF was duly satisfied.
- 5.69 Paragraph 28 of the NPPF is a 'plan-making' policy, rather than a 'decision-taking' policy, it specifically states "*Planning policies should ...*", this is evident when compared to paragraph 70 of the NPPF, which states "*planning policies and decisions should ...*".
- 5.70 Paragraph 151 of the NPPF states that Local Plans "*should be consistent with the principles and policies set out in this Framework ...*". Given the advanced nature of the emerging Local Plan, it is clear that the Council considers the Plan to be consistent with the NPPF. It is

therefore reasonable to assume that Policy ETC7 is consistent with both Paragraphs 28 and 70 of the NPPF, to assert otherwise, would be accepting that the emerging Local Plan is not sound.

5.71 If Policy ETC7 is consistent with the NPPF, it is therefore reasonable to assume that it is similarly compliant with paragraphs 28 and 70 of the NPPF.

5.72 In considering paragraph 28 and the reason for refusal, it is accepted that the application/appeal does not promote the retention of the public house, however, the property has not been operating as a public house for in excess of 6 years. Previous owners have failed to attract a lessee or buyer for the property as a public house. It is only following the submission of this application have any local residents shown an interest in purchasing the property and running it as a community business. However, they have not sourced funding or provided any evidence to robustly demonstrate that they could run a viable public house.

5.73 To retain this building in its current A4 use class, would not be preserving the public house as a going concern, but would be retaining a vacant, unviable and dilapidated listed building. This is not in the interests of the community or the character and appearance of the area. It certainly isn't the intent behind paragraph 28.

5.74 This is further supported by paragraph 70 of the NPPF, which requires us to "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". In this instance, The Cabinet has not served the community for in excess of 6 years, such that its loss would not impact on the day-to-day functionality of the community.

5.75 It is worth noting that neither paragraph 28 or 70 require any viability evidence to be provided where the loss of a public house is proposed.

5.76 In refusing the application, the Committee failed to have regard to the evidence supporting the application, or the Council's own independent assessment and have failed to provide any information that demonstrates that the continuing use as a public house is likely to be viable. Moreover, they have completely ignored their own emerging Local Plan policy, which they have endorsed for submission.

6.0 **CONCLUSIONS**

- 6.1 The proposed development fully accords with all relevant Development Plan and emerging Local Plan policies and the NPPF, such that there is no justifiable reason for the refusal of this application.
- 6.2 The Appellant went above and beyond the requirements of the Development Plan and emerging Plan, in submitting a viability assessment and funding an independent review of that assessment, which both demonstrated that the reinstatement of the use of the building as a public house is not viable.
- 6.3 The proposed scheme seeks to make the most efficient and effective use of this listed building ensuring its long term retention.
- 6.4 The economic, social and environmental benefits of the proposal weigh in its favour, whilst also representing sustainable development and best use of land, in accordance with the NPPF.
- 6.5 On the basis of the above and details within the application submission, we respectfully request that the appeal is allowed.



**Appendix 1**

Change of use from A4 (Public house) to C3 (single dwelling).

The Senior Planning Officer (AM) introduced the report of the Development and Conservation Manager, supported by a visual presentation consisting of plans, drawings and photographs of the site.

The Senior Planning Officer (AM) advised that she had three updates to the report:

1. An e-mail from Mr Edwin Kilby (Save the Cabinet Action Group) forward to Members on 17 July 2017 containing the following attachments:

- Briefing note from the Save the Cabinet Action Group;
- Further Representations prepared by Anthony Miller dated 26th June 2017;
- Viability Report prepared by Anthony Miller; and
- a letter from Philip Goddard.

2. An e-mail received on the 17 July 2017 from Dale Ingram threatening the Council with Judicial Review Action. She claimed that if the application was determined, it was unreasonable on the basis that the decision taker had failed to take account of a material consideration. Ms Ingram claimed that officers had not taken full account of all information submitted and also stated that the Trinity Solutions Assessment (which was the report prepared by the Council's expert) needed to change its methodology to revise its recommendation from one of commercially unviable to one of commercially viable.

The Senior Planning Officer's response was that officers had received, read, analysed and fully considered all information provided by all parties. As set out in the committee report, the recommendation was fully considered and justified and the allegation that all material had not been considered was unsubstantiated and false. Regarding the methodology used by the Council's expert Mr Lawton at Trinity Solutions, as he was the expert in this field, it was his choice which methodology was acceptable to use. The officers' view was that there was no substance to this Judicial Review threat.

3. An e-mail from local MP, Sir Oliver Heald, who objected to the application. He stated that he had seen the papers provided by the Save the Cabinet Action Group and supported their points.

The Senior Planning Officer (AM) stated that this was a full planning application for the retention of the change of use of The Cabinet Public House to a single dwellinghouse. The fact that this application was retrospective was irrelevant to the consideration of the case. There were two associated listed building applications for the internal works which would be determined at a later date. At present, Members were only being asked to consider the principle of the change of use.

The Senior Planning Officer (AM) explained that The Cabinet last traded as a public house in 2011. It was offered for sale from July 2011 through 2012. The public house was advertised for sale regionally and nationally, which resulted in 27 viewings. Based on the location of the property, its Grade II listed status and the start up costs there was no interest. The property was then sold at Auction in October 2015 and bought by the applicant.

The Senior Planning Officer (AM) commented that, in April 2014, The Cabinet was registered as an

Asset of Community Value by Reed Parish Council. Under the terms of the scheme, in July 2015, the then owner informed NHDC of their intention to sell The Cabinet, and NHDC informed the Parish Council. This gave the Parish Council a six week time period to decide if they wished to buy it. At that time, the Parish Council did not express an interest to purchase The Cabinet.

The Senior Planning Officer (AM) advised that the applicant had submitted a viability statement, prepared by Mr Culverhouse, setting out that based on either a wet trade only or on a combined wet trade and food offer, the public house was not viable. The Council had had this viability report independently assessed by Michael Lawton, from Trinity Solutions, and he had also concluded that The Cabinet was no longer viable. The Council also used Mr Lawton to assess the viability of the Fox and Hounds Public House in Barley in 2015. In that instance, he concluded that the public house was viable. That application was refused and then dismissed at appeal. The Council therefore had no reason to doubt Mr Lawton's expert recommendation that The Cabinet was not viable in this instance.

The Senior Planning Officer (AM) stated that the Save the Cabinet Action Group had been formed, and they had employed the services of Dale Ingram, who had raised objections to the application on their behalf. The objections put forward by the Save the Cabinet Action Group included criticism of the viability reports provided by the applicant and by Mr Lawton, stating that their figures were flawed. In addition, they go on to set out that viability should include both commercial viability and social viability. They gave examples of how public houses could be run on a social enterprise basis, with a low interest loan from the Public Works Board. They were advocating that the Parish Council could apply for such a loan, and that the public house could be run on this basis. Alternatively, they had set out that they had a cash buyer available and that, if bought, it could be run on a low cost not for profit basis for a few years until trade became re-established, if it did. In her view, to advocate that the public house could be run like this, further concluded that the public house could no longer be run on a purely commercial basis and supported the assessment that it was not viable.

The Senior Planning Officer (AM) informed the Committee that the existing Local Plan did not have a policy to seek the retention of public houses within rural communities. The emerging Local Plan had policy ECT7. This policy stated that, if documentary and viability evidence could be provided to show that all reasonable attempts to sell or let the premises had failed, the change of use could be granted. In this instance, the marketing information provided had shown that the public house was unattractive to other commercial operators, before it was sold at Auction.

The Senior Planning Officer (AM) had asked the Council's Principal Strategic Planning Officer whether the term viability within the emerging Local Plan, Policy ETC7, included social viability, or if the term purely related to financial viability. His response was quite lengthy, so it had been tabled for information. In summary, he had concluded that it related to financial viability. Furthermore, he went on to state that the text at Paragraph 5.38 of the emerging Local Plan stated that if a local facility, such as a pub, was listed as an Asset of Community Value (ACV) this could provide additional protection if the owners wished to sell it and that this could be an additional material consideration in the determining of any planning application. He had concluded that the ACV route and the additional protection it gave was the best means of considering social implications and of these being delivered. However, as she had previously mentioned, the Senior Planning Officer (AM) reiterated that the Parish Council had not wished to purchase The Cabinet when they had the opportunity to do so, and in this instance this opportunity, and the desire to run the pub on a social enterprise basis, had been lost.

The Senior Planning Officer (AM) stated that claims had been put forward that there had been offers to buy The Cabinet and to run it as a public house both before it went to auction and afterwards. In her view these claims were irrelevant as they did not change the recommendation that the public house was no longer viable made by the applicant and supported by the Council's expert, Mr Lawton. She therefore recommended that the application be granted planning permission.

Mr Mike Howes (Save The Cabinet Action Group) addressed the Committee in objection to application 16/02113/1.

Mr Howes advised that he and his fellow campaigners were attempting to save The Cabinet, the last pub in the village of Reed. The Committee was being asked to consider a retrospective application for the conversion of The Cabinet, a registered Asset of Community Value, to a house. He asked why was the application retrospective? The Cabinet was a Grade II listed building and was owned by an experienced property developer. He asked Members to draw their own conclusions.

Mr Howes stated that National and Local planning policy provided a presumption in favour of the retention of local services, such as pubs. Local policy provided an exception in certain circumstances and, in order to succeed, the applicant must show two things:

- That the pub is no longer viable; and
- That reasonable attempts to sell or let it have failed.

Mr Howes considered that neither of these tests had been met

As for viability, Mr Howes explained that when NHDC listed The Cabinet as an Asset of Community Value, it was with the express expectation - as required by the Localism Act - that it could continue to serve as a pub. And yet the planning officers had, in their report, failed even to mention much of the robust professional evidence put forward by his Group that there was a viable future for The Cabinet as a pub.

Mr Howes invited the Committee to disregard the conclusions of what he considered to be a shockingly biased report and to determine the matter on the evidence as a whole - not just those parts highlighted by the officers. He asked Members to consider the evidence of:

- the highly successful publican at the Fox and Duck, Ivan Titmuss;
- the chartered surveyor, Anthony Miller; and
- and Philip Goddard, a well-respected local businessman,

all of whom were clear about The Cabinet's viability.

Mr Howes advised that Mr Goddard had even made a cash offer to the applicant to purchase the freehold for continued commercial use as a pub, but was rebuffed. Mr Goddard remained ready to move forward the moment the pub was marketed. Looking at the evidence of the last tenant that, had it not been for misappropriation of funds, The Cabinet would probably still be trading.

Mr Howes commented that the applicant's viability report examined The Cabinet only as a gastropub for fine dining, and as a "wet only" establishment with no food. However, most rural pubs

offered drinks and traditional pub fare - a model that the report ignored. As a result, the report provided no useful evidence on which one could properly judge The Cabinet's viability.

Mr Howes considered that the report by Trinity Solutions assumed that any future owner would be saddled with a substantial mortgage at 8% interest. It was far more likely that a future owner of The Cabinet would be a cash buyer who did not need to borrow, or the community. Putting aside the mortgage, Trinity's other assumptions actually demonstrated that The Cabinet would quickly generate a healthy profit.

Mr Howes stated that Anthony Miller, a leading expert in the field, judged that The Cabinet was clearly viable. He invited Members to consider his two reports and to conclude that lack of viability had not been proved.

In respect of the sale of the building, Mr Howes advised that his Group had submitted evidence demonstrating repeated interest over time in buying or renting The Cabinet as a pub. It was clear that only the previous owners' insistence on an unreasonably high purchase price, coupled with their unwillingness to engage, had led to its continued closure.

In summary, Mr Howes considered that the evidence demonstrated that the factors allowing the planning authority to depart from the presumption in favour of retention of local services such as pubs, had not been proved.

Mr Howes advised that his Group had circulated a list of reasons for refusal to Members. In determining this case, he invited them you to give particular weight to the following three planning law concerns:

- Protecting a Valued Community Asset under the Local Plan and national policy, and protecting its status as a listed building in a conservation area. The special interest and characters of which would be substantially undermined by the loss of the pub use from the building;
- Sustainability considerations, such as the employment opportunities The Cabinet had generated, especially for young people; and
- The promotion of healthy, interactive communities, when this was the last pub in the village.

On behalf of the local community, Mr Howes asked the Committee to please refuse this application.

The Chairman thanked Mr Howes for his presentation.

District Councillor Gerald Morris (Ward Councillor) addressed the Committee in respect of application 16/02113/1 in the role of Member Advocate.

Councillor Morris advised that he was speaking in favour of retaining the Cabinet as the only pub in the village of Reed. There were conflicting studies showing that the pub was viable and not viable. The applicant's study, produce on the insistence of NHDC, stated that a pub which had existed for 400 years was now and forever unviable, when it was known that it had closed because one manager had run it badly and had misappropriated funds, not because it was a poor business.

Councillor Morris considered that the pub's potential customer base had increased in line with the increase in the local population, particularly in Royston and Buntingford. There were many pubs in

quiet, rural locations that were very successful, and a picturesque village location was always one of the attractions of visiting the Cabinet.

Councillor Morris commented that the Planning Officer's conclusion at paragraph 4.4.1 of the report that "this location was no longer commercially viable". He felt that if it had not been viable then the pub would not have lasted for the many centuries of its existence. It had closed because of business irregularities and not because of any long term inability to trade successfully. The report stated that there was a low number of dining covers, but the restaurant seated 52 people, with 14 in the bar area, a total of 66 patrons. The large garden was also used for dining and drinking in the summer months. The pub was also use as a wedding venue.

Councillor Morris stated that paragraph 4.4.1 also criticised the lack of parking. However, the car park was larger than many pubs and there was always the possibility of on-street parking. In any event, many villagers would walk to the pub and it was a destination for rambblers, none of whom would require parking.

Councillor Morris commented that it had no doubt not escaped the applicant's attention that, if granted permission, he could in future apply for a second house on the car park area.

Councillor Morris stated that the Planning Officer had also concluded that the overall loss of the pub to the village would be minimal. He was of the view that the loss of the only pub in the village was not minimal, a view shared by the large number of Reed residents in attendance at the meeting.

Councillor Morris advised that the Planning Officer pointed out in Paragraph 4.4.5 of the report that the applicant may need to be re-housed. So an applicant who had been circumspect with the original information he had provided to the Parish Council, the Planning Officer and Conservation Officer had the lodged a retrospective planning application. It was not certain that the applicant even lived at the property, as he was a company Director of RKN Developments based in Essex. He felt that, as such, the applicant would be perfectly capable of re-housing himself when he sold the pub.

Councillor Morris explained that the Cabinet had remained unsold as the previous owners had overpaid to purchase the property, just prior to the 2008 financial crash. They had been unable to reconcile themselves to accepting prices considerably less than they had paid. That was the reason the property had remained empty, not because of lack of viability. The original owners had hoped that they would be offered in excess of the asking price so that the building could be converted to a house. He advised that an individual had come forward who was prepared to purchase the property for continued use as a pub.

Councillor Morris asked the Committee to refuse planning permission for this proposed change of use.

The Chairman thanked Councillor Morris for his presentation.

Mr Richard Denyer (Applicant's Representative) addressed the Committee in support of application 16/02113/1.

Mr Denyer stated that he was speaking on behalf of Mr Richard Newman, the applicant and owner of the Cabinet since October 2015, for which he was the only bidder at auction.

Mr Denyer questioned whether the continued use of the Cabinet as a public house was commercially viable. He felt that this was not a matter of sentiment, it was a matter of business, and whether the pub would be able to run at a suitable profit so as to be viable. Culverhouse's viability report had concluded that the business would be trading at a loss of over £24,000 per annum in 2015, thus resulting in the business being considered unviable and unsustainable at the present time and in the future. The Trinity Solutions report commissioned by the Local Planning Authority had come to the same conclusion.

Mr Denyer considered that the most sustainable use of the building would be as a dwelling. The community had failed to register any interest in acquiring the property as an Asset of Community Value when the building was advertised for sale. Notwithstanding this, the Culverhouse report on alternative uses had concluded that the provisions within the National Planning Policy Framework and the emerging Policy ETC7 of the North Hertfordshire Local Plan, which only carried limited weight, had been met, and therefore that the application for change of use should be permitted.

Mr Denyer felt that the works to the property already carried out by the applicant were acceptable. The NHDC Conservation Officer and Enforcement Officer were both aware of the works as they were carried out, before and after the applicant had taken possession of the property. The Conservation Officer's advice was that the works were acceptable should change of use be approved.

The Chairman thanked Mr Denyer for his presentation.

The view of the majority of Members was that the application should not be supported, and comments made included the following points:

- the viability of the continued use of the property as a Public House was clearly subjective, and a number of other pubs in the District threatened with closure and change to residential use had continued to operate and thrive;
- Paragraphs 28 and 70 of the National Planning Policy Framework encouraged the development and retention of local services and community facilities in villages, such as pubs, as did emerging Local Plan Policy ETC7;
- notwithstanding the comment in the Trinity Solutions viability report that Reed was a small village with insufficient population for a local pub, when the Cabinet was at its most successful a fair proportion of its trade came from outside the village, including London;
- in respect of other points made in the Trinity Solutions report regarding pavements, lack of street lights, network of narrow roads/lanes and car parking, nothing had changed in this regard from when the pub was operating successfully in the past; and
- although the Trinity Solutions report conclusion that the pub was commercially unviable was at odds with the objectors' viability report, which was based on a social/community enterprise model for operation of the pub, a social enterprise pub in Preston village was operating successfully as a commercial entity.

However, a number of Members were in favour of granting planning permission, and it was therefore moved and seconded that the application be granted. Upon being put to the vote, this motion was lost.

It was moved and seconded that the application be refused for the reason that the change of use of

these premises to residential use would lead to the loss of a valuable community facility, the last public house in the village of Reed. The change of use therefore conflicted with the requirements of Paragraphs 28 and 70 of the National Planning Policy Framework and Policy ETC7 of the North Hertfordshire Submission Local Plan (2011-2031).

Upon this motion being put to the vote, it was

**RESOLVED:** That application 16/02113/1 be REFUSED planning permission for the following reason:

In the opinion of the Local Planning Authority, the change of use of these premises to residential use would lead to the loss of a valuable community facility, the last public house in the village of Reed. The change of use therefore conflicts with the requirements of Paragraphs 28 and 70 of the National Planning Policy Framework and Policy ETC7 of the North Hertfordshire Submission Local Plan (2011-2031).



**Appendix 2**

**The Cabinet  
High Street  
Reed  
Hertfordshire  
SG8 8AH**

**Viability Report on behalf of the Appellant (Mr R Newman)**

**By Peter Spelman B.Sc. FRICS**

**20<sup>th</sup> October 2017**

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## Appendices

- A. CAMRA's Viability Test**
- B. Agents' Marketing Details**
- C. Mullocks Wells Marketing Report dated 4<sup>th</sup> March 2016**
- D. Summary of Pre-Lease Building Survey by Roger Driver MRICS dated 10<sup>th</sup> April 2012**
- E. British Beer & Pub Association—A Guide to Costs of Running a Pub dated July 2017.**

## 1. Instructions & Introduction

1.1. My instructions are to prepare an independent, up to date Viability Report on The Cabinet, Reed. The instructions were confirmed by Barker Parry on 31<sup>st</sup> August 2017. I inspected the property on 19<sup>th</sup> September 2017.

1.2. I have been supplied with the following information:

The Viability Report prepared by Stephen G Culverhouse dated 22<sup>nd</sup> November 2016.

The Asset of Community Value Listing prepared by Stephen G Culverhouse dated 24<sup>th</sup> November 2016.

The Review of the Viability Report of Stephen G Culverhouse prepared by Trinity Solutions Consultancy Ltd dated 12<sup>th</sup> December 2016.

Change of Use Appraisal prepared by Stephen G Culverhouse dated 18<sup>th</sup> April 2017.

The Viability Report by Antony Miller dated 2<sup>nd</sup> June 2017.

Further Representations by Anthony Miller dated 26<sup>th</sup> June 2017.

1.3. I am a Fellow of The Royal Institution of Chartered Surveyors with 29 years' experience as a General Practice Chartered Surveyor. I am the proprietor of Peter Spelman Consultancy Ltd, a niche practice specialising in retail and leisure property. I have worked for Whitbread Property where I was Estates Manager covering the brewer's pub estate in south east England (some 500 pubs) and Vail Williams where I was Partner in charge of retail & leisure agency for 10 years. I have advised a number of local authorities on leisure property matters including Hampshire County Council, Eastbourne Borough Council, North Hertfordshire District Council, Eastleigh Borough Council, Waverley Borough Council, Mid Sussex District Council and Arun District Council.

1.4. I am familiar with the public house market in Hertfordshire and have been buying, selling and valuing pubs in southern England for many years. In recent years, I have provided advice on Viability Reports on The Crown, Alfold, Surrey; The Oak, Ardingly, Sussex; The Woodcock, Hindhead, Surrey; George & Dragon, Erlestoke, Wiltshire; The Owl, Little Cheverell, Wiltshire; The White Lion, Milford, Surrey; The Maiden's Head, Whitwell and Wellingtons in Farnham, Surrey.

1.5. My Review is independent, impartial and unbiased and falls within my expertise, experience and knowledge of the public house market in southern England. It is truthful in fact, honest in opinion and covers all relevant matters. Any assumptions are clearly identified. Sources of third party information are revealed.

- 1.6. My aim is to ascertain whether it is financially feasible / viable to re-open The Cabinet as a public house and to trade The Cabinet as a sustainable pub business. I shall consider numerous factors that affect viability and apply them in turn for the subject property.

## **2. Location**

- 2.1. Reed is a small village with a population of about 310 people located about 3 miles south of Royston. Although the village is located just off the A10, there is no “passing trade” through the village. The village is not a short cut to other villages or towns.
- 2.2. Community facilities in the village include a village hall, a parish church, a primary school and a cricket club with licensed bar. There are no tourist attractions in the village and no outstanding natural features to draw visitors to the area. Day visitors to Reed are rare.
- 2.3. Public transport to the village is limited. There is one bus per hour Mondays to Saturdays and no service on Sundays. The nearest Railway Station is in Royston, 3 miles away.
- 2.4. The Cabinet is located on High Street but one must not be misled by the street name. There are no shops or commercial facilities in Reed’s High Street. The predominant use in High Street has always been and still is residential. There is very little footfall or traffic flow along High Street, a narrow un-lit road with no continuous footpath. One usually thinks of High Street as the commercial centre in a town, a focal point. In Reed, it is difficult to identify the village centre.
- 2.5. The location and characteristics of Reed set the scene for assessing the viability of The Cabinet. This is a quiet village with no connectivity to a large community or settlement. There is little to draw people to the village. There is no reason to visit Reed unless you have friends or family there. For residents of Reed, there are limited facilities and getting round the village on foot is not easy particularly in the darker winter months. The immediate captive market for The Cabinet is therefore limited and there is not much in the village to draw outsiders in.

## **3. Description**

- 3.1. The Cabinet is a Grade 2 Listed building constructed of a timber frame with rendered and weatherboard elevations under a pitched tiled roof. The original property has been extended over the years.
- 3.2. Up to 2011, The Cabinet traded as a pub that comprised of bar / reception area, snug bar (14 covers), main restaurant (52 covers), catering kitchen, customer toilets and beer cellar. At first floor, there was a 2 bed manager’s flat with lounge and bathroom. Outside was a 25 space car park and beer garden.

- 3.3. The property has not traded as a pub since 2011. It has been used as a single dwelling since 2016.
- 3.4. CAMRA's Viability Test (Appendix A) directs one to look at the flexibility of a site to see if other facilities could be incorporated within the pub to improve profitability. In my view, The Cabinet has the space on site and within the building to accommodate additional facilities but there is insufficient demand to make these uses viable.
- 3.5. One also needs to be mindful of the Listed Building status of the building and how that affects the potential to extend or alter the property. The size of the car park and limited street parking also has an impact on the intensity of additional uses.
- 3.6. Let's look at a few potential uses in turn:

**Shop / Farm Shop**

There are no shops in Reed. Whilst a shop would be a "nice to have" facility, there simply isn't the population or passing trade to make a shop or farm shop viable when one considers the cost of staffing, heating, lighting and stocking a shop. The existing convenience stores in the area adequately service the demand.

**Takeaway**

I see no demand in Reed for a takeaway which would need to be staffed & stocked. Encouraging people to eat at home would discourage visits to the pub.

**Café**

If there is demand, offering tea & coffee should be part of any pub business but I would suggest there is insufficient daily demand in Reed to make this profitable.

**Bed & breakfast**

There are no spare rooms at The Cabinet. It only has a 2 bed manager's flat.

**Office**

There are plenty of offices on the market to buy or let in the area. There is no demand for office space in the village.

**Doctor's surgery or Veterinary Practise**

The area is adequately serviced and there is insufficient demand in the village.

**Day nursery**

There are insufficient pre-school children in the area to make this viable.

**Community uses** (library facilities, youth centre, lunch clubs and computer training or other classes).

Yes, there would be a limited demand for these uses but, in my view, insufficient demand generating insufficient turnover and profit to make The Cabinet a sustainable business.

- 3.7. It's not the lack of space at The Cabinet or the potential to extend or expand the facilities that diminishes the "flexibility" of the pub but the lack of demand, the prohibitive cost of providing alternative uses and the existing supply of other facilities in the area that one needs to consider in assessing viability.

#### 4. Local Supply of Pubs & Restaurants / Competition in the Area

- 4.1. The supply of other pubs and catering establishments are important considerations in assessing viability. Other facilities represent competition to The Cabinet as a business but they also present customers with options on where to eat & drink.

There are no fewer than 12 pubs within 3 miles of Reed and about 38 pubs within 6 miles of Reed ([www.pentalocal.uk](http://www.pentalocal.uk)).

Tally Ho, Barkham SG8 8EX (1.4 miles away)

Fox & Duck, Therfield SG8 9PN (1.9 miles away)

Chequers, Barley SG8 8AQ (2.4 miles away)

Countryman, Chipping SG9 0PG (2.6 miles away)

Fox & Hounds, Barley SG8 8HU (2.6 miles away)

Boars Head, Royston SG8 9JU (2.8 miles away)

Green Man, Royston SG8 9JU (3 miles away)

Chequers Hotel, Royston SG8 9AW (3 miles away)

Old Bull, Roston SG8 9AW (3 miles away)

Banyers of Royston SG8 7BZ (3 miles away)

Manor House, Royson SG8 7BT (3 miles away)

Coach & Horses, Royston SG8 5AA (3 miles away)

- 4.2. The 3 pubs that are closest to The Cabinet are Tally Ho, Barkway ([www.tallyho-barkway.co.uk](http://www.tallyho-barkway.co.uk)), Fox & Duck, Therfield ([www.thefoxandduck.co.uk](http://www.thefoxandduck.co.uk)) and Chequers, Barley ([www.chequers.biz](http://www.chequers.biz)). All 3 pubs are well managed, well located in the village, open 6 days per week and offering good food. Parking facilities on site and off site are good and there is no direct competition to each business in the village.

- 4.3. The list above shows two things. Firstly, that there is still plenty of choice in the area for customers looking for pubs, bars and restaurants. This part of Hertfordshire is not an area lacking in catering facilities. One does not have to travel far to find a range of good catering establishments. Customers in the area have a good choice of venues based upon price, offering and quality. Secondly, there is plenty of competition to The Cabinet as a business. The 3 closest pubs to Reed are all well run and well promoted.
- 4.4. Furthermore, the loss of The Cabinet does not mean there are no venues for community meetings in the village. The cricket club ([www.reedcricketclub.co.uk](http://www.reedcricketclub.co.uk)) with its licensed bar, the village hall and school remain options for social gatherings.
- 4.5. The Cabinet closed in 2011, 6 years ago. Former customers will now have gone elsewhere and become “regulars” at one of the other pubs in the area. Anyone re-opening The Cabinet would need to win back customers and build up a fresh client base. This would be a challenge in a village of this size.

## 5. Market Value of The Cabinet

- 5.1. The market value the freehold interest of The Cabinet is an important consideration in assessing viability. Like any investment, the purchaser needs to see a suitable yield / return on investment to justify the initial capital outlay in buying the property.
- 5.2. The RICS definition of market value is “The estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm’s length transaction after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion”.
- 5.3. The Cabinet has been extensively marketed since its closure in 2011. This fact is not in dispute. Copies of the agents’ details are attached (Appendix B). In summary:
  - On the market with Fleurets in October 2007 at asking price of £795,000. Sold to Albanwise.
  - On the market with Davis Coffey Lyons in August 2011 to 2014 at asking price of £495,000.
  - Mullocks Wells were joint agents from July 2011 to January 2014.
  - The asking price was reduced to “offers in excess of £450,000” in November 2012 and £425,000 in April 2013.
  - From January 2012, the marketing offered freehold and leasehold options. Offers were invited for rent on the basis of a 5 year lease.
  - From January 2014 to 2015, Davis Coffey Lyons continued to offer a freehold or leasehold to the market.



--- Mr Goddard made an offer of £380,000 which was acknowledged by Mullocks Wells on 15.07.13. However, the vendor introduced an overage clause of 35% of any uplift in value so the deal did not proceed.

--- Mr I Titmus & Ms V Hyde were in negotiations to take a new lease from Albanwise in 2012 / 2013 but terms were not agreed and the deal fell through.

---Mullocks Wells provided a marketing report (Appendix C) dated 4<sup>th</sup> March 2016 advising of 22 viewings and 6 proposals to buy The Cabinet none of which progressed to completion.

---The property was offered for sale by Auction House on 22<sup>nd</sup> October 2015 at a price guide of £350,000 + and was sold to Mr R Newman on 19<sup>th</sup> November 2015 for £375,000. The auction was well attended with 11 lots on offer.

- 5.4. In my view, The Cabinet was extensively marketed over a 4 year continuous period. The marketing agents circulated sales details, advertised the property in appropriate publications, erected a "For Sale" board at the property and undertook a comprehensive marketing campaign offering the property as a pub or other uses subject to planning on a freehold or leasehold basis. The use of agents specialising in pub sales (Fleurets & Davis Coffey Lyons) as well as a local independent firm specialising in residential & commercial property (Mullocks Wells) shows the property was extensively marketed to all sectors of the market. Had the vendor merely wanted to sell The Cabinet for residential use, they would probably just used a local residential agent.
- 5.5. Plenty of opportunity was given to the local community to buy The Cabinet for pub use but no individual or group offered to buy the property for that use, save for Mr Goddard. Further opportunities for the community to buy The Cabinet arose in 2014 when the property was listed as an Asset of Community Value (ACV) on 2<sup>nd</sup> April 2014.
- 5.6. The intention to sell the pub was registered by vendor with North Hertfordshire District Council on 13<sup>th</sup> July 2015. The community then had 6 weeks to buy the asset expiring on 23<sup>rd</sup> August 2015. However, there was no interest or written request from any local group to buy the pub.
- 5.7. Mr Newman has advised me that no one has approached him formally in writing to buy The Cabinet since he bought the property in November 2015.

- 5.8. At the time of purchase in November 2015, The Cabinet was a pub that had been closed since 2011 requiring complete refurbishment, renovation and decoration if it were to have re-opened as a pub. The price paid (£375,000) at that date would have, in my view, included an element of “hope value”. The RICS definition of hope value is “Any element of open market value of a property in excess of the current use value, reflecting the prospect of some more valuable future use or development. It takes account of the uncertain nature or extent of such prospects, including the time which would elapse before one could expect planning permission to be obtained or any relevant constraints overcome, so as to enable the more valuable use to be implemented”. I therefore believe an element of the price paid for The Cabinet in November 2015 would have reflected the fact that, subject to planning consent, the property would be worth more as a dwelling.
- 5.9. In assessing market value as at today’s date for the purposes of this viability report, I have made the following assumptions:
1. The Cabinet has planning consent solely for pub use (Use Class C4).
  2. The Cabinet could benefit from a permitted change to Use Classes A1, A2 or A3 without the need for planning permission.
  3. The condition of The Cabinet was the same as the date the property was purchased by Mr Newman (see paragraph 6.4), i.e. the improvements undertaken by Mr Newman to create a single dwelling have not been carried out.
  4. The property requires complete refurbishment, renovation and decoration before re-opening as a pub with new fixtures & fittings and a new catering kitchen.
  5. The property is not a going concern. There are no recent trade accounts.
  6. The property has hope value for residential use subject to planning.
- 5.10. Taking account of these factors, I am of the opinion the market value of the freehold interest with vacant possession of The Cabinet is fairly stated at **£350,000 (three hundred and fifty thousand pounds)**. This is the figure I shall use for my Viability Tests later in the Report.
- 5.11. It is no concern to me what the market value of The Cabinet is as a dwelling. The property does not have planning consent for residential use. It is also of no concern to me the price at which Mr Newman may be willing to sell the property. Clearly, a significant sum has been spent on the premises enable it to be brought back into meaningful use and to convert it to a house. For the purposes of this exercise, I am only interested in the property’s value as a closed up pub requiring a capital spend to re-open as a pub.

## 6. Cost of Fitting Out & Re-Opening as a Pub

- 6.1. For the purposes of my viability assessment, I have assumed The Cabinet was in the same condition as at the date the property was purchased by Mr Newman.
- 6.2. We have the benefit of a “Pre-Lease Building Survey” by Roger Driver MRICS dated 10<sup>th</sup> April 2012 prepared for Mr I Titmus and Ms V Hyde who were contemplating taking a lease of The Cabinet at that time. A summary of the Survey & Recommendations is attached (Appendix D).
- 6.3. A further 3.5 years lapsed before The Cabinet was purchased by Mr Newman during which time the pub was vacant and had no doubt deteriorated further.
- 6.4. The main items of works required to re-open The Cabinet as a pub are as follows:

Make the property wind & watertight.

Strengthen internal support timbers (parts of the ceilings were held up by Acrow props).

Replace all rotten window frames.

General overhaul of the rainwater gutters & downpipes.

Replace rotten external joinery particularly soffit boarding.

Damp proof works and re-plastering where appropriate.

New wiring throughout.

New plumbing, heating throughout and a new boiler.

Make good all blocked drains.

A new catering kitchen to comply with health & hygiene requirements

Woodworm treatment where appropriate.

Remove dead & live pigeons from the living accommodation.

Internal & external decoration throughout.

Replace damp or damaged flooring.

New fixtures, fittings and effects.

New beer cooling equipment.

Basic landscaping to tidy up the car park, beer garden and boundary fences / hedges

Health & safety checks prior to opening to the public plus any Listed Building consents and Asbestos Certificates.

- 6.5. In my opinion, the cost of undertaking these works to bring the property up to an acceptable standard to re-open as a pub is fairly stated at **£175,000 (one hundred & seventy five thousand pounds)**. I am not a Building Surveyor but this is a reasonable sum in my opinion based on almost 20 years' experience in the pub property trade.

- 6.6. To determine whether it is hypothetically financially viable to purchase The Cabinet and spend money to bring it up to acceptable standards to re-open as a pub, one has the following costs to consider:

Purchase Price	£350,000
Stamp duty at 3%	£10,500
Legal fees & Land Registry fee	£1,500
Survey on condition of premises	£1,500
Cost of upgrading the property & re-opening as a pub	£175,000
Initial costs of setting up a new company to operate the pub, marketing launch costs & costs of recruiting staff	<u>£10,000</u>
Total cost of re-opening The Cabinet	£548,500
	<b>Say £550,000</b>

## 7. Availability of Funds

- 7.1. A potential purchaser of The Cabinet is likely to have to borrow money to buy the property and undertake the various works prior to re-opening to the public.
- 7.2. This is not a going concern with recent accounts and fixtures and fittings but a closed, vacant pub that has had no money spent on it for many years. Most banks and funders would be very reluctant to lend money secured on such an asset. One must not forget the permitted use is as a pub, not a dwelling so any funding can only be for pub use.
- 7.3. For the purposes of this viability assessment, we need to take into account the cost of finance. I have therefore made the following reasonable assumptions:
- A 60 % loan to value to buy the property.  
i.e. 60% of the value of £350,000 = £210,000 loan.
- A 50% loan for the cost of the building & fitting out works.  
i.e. 50% of the cost of the works of £175,000 = £87,500.
- The Total Loan = £297,500, say £300,000 to include fees.
- A term of 15 years to repay the loan with interest at an interest rate of 4%.
- The balance of the purchase price and building works is funded by cash.
- 7.4. A £300,000 loan over 15 years at 4% equates to a monthly cost of £2,214 or an annual payment of £26,568. This is the figure I have used in my Viability Tests.

- 7.5. There is a scheme called a “Public Works Loan” whereby a Parish Council can borrow money to buy an asset for the benefit of their parishioners. The loan would be paid back by an annual rent that covers the capital & interest of the loan. Grants are also available under a “Community Benefit Scheme” designed to save local pubs. An individual or group of individuals can also buy an asset like The Cabinet under an “Enterprise Investment Scheme” which has tax advantages.
- 7.6. As with any loan, one needs to prove the money has been secured against a profitable business, one that will not fail, one that can service the loan. The recent history of The Cabinet is a closed pub, a succession of failed businesses and a large capital spend to bring the property back to a reasonable standard before the pub has even opened for trade would make this a very risky loan. As you will see from the Viability Tests below, there is too much risk associated with this venture and insufficient trade to generate sufficient operational profits. As such, it is most unlikely anyone will lend money to buy and refurbish The Cabinet for pub use.

## 8. Trade History of The Cabinet

- 8.1. There are no recent business accounts for The Cabinet. There is no reliable information of how the property used to trade. There is no barrelage information. The property has been vacant since 2011. Any trade information is now historic and of little relevance.

This is what we do know:

The Rateable Value (RV) 2005 was £34,000.

The Rateable Value 2010 was £22,750 following an Appeal.

The original 2010 RV was over estimated at £35,000.

There is no 2015 Rateable Value. The property has been de-listed from the Rating List of commercial property.

Fleurets’ details when the property was sold to Albanwise stated a turnover net of vat for the year to 30<sup>th</sup> April 2007 of £485,299 with a gross profit of 59%.

- 8.2. The RV of a pub is assessed by the Valuation Office Agency (VOA) and effectively represents the “Rental Value” of the premises at the “Valuation Date” which is 2 years before the Rating Lists are published. The VOA had the benefit of 3 years accounts which each pub was obliged to submit to assess the RV.
- 8.3. In assessing an RV, it is assumed the property is in a good condition and ready for trade. The RV assumes all fixtures & fittings are in place and any improvements are reflected in the assessment. The 2005 RV would have reflected, for example, the significant capital spend by Paul Bloxham, believed to be approximately £700,000.
- 8.4. The most recent RV of 2010 would suggest to me the VOA assessed the net turnover of The Cabinet at between £200,000 and £250,000.

8.5. The recent history of ownership & occupation of The Cabinet is as follows:

2004	Owned by “celebrity chef”, Paul Bloxham.
2005 (July)	Business sold to & operated by Mr Smith & Mr Hagger.
2007 (October)	Sold to Albanwise Ltd by Fleurets for £795,000, a company that leases out property rather than trades by owner occupation.
2009 (October)	Operated by Angus Martin and Tracey Hale on leasehold basis during which the rent rose to £40,000 per annum. No trading figures are available. The pub was closed within 2 years.
2011	Closed.
2012	Mr Titmus (now the tenant of Fox & Duck, Therfield) was in negotiations with Albanwise Ltd to take a new lease at, I believe, an initial rent of £25,000 per annum. Negotiations proved difficult and when Albanwise tried to introduce a “turnover rent” the deal collapsed.
	Mr Titmus commissioned the Roger Driver Survey.
2015 (November)	Bought by Mr R Newman for £375,000.

## 9. Options for Operating The Cabinet

### 9.1. What are the operating options for The Cabinet?

1. A food led pub whereby food sales are at least 60% of the total sales.
2. A wet led pub where wet sales are at least 60% of total sales.
3. A “gastro pub” with fine dining where food represents 70% to 80% of turnover, the style of operation run by Paul Bloxham.

9.2. The most feasible option in terms of viability is a food led pub. Most country pubs that are successful offer good food. Successful country pubs that rely on wet sales are rare. The size of the local population, the high duty on beer, declining beer volumes, cheaper prices in supermarkets and the fact that customers are unlikely to drive to a wet led country pub leads me to conclude that my viability test should be based on a food led operation.

9.3. A gastro / fine dining operation is difficult to sustain long term. The 2 year period under Paul Bloxham was a bonus for Reed. Converting The Cabinet to an upmarket pub / restaurant with an a la carte menu offering relatively expensive food & wines would be a significant gamble and is probably not what the majority of pub-going residents want in Reed.

### 9.4. What are the options for operating The Cabinet?

1. Owner occupied free house.
2. Freehold ownership by a 3<sup>rd</sup> party with a lease to a tenant on a free of tie basis with the freeholder receiving an annual rent.
3. Freehold ownership by a 3<sup>rd</sup> party with a manager in place on a salary and the freeholder taking profits or losses.

These are 3 legitimate options so I shall run the viability appraisal on each option later in this Report.

We can dismiss partial tie and tied lease options as this is most unlikely to be a pub company owned asset. Experience shows pubs operating under this basis are the least profitable.

## 10 National Trends in the Pub Market

- 10.1. There has been a tremendous change in the public house market in the past 10 years. Ownership is now dominated by a few large pub companies and breweries (e.g. Heineken / Patron Capital---formerly Punch Taverns, Enterprise Inns, Greene King and Mitchells & Butlers) that generally make their money from a combination of rent and the beer tie. The large pub companies like Enterprise Inns and Punch Taverns have been selling off hundreds of non-profitable pubs each year during the past 15 years.
- 10.2. Nationally, beer sales have been declining year on year for about 9 years now. National statistics indicate a 54% decline in on-sales beer volumes between 2002 and 2014 ([www.statistics.gov.uk](http://www.statistics.gov.uk)). Take home sales of cheap alcohol bought from the supermarkets have increased at the expense of pubs. Off-sales mainly from supermarkets increased by 27% during the same period. The smoking ban in 2007 was a further factor contributing to the decline in traditional wet lead outlets in addition to the drink driving laws and above inflation rise in tax on alcohol in the past decade.
- 10.3. There has also been a customer swing towards town and city centre bars on “pub circuits” where a large range of bars, restaurants and leisure facilities are available to suit every taste. Nearby larger towns have a more extensive evening economy built around bars, restaurants and leisure facilities. Customers, particularly the 18 to 30 year old bracket, will now go these towns for their main weekend entertainment. This has had an adverse effect on many rural and community pubs like the subject property.
- 10.4. When customers decide to dine out, they choose carefully where they want to go. It’s not just other pubs that offer competition to The Cabinet but any catering, retail or leisure attractions in the region. The 18 to 30 years age group tend to use pubs less frequently than in the past. Social media in all its forms means that people can communicate far easier now. There is less need to visit ones local pub to catch up with your friends.
- 10.5. According to CAMRA’s website, current estimates are that 21 pubs close per week in the UK. This has been the trend for several years. Many of the pubs that are closing will be unprofitable; some will require capital expenditure which is not readily available; some will be sold for higher, more profitable uses. According to the British Retail Consortium, the sector of the “retail market” currently experiencing the highest rate of annual closures is the pub sector. The British Beer & Pub Association website ([www.beerandpub.com](http://www.beerandpub.com)) shows the UK had 67,800 pubs in 1982 and 50,800 in 2015.

- 10.6. The closure of The Cabinet for non-pub use is merely a reflection of what has been and is happening nationally.

## 11. Hypothetical Profit & Loss Accounts (Viability Tests)

- 11.1. To assess viability, I have used the principles of Fair Maintainable Trade (FMT) and Fair Maintainable Profit (FMP).
- 11.2. The RICS define FMT as “the level of trade that a reasonably efficient operator would expect to achieve on the assumption that the property is properly equipped, repaired, maintained and decorated”. FMP is “the level of profit that a reasonably efficient operator would expect to achieve based on the above assumptions”.
- 11.3. I have kept my calculations simple. One can get too weighed down with detail and jargon. What we are trying to show in a clear, unambiguous way is whether a given level of sales produces sufficient profit to justify the initial cost of buying and fitting out The Cabinet.
- 11.4. My assumptions for each Viability Test:

The Cabinet is operated by a hypothetical and reasonably competent & efficient operator.

The Cabinet is in an acceptable state of repair complying with all health & safety regulations and has a catering kitchen that meets food hygiene standards, and is fully fitted out.

A capital spend of £175,000 is required on the building.

A purchase price of £350,000.

Year 1 costs of Stamp Duty (£10,500), legal fees & Land Registry fees (£1,500), Building Survey (£1,500) and initial costs of setting up a company / enterprise, marketing launch costs and staff recruitment (£10,000). Total = £23,500.

Funds are available for 60% of the purchase price and 50% of the capital works with the balance available in cash.

An annual repayment of £26,568 for the loans to buy the premises and capital spend (paragraph 7.4)

For use of the freeholder’s cash to assist with the purchase of the property & capital spend (a total of £261,000 equating to 40% of the purchase price, 50% of the capital spend and £23,500 Year 1 set up costs), I have assumed an interest rate of 1.5%, a typical savings rate in a UK bank.



Operating costs (wages, heating, lighting, water & drainage utilities, insurance, cleaning, postage, stationary, telephone, travel, adverts, promotions, professional fees, bank charges, sundries and business rates) at 39% of total sales in line with British Beer & Pub Association benchmark data. Wages alone would be about 30% of turnover.

Annual Repairs of £3,500 reflecting the Listed Building Status.

An annual allowance of £2,500 for depreciation of fixtures & fittings.

Food sales represent 60% of total sales.

A free of tie business.

A gross profit (GP) of 59% on food and 55% on wet sales with wines, minerals & spirits accounting for 30% of wet sales in line with industry norms for a food lead country pub.

For the rental option, I have assumed a market rent based upon 12% of the FMT. This is a reasonable assumption for a free of tie food lead pub in private ownership.

- 11.5. I have had regard to The British Beer & Pub Association's "Running a Pub. A guide to Costs for Tied Tenants and Lessees" dated July 2017, a summary of which can be seen in Appendix E. It is a useful guide to the operational costs of running a pub even though it is directed mainly at tenanted operations. For the purposes of my calculations, I have assumed operating costs of 39% of sales.

**Option 1 --- An Owner Occupied Free House****Income (FMT)**

Food sales @ £3,000 per week (average)	£156,000	
Wet sales @ £2,000 per week (average)	<u>£104,000</u>	
Sales		£260,000
Gross profit on food @ 59% of sales	£92,040	
Gross profit on wet sales @ 55% of sales	£57,200	
Total Gross Profit	£149,240	
Add other income (AWP)	<u>£3,000</u>	
Total Gross Profit		£152,240

**Less Costs**

Operating costs @ 39% of total food & drink sales	£101,400	
Repayment of loans to buy the property & capital spend	£26,568	
Interest on owner's capital (cash)	£3,915	
Annual repairs	£3,500	
Depreciation	£2,500	
Total costs		<u>£137,883</u>
Net Profit before tax (FMP)		£14,357

**Say £14,500**

Tax would need to be deducted from this profit.

The initial investment of £550,000 (paragraph 6.6) only produces an operating profit of £14,500 before tax, i.e. a return / yield of 2.6%. In my view, an investor is going to want a 10% return (£55,000 per annum) to justify the initial capital outlay. Even if one tweaks the figures above to show a higher turnover or lower costs, the net profit is a long way off being viable.

## **Option 2 --- A Free of Tie Lease**

### Additional Assumptions:

A third party funds the cost of purchasing the property (£375,000) and capital spend (£175,000).

No cost of borrowing money to the tenant. The freeholder buys and invests in the property with a loan and using their own cash.

An annual rent of £31,200 (about 12% of the FMT).

A full repairing & insuring lease with the tenant being responsible for annual repairs.

The freeholder requires an annual return on their investment (£550,000) of 10%. This is a risky investment. The pub may fail as it has in the past. The tenant / business may fail. There is likely to be no covenant strength in the tenant.

**Option 2---A free of tie lease (continued)****Income (FMT)**

Food sales @ £3,000 per week (average)	£156,000	
Wet sales @ £2,000 per week (average)	<u>£104,000</u>	
Sales		£260,000
Gross profit on food @ 59% of sales	£92,040	
Gross profit on wet sales @ 55% of sales	£57,200	
Total Gross Profit	£149,240	
Add other income (AWP)	<u>£3,000</u>	
Total Gross Profit		£152,240
<b><u>Less Costs</u></b>		
Operating costs @ 39% of total food & drink sales	£101,400	
Annual Rent	£31,200	
Annual repairs	£3,500	
Depreciation	£2,500	
Total costs		<u>£138,600</u>
Net Profit before tax (FMP)		£13,640

**Say £13,500**

Tax would need to be deducted from this profit.

This option generates an operating profit for the tenant of £13,500. In my view, this is insufficient profit for a tenant with say a 5 year lease. It is a low income for all the hard work and hours that go into running a pub.

The initial investment of £550,000 only generates an income (a return on investment / a yield) of £31,200 per annum or a mere 5.7%. In my view, a 10% return / yield is required to justify the initial outlay, i.e. a rent of £55,000 per annum (10% of £550,000). £55,000 per annum is not a sustainable rent. If £55,000 per annum is applied to my Option 2 calculation, there would be an operating loss of (£10,160).

### **Option 3 --- Under Management**

Additional Assumptions:

A third party funds the cost of purchasing the property (£375,000) and capital spend (£175,000).

The costs of the loan and use of owner's cash is with the freeholder.

No annual rent.

A manager's salary of £30,000 per annum.

The full costs of running the business are borne by the freeholder

The freeholder requires an annual return on their investment of 10%.

**Option 3---Under Management (continued)****Income (FMT)**

Food sales @ £3,000 per week (average)	£156,000	
Wet sales @ £2,000 per week (average)	<u>£104,000</u>	
Sales		£260,000
Gross profit on food @ 59% of sales	£92,040	
Gross profit on wet sales @ 55% of sales	£57,200	
Total Gross Profit	£149,240	
Add other income (AWP)	<u>£3,000</u>	
Total Gross Profit		£152,240

**Less Costs**

Operating costs @ 39% of total food & drink sales	£101,400	
Manager's salary	£30,000	
Repayment of loans to buy the property & capital spend	£26,568	
Interest on owner's capital (cash)	£3,915	
Annual repairs	£3,500	
Depreciation	£2,500	
Total costs		<u>£167,883</u>
Net Profit / loss before tax (FMP)		(£15,643)
		<b>Say (£15,500)</b>

This option generates an operating loss of (£15,500) and is therefore an unviable option.

## 11. Conclusions

My conclusions for the Public House Viability Test on The Cabinet are as follows:

- a. Increased competition from supermarkets, heavy taxes on alcohol, higher business rates, the uncertainty over Brexit, competition from other retail & leisure destinations and a lack of finance are just a few reasons why the pubs sector of the economy is suffering at the moment.
- b. The village of Reed is, on balance, too small, lacking in attractions, lacking in businesses, lacking in tourists & day visitors and unconnected with any large settlement to support a sustainable pub business. There is simply not the regular trade to support a village pub.
- c. There are plenty of alternative pubs & restaurants in the area --- There are 12 pubs within 3 miles of Reed and about 38 pubs within 6 miles of Reed. The potential loss of The Cabinet per se does not mean that the local population has nowhere else to go for a drink or meal. There are 3 good pubs within 2.4 miles of Reed.
- d. The property was openly marketed for a period of 4 years. Very little interest was shown in maintaining the pub business. Mr Newman was the only bidder at auction in October 2015.
- e. A substantial capital spend (approximately £175,000) is required on the building to re-open The Cabinet as a pub plus the Year 1 set up costs of £23,500.
- f. Peoples' eating & drinking habits have changed in recent years. When they go out, customers are more selective about where to spend their time and money. People dine in more these days.
- g. Banks are still reluctant to lend money secured against pub premises for purchase, upgrade or re-fit. Any loans on this asset would be risky. Any funder is going to require a high risk rate of return.
- h. Due to the catchment of the local population, other catering establishments in the area, the state of the economy, the condition of The Cabinet and cost of bringing it back to use, national trends and the lack of finance, I am of the opinion, on balance, The Cabinet is no longer an economically viable or sustainable as a pub business.

  
.....  
P J Spelman B.Sc. FRICS

20<sup>th</sup> October 2017

# Appendix A

## CAMRA's Viability Test



# What is CAMRA?

CAMRA, the Campaign for Real Ale, is an independent, voluntary organisation of 175,000 members that campaigns for real ale, cider and perry. CAMRA supports well-run pubs and believes their continued existence plays a crucial role in community life.

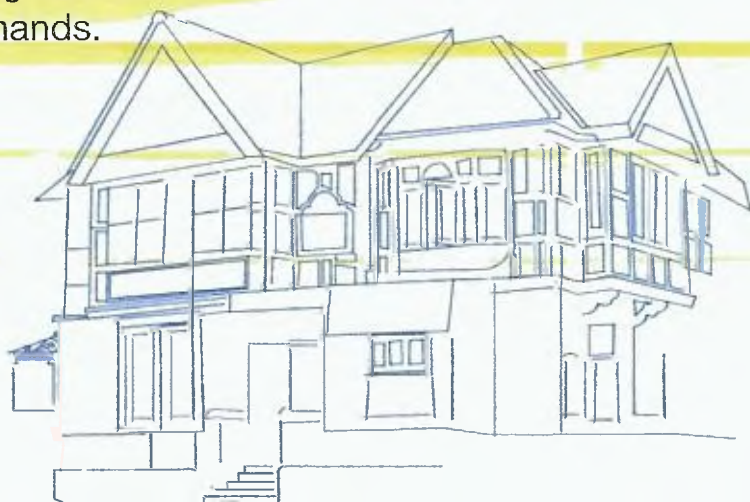
## Introduction

Pubs across England are under threat as never before. Despite both the National Planning Policy Framework (NPPF) and many Local Plans containing pub protection policies, an estimated 29 pubs permanently close every week. In many cases, the owners of these threatened pubs are seeking to convert them to other uses to make a short-term profit at the expense of the interests and needs of the local community.

As campaigners on behalf of British pub-goers, CAMRA sees the protection of public houses as one of its highest priorities. While not all pubs can be saved, too many pubs are being lost even where there is strong local support to keep them. Many of the pubs that have called last orders for the final time could have continued serving their local communities in the right hands.

For local residents and pub campaigners, the planning process is the main opportunity to influence decisions affecting the future of their local pub. With recent legislation to strengthen Assets of Community Value (ACVs), planning permission is now needed before any nominated pub can be demolished or converted to another use, giving local people even more of a say.

Applicants hoping to change the use of a pub will very often claim that the pub is “not viable”, meaning that no licensee could reasonably be expected to make a living from it. The applicants might claim that the area has too many pubs, the premises are too small, the catchment area is not large enough and so on. The local planning authority has to evaluate whether these claims are well founded or not. Below you will find a standard, objective test which will assist planning decision makers to make fair, open and informed judgements on the question of viability.



# The Public House

## Viability Test



To assess the continued viability of a pub business the question to address is what the business could achieve if it were run efficiently by management committed to maximising its success.

### Assessing Trade Potential

#### 1. Local trade

- What is the location of the pub? Is it in a village, suburban area, town centre or isolated countryside?
- What is the catchment area of the pub?
- How many adults live within a one mile radius?
- In rural areas, how many adults live within a ten mile radius?
- Are there any developments planned for the area? Industrial, residential, strategic projects?
- Is there a daytime working population?

#### 2. Customer potential

- Does the pub act as a focus for community activities? Sports teams, social groups, local societies, community meetings etc?
- Is the pub in a well visited/popular location? Is it in a picturesque town or village, on a canal/river side, on a long distance footpath, or on a cycle route?

- Does the pub appeal to those who regularly drive out to pubs?
- Is tourism encouraged in the area?
- Has the pub ever been included in any visitor or tourist guide?

#### 3. Competition

- In rural areas, how many pubs are there within a one mile radius and within a five mile radius?
- In urban areas, how many pubs are there within reasonable walking distance?
- Bearing in mind that people like to have choices, does the pub, by its character, location, design, potentially cater for different groups of people from those of its nearest competitor(s)?
- If not, could the pub be developed to cater for different groups?

#### 4. Flexibility of the site

- Does the pub have unused rooms or outbuildings that could be brought into use? Function rooms, store rooms etc.
- Is the site large enough to allow for building extensions?
- Have planning applications ever been submitted to extend/develop the pub building? If yes, when and what was the outcome?

- If planning consent was not available for building work, is any adjoining land suitable for any other use? Camping facility etc.
- Has the pub been well maintained?

## 5. Parking

- Is there access to appropriate numbers of car parking spaces?
- If not, is there any scope for expansion?

## 6. Public Transport

- Is there a bus stop outside or near the pub and/or a rail station within easy walking distance?
- How frequent and reliable is public transport in the area?
- Has the pub made actual/potential customers aware of any public transport services available to/from it?
- Are there taxi firms in the locality?
- If yes, has the pub entered any favourable agreements with a local taxi firm?

## 7. Multiple Use

- In light of government guidance through the National Planning Policy Framework (see the Appendix) what is the extent of community facilities in the local area – is there a shop, post office, community centre etc?
- If the pub is the sole remaining facility within the area, is there scope for the pub to combine its function with that of a shop, post office or other community use, bed & breakfast or self-catering – especially in tourist areas?

These questions come into play if the application seeks changes which would reduce the size of the pub or convert non-public areas, such as licensee accommodation, to other uses.

- How would the proposals impact on the long-term financial health of the business? Would a smaller pub still be able to attract sufficient trade? Would the smaller size make it less attractive to customers e.g. because there were reduced facilities such as no meeting room, less parking, smaller garden?
- Would any loss of licensee accommodation make the pub less attractive to potential future publicans?
- Are there any successful pubs in neighbouring areas of similar population density?
- What factors are contributing to their success?

Having built up a picture of the business potential of the pub, it may be relevant to question why the pub is not thriving and why the owners are seeking change of use.

- Does the pub management team have local support? Has the team taken steps in the last year or so to try engaging with the local community and has the dialogue affected the way the pub operates?

- Has the pub been managed better in the past? Is there any evidence to support this? Are trading figures available for the last four years and/or from previous management regimes?
- Have there been recent efforts to ensure viability? e.g. has the pub opened regularly and at convenient hours? Conversely, have hours/facilities been reduced?
- Has the focus/theme of the pub changed recently?
- Is the pub taking advantage of the income opportunities offered by serving food? How many times a day is food served? How many times a week? Are catering facilities being optimised?
- Has the rent/repair policy of the owner undermined the viability of the pub?
- Does the pub offer an attractive range of drinks, especially quality real ales?
- Are there any possible unclaimed reliefs? e.g. where rate abatement is not granted automatically but has to be claimed.
- Does the pub promote itself effectively to potential customers? e.g. does it have an eye-catching and informative website?

## 11. The sale

- Where and how often has the pub been advertised for sale? Has it been advertised for at least 12 months? In particular, has the sale been placed with specialist licensed trade and/or local agents?
- Has the pub been offered for sale as a going concern?

- Has the pub been offered at a realistic competitive price? (Information to enable this to be analysed can be obtained from The Publican and Morning Advertiser newspapers and from Fleurets, specialist Chartered Surveyors)
- If yes, how many offers have been received?
- Have any valuations been carried out?
- Has the pub been closed for any length of time? Is it currently closed?
- Does the sale price of the pub, as a business, reflect its recent trading?

## Case studies

In the following cases, the appellant used the issue of nonviability as a reason to convert a pub. However, the Inspector agreed that viability was a relevant and crucial issue and felt that in the right hands the pubs concerned could be a viable business. In reaching this conclusion, the Inspector clearly took the view that an objective assessment could be made about the likely future viability of the pub.

### The Pheasant Inn

Britons Lane, Shropshire WV16 4TA

The owners of The Pheasant Inn wanted to convert it to a private dwelling, claiming it was no longer viable. The Council refused their application because it was the only pub in the village and they felt that the owners had not tried to diversify their business before selling it, such

as by upgrading the food offer, adding a B&B, using space for a village shop or post office, etc. At appeal, the Inspector noted that the small immediate population and lack of public transport were negative factors in terms of viability. However, the pub did have potential to extend and to capitalise on its location in a tourist area. He found that the pub was indeed a valued local facility and could become a viable business in the future. Its loss would therefore conflict with local and national policies on the retention of community facilities.

(ref APP/L3245/A/13/2192177)

## The Crown

Ollands Rd, Reepham NR10 4EJ

The Crown was one of only three pubs in a small Norfolk market town. Its owner applied to convert the pub to residential use but the local planning policy was to refuse such an application unless there was an alternative pub nearby and it had been on the market for a reasonable period of time without any offers. On the first criteria the Inspector observed that while another pub was 600 metres away, it served a different catchment and type of customer. With regards to the second criteria, it was unclear how the asking price had been calculated despite the property having been up for sale for three years. The Inspector felt that the lack of interest in operating the pub as a going concern did not sufficiently show that the business itself was not viable in the short, medium or long-term. Nor did the

information presented demonstrate that no licensee could reasonably be expected to make a living from the enterprise. The proposed development would be inconsistent with both local and national policies on the conversion of pubs.

(ref. APP/K2610/A/13/2196244)

## The Feathers

43 Linhope Street, London

In a residential area of Westminster, London, the owner of The Feathers pub wished to convert it into a house and argued its non-viability. The Council had a policy in place that it would only accept the loss of a pub if it had been on the market for at least 18 months without a buyer. In this case, marketing had been for a much shorter period and the pub had been nominated as an Asset of Community Value by the local community. The Inspector concluded that the viability of the pub remained an open question and that the lack of viability had not been adequately demonstrated for the purpose of the Council's policy. In terms of the NPPF he was not satisfied that the loss of a facility clearly valued by the community could be regarded as 'necessary'. He noted the significant number of other pubs in the surrounding area but each had a different character and function – spatial proximity was not of itself a necessarily reliable guide to the value of the pub or of its contribution to the local area.

(ref APP/X5990/A/14/2215985)

# Conclusions

The Public House Viability Test does not seek to protect the continued existence of each and every pub. Times and circumstances do change and some pubs will find themselves struggling to continue. It does, however, help all concerned in such cases – local authorities, public house owners, public house users and Planning Inspectors – by providing a fact-based method to rigorously scrutinise and test the future viability of a pub against a set of well-accepted measures.

## Appendix - the NPPF

Until recently, national government planning guidance was contained in various Planning Policy Statements which ran to over 1,000 pages. They were replaced in March 2012 by the National Planning Policy Framework (NPPF), which comprises of just 52 pages of mostly high-level guidance. NPPF policies take precedence where there is any conflict with Local Plans and will always be a material consideration in planning decisions.

NPPF Paragraph 70 is especially relevant to planning applications which concern pubs. It requires LPAs to “plan positively for the provision and use of shared space, community

facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments”. It goes on that LPAs must “guard against unnecessary loss of valued facilities where this would reduce the community’s ability to meet its day-to-day needs” and “ensure that established facilities and services....are retained for the benefit of the community.” Note that this policy applies to pubs in all communities, not just rural ones.

Paragraph 7 states that the planning system should create “accessible local services that reflect the community’s needs” while paragraph 17 requires planning to “deliver community and cultural facilities and services to meet local needs”.

Paragraph 28 promotes “the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship”

Paragraph 23 recognises “town centres as the heart of their communities” and instructs LPAs to pursue policies to support their viability and vitality.

### Additional Resources

For additional resources for local councils, please visit <http://www.camra.org.uk/local-councils>

For any queries please contact [planningadvice@camra.org.uk](mailto:planningadvice@camra.org.uk) or call 01727 867 201

# Appendix B

## Agents' Marketing Details

Commercial

The Cabinet, High Street, Reed, Hertfordshire SG8 8AH



GUIDE PRICE £350,000+

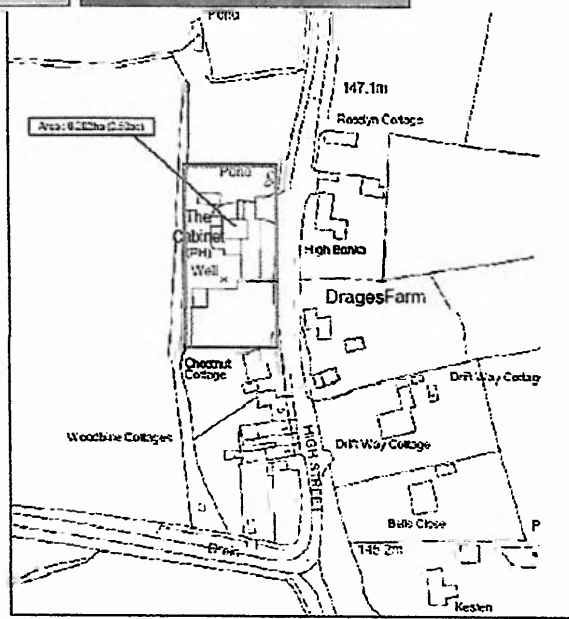
Electrical and Audio Visual equipment



Detached Pub in Desirable Village Location

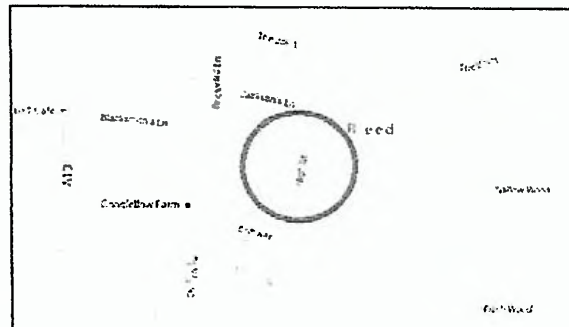
Offered for sale by public Auction is this unique 17th century, Grade II Listed, detached village pub and restaurant. The property could benefit from some modernisation downstairs, with the upstairs living accommodation in need of renovation.

This is a great opportunity to refurbish or convert the existing property, and offers excellent potential to develop (SIPP). The property internally has a good size bar and restaurant area, with doors leading out onto a good sized private garden. Previously, this popular village public house has had an outstanding reputation, with great reviews, and recommended by the Michelin best restaurant guide. This property offers amazing potential to relaunch after having the necessary work has been carried out.



For further information and legal pack go to [www.auctionhouse.uk.net/hertfordshireandwestessex](http://www.auctionhouse.uk.net/hertfordshireandwestessex)


Tenure: Freehold  
 Services: Interested parties are invited to make their own enquiries of the relevant authorities as to the availability of the services.  
 Local Authority: North Herts District Council, 01462 479000  
 Solicitors: Mills & Reeve LLP, Botanic House, 100 High Road, Cambridge CB2 1PH, 01223 364422 Ref: Paula Moran  
 Full Details: Photographs, room dimensions, floor plans and area measurements (when available) are included with our full details online at [www.auctionhouse.uk.net](http://www.auctionhouse.uk.net). All our listed information sets a description of the property and is not to sale's





**APPENDIX 2**

**SOLD AT AUCTION**



[t](#) [f](#) [in](#)  
**01727 453101**

Auction Dates

Property Alerts





Free Valuation Request

Contact Auctions Team

**Sold By Auction | The Cabinet , High Street , Reed, Hertfordshire, SG8 8AH**

Sold £375,000

COMMERCIAL
Lot Image

**Description**   [Map](#)

Offered for sale by public Auction is this unique 17th century, grade two listed, detached village pub and restaurant. The property could benefit from some modernisation downstairs, with the upstairs living accommodation in need of renovation. This is a great opportunity to refurbish or convert the existing property, and offers excellent potential to develop (STPP)

The property internally has a good size bar and restaurant area, with doors leading out onto a good sized private garden. Previously this popular village public house has had an outstanding reputation, with great reviews, and recommended by the Michelin best restaurant guide. This property offers amazing potential to relaunch after having the necessary work carried out.

**Tenure**  
Freehold

**Auction Date**  
Thu 22/10/2015

**Auction Time**  
19.00

**Auction Venue**  
Knebworth Park

**Viewing Times:**  
Wed 23 Sep

**APPENDIX 3**

**DAVIS COFFER LYONS INSTRUCTED AUGUST 2011  
JOINT AGENTS WITH MULLUCKS WELLS**

The screenshot shows the Davis Coffe Lyons website header with navigation links for 'About Us', 'Services', and 'Properties'. Below the header are two buttons: 'Latest Articles' and 'Case Studies'. The main content area features a news article dated '03 August 2011' with the title 'Picturesque Hertfordshire Pub Comes to Market'. The article text describes the sale of 'The Cabinet', a historic Grade II listed public house in Reed, Hertfordshire, for over £435,000. It details the property's features, including private and double bedroom accommodation, a restaurant, and a marquee area.

## APPENDIX 4

### **CABINET, REED - AGENT'S ONLINE SUMMARY**

<http://www.rightmove.co.uk/commercial-property-for-sale/property-38959667.html>

**Mullucks Wells, Commercial**  
The Guild House Water Lane, Bishop's Stortford, CM23 2JZ

July 2011

Commercial information

2,162 sq ft (200 sq m)

Key features

Affluent Catchment Area

Modern Restaurant - 52 Covers

Character Snug Bar - 14 Covers

Additional 62 Outdoor Covers and Extensive Paved Terrace and Lawn

Abundance of Period Features

Large Gravel Car Park

Period Bar/Reception with Open Fireplace

Staff Living Accommodation

EPC Rating D

COM3053.08.11

Full description

**Tenure:** Freehold £495,000

Available freehold, is a substantial Grade II Listed public house, previously operated as a destination dining pub, providing bar and dining space both inside and out, with attractive terraces and grounds. The building retains many character features including quarry tile and brick floors, beams, paneling and an inglenook fireplace. The picturesque rural village of Reed is ideally located a short distance from the A10 between Royston and Buntingford.

## **APPENDIX 5**

Price reduced in November 2012

Mullucks Wells, Bishops Stortford

The Guild House Water Lane, Bishop's Stortford, CM23 2JZ

### **November 2012**

#### **The Cabinet, High Street, Reed, Royston**

Offers in Excess of **£450,000**

#### **Key features**

- Main reception and bar area with open fireplace
- Period dining room
- Modern dining room
- Service area
- 2 bedroom staff accommodation
- Ancillary outbuilding
- Extensive parking

#### **Full description**

**Tenure:** Freehold

**The Cabinet** is the only pub in the delightful village of Reed and is Grade II Listed, considered to be of architectural and historical merit. A timber framed building with rendered elevations under a tiled roof, the oldest part perhaps dates back to the early 17th century, although there have been subsequent extensions including a large dining room. In recent years significant money has been spent, particularly in the kitchen. The Cabinet has been run as a traditional pub serving pub meals but also with a high quality restaurant. Outside, to one side there is an extensive graveled parking area and behind, an outbuilding with storage facilities. In addition, there is an area of lawn, terrace and a barbecue area.

**Agents Note:** There is an overage clause on the grounds and the building. If there is an enhancement in value as a result of residential development in the grounds, or the pub increasing in value through a change of use to a freehold dwelling, for a period of 20 years, the current owners will benefit from 35% of the uplift in value.

<http://www.rightmove.co.uk/commercial-property-for-sale/property-19614915.html>

**APPENDIX 6**

Hotels  
Restaurants  
Pubs  
Leisure

**Fleurets**  
a fresh approach

For details of properties for sale or to let nationwide visit [fleurets.com](http://fleurets.com)

**Cabinet**

High Street, Reed, Royston, Hertfordshire SG8 8AH

**£795,000**

Freehold, Near Royston  
48 Cover Restaurant Area and Marquee Space  
Net T/O Year End April 07 £485,229 - (ex VAT)  
Idyllic Hertfordshire Village Location / Award Winning Venue  
Civil Wedding Licence / [www.thecabinetatreed.co.uk](http://www.thecabinetatreed.co.uk)  
**FREEHOLD & CONTENTS**

**JOINT SELLING RIGHTS**  
REF: LS-714511

**VIEWING**

Strictly by appointment only through Fleurets London office.  
An initial discreet viewing on a customer basis is highly recommended.

**LOCATION**

Situated in the affluent picturesque Hertfordshire village of Reed, located on High Street which is a residential location. Reed is 2 miles from Buckland and approximately 3.5 miles from Royston and positioned within 1/2 mile of the busy A10.

**DESCRIPTION**

A 16th Century two storey detached property, under a pitch and tiled roof with single storey pitch roof extensions to sides and rear. The property is timber clad and painted white with floral hanging baskets and period wall lights. The property has a Grade 2 Listing. External patio seating to front with traditional picnic benches. Shingle car park to side with space for circa 25 vehicles. Extensive trade garden to side and rear. Water feature under willow tree with bridge and decking. Rear patio seating area with space for circa 26 covers. External bar servery. Storage shed to car park of timber construction.

**CABINET NEAR ROYSTON****NOTE**

Discussions have taken place on an informal basis with the relevant authorities in respect of development works at the property. The works include an extension to the side of the kitchen area and the development of the storage barn in the car park into overnight suites. The authorities indicated that they may look sympathetically upon such applications, subject to acceptable designs, formal planning and listed building consent.

**OFFER DESCRIPTION**

The Cabinet is currently trading as a high quality food outlet and has won a number of prestigious awards including the 2006 Remy Martin Award as Best Regional Newcomer to the Restaurant Scene, and has recently been granted for the consecutive year running the 'One Rosette' status from the AA. The Cabinet is also recommended in the Egon Ronay and Michelin 2006 Restaurant Guides.

**TRADE**

Our clients have provided accounts which show turnover for the 12 months to year end 30 April 2007 as £485,229 exclusive of VAT. The business generated a 59% gross profit margin for this period.

Further trading accounts will be provided to bona fide purchasers after a formal viewing.

**ACCOMMODATION****PUBLIC BAR**

A traditional style public bar with quarry tiled floors and part panelled and painted walls. Feature Inglenook fireplace. Steps up to carpeted trade area. Timber bar servery with painted panelled back bar with wine and spirit display shelves.

**SNUG BAR**

Brick floors, panelled walls to dado level and painted walls and traditional timber furniture. Space for approximately 14 covers. This area is often used for private functions.

**RESTAURANT**

Restaurant to side with part exposed beamed ceiling, painted walls with wall lights and timber floor. Space for circa 52 covers.

Marquee area with space for approximately 36 covers.

Ladies and gents toilets.

**TRADE KITCHEN**

Quarry tiled flooring and tiled walls. Stainless steel equipment and workbenches. Washing up area.

**UPLAND CELLAR**

Located to the side of the building. Bottle store.

**PROPERTY DESCRIPTION**

Lounge, double bedroom, single bedroom, bathroom and a W/C.

**TERMS**

Freehold.

**LICENCES**

The Cabinet holds a Civil Wedding Licence

A Premises Licence prevails, the main licensable activities being:-

Sale by Retail of Alcohol, the following times apply:-

Monday - Thursday - 10am - 12midnight

Friday-Saturday - 10am - 1am

Sunday 12pm - 12midnight

Late Night Refreshment, the following times apply:

Sunday-Thursday - 11pm - 12midnight

Friday-Saturday - 11pm - 1am

**RATES**

The property is in the area administered by North Hertfordshire District Council and the rateable value is £34,000.00 with the rates payable of £10,001.04 (with effect from 1 April 2007).

**SERVICES**

We are advised that the property benefits from all mains services and has an oil fired central heating system and LPG for cooking.

**FINANCE**

For further information on financing your acquisition and/or guidance on your ability to raise funds for acquisition, please contact your local Fleurets office.

For further information please contact: Andy Frisby or Tomas Bowen-Perkins at our London office on 020 7280 4700 or email [londonsales@fleurets.com](mailto:londonsales@fleurets.com)

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# Appendix C

**Mullocks Wells Marketing Report dated 4<sup>th</sup> March 2016**

## Appendix 2 -- Agent's Marketing Report



MullucksWells

Mr R Newman  
17 Ivy Chimneys  
Epping  
Essex CM16 4EL

4 March 2016

Dear Richard

**Re: The Cabinet, Reed**

I refer to our recent telephone conversation and understand that you have recently acquired and refurbished The Cabinet at Reed.

As you know, Mullucks Wells were involved in the marketing of the premises seeking either a sale or a letting as a public house along with our joint agents Davis Coffey Lyons. Our marketing commenced in July 2011, and came to an end in January 2014.

I understand that you are exploring various uses for the public house, and have asked that we provide a report setting out the marketing undertaken during our period of instruction, and I set this out below.

#### INSTRUCTIONS

Mullucks Wells were instructed to act as joint agents in the marketing of the Cabinet, Reed, alongside Davies Coffey Lyons in July 2011.

The property was initially offered for sale, seeking offers in excess of £495,000. Instructions were received to offer the property to let as well as for sale in January 2012, to widen the potential of achieving a transaction.

Initially the property was offered to pub/restaurant occupiers, again however to increase the potential pool of occupiers, the property was also offered to alternative users such as D1 nursery or medical uses, and B1 offices. Any occupier considering the building for a non-public house use was advised to speak to the local authority to discuss whether their use would be acceptable.

The Guild House, Water Lane, Bishop's Stortford, Herts CM23 2JZ

T: 01279 755 400 F: 01279 757 377 E: mullucks@mullucks.co.uk www.mullucks.co.uk

Directors: R.J.S. Roberts FRICS - W.R. Wells FNAEA - D.J. Emberson FNAEA - D. Galati - J. Wilson FNAEA MARLA  
Associates: Debra Roberts BSc MRICS Consultant: TM Trembath FRICS FAAY

MW East Anglia Limited trading as Mullucks Wells Registered in England No. 489 4057

Registered Office: The Guild House, Water Lane, Bishop's Stortford, Herts CM23 2JZ

Bishop's Stortford - Saffron Walden - Great Dunmow - Epping - Mayfair







## MullucksWells

### MARKETING

An A3 marketing brochure was produced giving details of the accommodation and terms of sale, and a "for sale" board was erected within the grounds fronting the High Street. This brochure forwarded to parties on our commercial mailing list seeking A3/A4 premises, and distributed via Perfect Information Property to Agents based in London, East Anglia and the South East, and via the Estate Agents Clearing House email system.

The property was listed on our Mullucks Wells website, as well as Rightmove and Focus CoStar, with particulars available to download.

During the period of marketing, The Cabinet appeared in 14 adverts in local newspapers including the Herts & Essex Observer, Mercury, Cambridge News and Property Mart, which received no response.

### PRICE

As mentioned, The Cabinet was initially offered for sale at offers in excess of £495,000.

The quoting terms were altered a number of time during the marketing, including price reductions in November 2012, and April 2013 to £450,000 and £425,000 respectively, each subject to an overage agreement.

The property was offered to let on a full repairing and insuring lease, for a minimum term of 5 years. Offers were invited for the rent, and incentives such as a reduced initial rent to assist with decoration would be considered.

### INTEREST RECEIVED

As a result of the marketing undertaken, Mullucks Wells undertook 27 viewings with various parties including agents for a pub group, developers and restaurateurs. These viewings resulted in further discussions as:

- |               |  |
|---------------|--|
| Kier          | Offer made subject to change of use to residential. Rejected.  |
| Titmus        | Lease proposal discussed but unable to agree terms due to short term commitment and covenant strength. |
| Everard Cole  | Interest from pub group company, unable to agree terms despite numerous attempts.                      |
| Galvin/Scott  | Unable to agree leasehold terms.   |
| Carte Blanche | Agreed sale, solicitors instructed however purchaser failed to progress. Transaction aborted.          |



## MullucksWells

Tait                      Subject to change of use to residential. Rejected.

As you can see a number of attempts were made at selling or letting the property to restaurant and public house uses without success. These transactions failed for a variety of reasons.

### SUMMARY

The property had been offered for sale or to let as a commercial entity since July 2011. A range of occupiers have considered the property, including alternative uses and residential developers, or residential owner/occupiers. The majority of those who have viewed have found the location and restrictions of the building and its Listed status too challenging when considering their start up costs and projected income.

Mullucks Wells withdrew from the property for a variety of reasons, and we understand that the property remained for sale. We also understand that the property is now registered as an Asset of Community Value.

I trust the above gives sufficient information regarding the marketing undertaken for the property and a history of the interest received.

If you do require any further information then please do not hesitate to contact me.

Yours sincerely

**Kirstine Watkins**  
01279 756644  
kwatkins@mullucks.co.uk

# **Appendix D**

## **Summary of Pre-Lease Building Survey**

**by Roger Driver MRICS dated 10<sup>th</sup> April 2012**

***A PRE-LEASE  
BUILDING SURVEY  
OF  
The Cabinet  
High Street  
Reed  
Nr Royston  
Hertfordshire  
SG8 8AH***

***Prepared upon the instructions of  
Mr I Titmus and Ms V Hyde***

should devise a plan for remedial work to ensure that the system is properly functional prior to signing the lease.

### ***Environmental Issues and Hazardous Materials***

I am not aware of any adverse environmental issues in the vicinity that are likely to affect the property. Your pre-lease enquiries should be carried out to ensure that an appropriate environmental search is carried out so that you may be apprised of all circumstances that prevail. It would be appropriate to endeavour to ascertain the source of water for the pond and ascertain the direction of any overflow or discharge there from. It is likely to be down at street level and thus well away from the buildings themselves.

It is now a responsibility of a building owner to have prepared an asbestos survey of the premises and if any asbestos bearing materials have been identified then a means of managing the same should be developed and adopted. The Landlord should be asked to provide such information. Depending upon the content one can make judgement as to the type and location of any such materials and assess the risks associated therewith.

### **SUMMARY AND RECOMMENDATIONS**

This is an appealing public house within a quiet area of the village and in a promising catchment area for trade. However, the premises have been closed for some time and as a result of neglect and minimal maintenance work for some considerable time have continued to deteriorate. The principal areas that ought to receive attention include:-

- Repairs to the lower section of the front roof slope to the main building.
- General overhaul of the rainwater gutters and downpipes.
- Re-tiling the lower section of the rear roof slope to the main building.
- Comprehensive overhaul of external joinery replacing soft and decayed timber and leaving window frames fully operational.
- External redecoration.
- Thorough test of all service facilities including the electrical installation, plumbing/heating/hot water and waste drainage.
- Treat the timbers as appropriate for continuing infestation.

- Re-arrange, enhance and improve thermal insulation and pipe lagging in exposed roof areas.
- Attend to health and hygiene requirements in the kitchen facilities.
- Improve atmospheric and environment management of the cellar/bottle store.
- Acquire details of all listed building approvals and consents, ascertain that no significant alterations have been accomplished without the same.
- Obtain appropriate documents to comply with asbestos at work regulations. Servicing of facilities including alarms, fire detection and electrical installations.

In ideal circumstances the building should be presented as being 'in condition and repair' prior to the commencement of the lease such that there would be no cause for a Landlord to consider serving notice of dilapidation. One should not overlook the prospect of taking the premises in their present condition and immediately being liable to 'put' the premises into a condition that would comply with the repairing obligations contained in the lease. It is considered that it would be inequitable for the lease to be entered into with premises in their existing condition without some significant measure of compensation that would enable the tenant to put the premises into the expected condition without penalty.

Circumstances are such in the pub trade that it is unlikely that there are a host of prospective operators wishing to take on premises of this type that have been closed for some time and where any prospect of deriving goodwill from a previous trade has evaporated. Bearing in mind the comparatively short length of lease proposed and the likely onerous covenants contained, one should be extremely wary and cautious to recognise the investment in time and effort (to say nothing of cost) that would become involved to bring the premises up to an appropriate condition as envisaged by a full repairing lease and to established a viable trade.

I would suggest that quotations are obtained from competent local contractors to quantify the cost of the foregoing works required. Only then would one be in a position to evaluate the prospects for the business and be able to renegotiate the Heads of Terms so as to reflect the real costs that will be incurred to bring the premises into a condition that will comply with the terms of the proposed lease and correct any equitable imbalance that exists.

For fire insurance purposes it is calculated that the premises extend to a gross external area in the order of 267m<sup>2</sup>. It is recommended that the sum of £520,000 *five hundred and twenty thousand pounds* be taken to cover reinstatement for fire insurance purposes. The landlord proposes to maintain insurance but to recharge the premium to the tenant.

# Appendix E

## British Beer & Pub Association

### A Guide to Costs of Running a Pub dated July 2017

# Running a pub

A guide to costs for tied tenants and lessees  
July 2017





# Rural character

c. £5k turnover per week

All figures exclusive of VAT

£		
Total drinks sales	3,082	
Total food sales	2,847	
<b>Total sales</b>	<b>5,929</b>	
Cost of drinks	1,371	
Cost of food	1,087	
<b>Total cost</b>	<b>2,458</b>	
<b>Gross profit</b>	<b>3,471</b>	<b>58.5%</b> gross profit margin
		<b>% cost to turnover</b>
Wages & salaries	1,327	22.4%
Rates	192	3.2%
Utilities	285	4.8%
Repairs & renewals	94	1.6%
Insurance	42	0.7%
Marketing/Promotion/Telephone	80	1.4%
Consumables	36	0.6%
Waste Disposal/Cleaning/Hygiene	56	1.0%
Professional fees	82	1.4%
Bank charges	50	0.8%
Equipment hire etc	29	0.5%
Interest on capital	31	0.5%
Other costs	83	1.4%
<b>Total operating costs</b>	<b>2,387</b>	<b>40.3%</b>
Divisible balance	1,084	18.3%

## Notes

Figures show average for all pubs reported in this category. Figures are presented exclusive of VAT.

A manager/assistant manager salary, Pay TV and gaming machines are NOT included in the above model – extra income/cost lines must be added if these will form part of your pub business. Rates are not necessarily subject to applicable reliefs – check with your pub company/brewery as to what discounts may be available.

Where these figures are to be used in preparing business plans or for other purposes it should be borne in mind that all pubs are unique and that the actual costs incurred will be dependent on the different aims and styles of the business according to the location, the market and the skills of the tenant/lessee.

Costs do vary across the country and the size of the business, as well as its focus, will have significant impacts on costs.

# Summary table (% costs)

All figures exclusive of VAT

	COMMUNITY WET LED (100% wet) c.£4,000/week (ex. VAT)		COMMUNITY WET LED (90-10) c.£5,000/week (ex. VAT)		COMMUNITY WET LED (90-10) c.£8,000/week (ex. VAT)		COMMUNITY WET LED LOCAL (90-10) c.£15,000/week (ex. VAT)	
	Min OC	Max OC	Min OC	Max OC	Min OC	Max OC	Min OC	Max OC
Wages & Salaries	11.7%	14.0%	13.0%	21.9%	15.2%	17.4%	20.0%	28.4%
Rates	3.7%	5.3%	4.0%	3.2%	5.0%	5.4%	4.0%	4.3%
Utilities	4.8%	5.5%	4.3%	5.7%	3.3%	3.0%	2.9%	5.0%
Repairs & Renewals	1.4%	0.4%	1.3%	1.1%	1.0%	1.3%	0.9%	1.8%
Insurance	0.8%	0.8%	0.7%	0.7%	0.5%	0.4%	0.2%	0.5%
Marketing/Promotion/Telephone	0.9%	4.2%	0.9%	4.0%	0.3%	3.9%	0.4%	2.5%
Consumables	1.4%	0.0%	1.3%	0.4%	1.0%	0.5%	0.5%	0.0%
Waste Disposal/Cleaning/Hygiene	0.6%	0.7%	0.6%	1.6%	0.6%	0.8%	0.7%	0.8%
Professional fees	1.2%	1.8%	1.2%	1.1%	1.0%	1.0%	0.9%	0.9%
Bank charges	0.5%	0.4%	0.7%	0.6%	0.5%	0.9%	0.4%	0.8%
Equipment Hire etc	0.3%	0.0%	0.3%	0.0%	0.3%	0.3%	0.2%	0.4%
Interest on capital	0.0%	0.2%	0.0%	0.7%	0.9%	0.3%	0.7%	0.3%
Pay TV (Sky, BT Sport etc.)	2.2%	4.7%	2.4%	2.2%	4.8%	2.5%	4.1%	1.7%
Other Costs	2.1%	1.5%	2.3%	2.2%	1.7%	2.6%	0.5%	1.7%
<b>Total Operating Costs</b>	<b>31.7%</b>	<b>39.4%</b>	<b>32.9%</b>	<b>45.5%</b>	<b>36.0%</b>	<b>40.6%</b>	<b>36.4%</b>	<b>49.2%</b>

	RURAL CHARACTER (60-50) c.£5,000/week (ex. VAT)		RURAL CHARACTER (60-50) c.£8,000/week (ex. VAT)		TOWN CENTRE PUB/BAR (70-30) c.£10,000/week (ex. VAT)		TOWN/COUNTRY FOOD-LED PUB c.£10,000/week (ex. VAT)	
	Min OC	Max OC	Min OC	Max OC	Min OC	Max OC	Min OC	Max OC
Wages & Salaries	40.8%	39.9%	21.5%	29.3%	23.8%	21.8%	19.9%	24.9%
Rates	7.8%	3.9%	2.6%	2.7%	2.9%	6.8%	3.6%	4.1%
Utilities	7.6%	9.3%	4.1%	4.7%	3.0%	2.7%	5.1%	2.9%
Repairs & Renewals	2.7%	1.2%	2.3%	0.4%	1.2%	1.4%	1.1%	2.0%
Insurance	1.3%	0.8%	0.5%	0.4%	0.0%	0.4%	0.8%	0.2%
Marketing/Promotion/Telephone	1.6%	3.3%	0.4%	4.7%	0.4%	3.6%	2.3%	0.4%
Consumables	2.0%	0.7%	0.6%	0.2%	0.5%	0.8%	0.0%	0.6%
Waste Disposal/Cleaning/Hygiene	1.2%	1.9%	1.1%	0.6%	0.4%	0.4%	0.6%	0.5%
Professional fees	2.0%	2.4%	1.1%	0.6%	0.4%	0.8%	0.8%	1.3%
Bank charges	1.5%	1.1%	1.0%	0.5%	0.9%	0.8%	0.4%	0.4%
Equipment Hire etc	1.3%	1.6%	0.0%	0.0%	0.0%	0.2%	0.7%	0.0%
Interest on capital	0.0%	0.6%	0.9%	0.2%	0.5%	0.1%	0.4%	0.6%
Other Costs	0.0%	1.8%	0.0%	0.6%	0.0%	0.0%	0.0%	0.0%
<b>Total Operating Costs</b>	<b>35.0%</b>	<b>37.2%</b>	<b>36.1%</b>	<b>44.8%</b>	<b>33.5%</b>	<b>39.8%</b>	<b>35.6%</b>	<b>38.0%</b>

Figures show average for all pubs reported in this category. Figures are presented exclusive of VAT.

A manager/assistant manager salary is NOT included in the above models – extra income/cost lines must be added if these will form part of your pub business. Rates are not necessarily subject to applicable reliefs – check with your pub company/brewery as to what discounts may be available.

**Appendix 3**

**Rating Assessments of Local pubs to The Cabinet, Reed**

**APPENDIX 2**

**Property**

**Valuation List**

	<b>2005 £RV</b>	<b>2010 £RV</b>	<b>2017 £RV</b>
Cabinet, Reed	34,000	35,000	TOR
Fox and Duck, Therfield	20,000	12,250	40,500
Tally Ho, Barkway	3,250	10,000	11,500
Chequers, Barley	10,700	8,750	25,250
Woodman, Nuthampstead	22,750	20,000	22,000
Blind Fiddler, Anstey	11,000	4,550	2,150
Countryman, Chipping	1,500	1,500	1,425
Black Horse, Brent Pelham	9,900	9,600	4,300
Moon & Stars, Rushden	2,850	2,900	4,000
Bull Inn, Cottered, Buntingford	13,750	37,000	24,000
<b>TOTAL</b>	<b>129,700</b>	<b>141,550</b>	<b>135,125</b>

TOR: taken out of rating