

To: 'Jennifer Hubbard'[planning@jenniferhubbard.co.uk]
From: Naomi Waddington
Sent: Tue 05/06/2018 4:47:04 PM
Importance: Normal
Subject: RE: RE: Planning application 18/01087/FUL The Henry Jenkins, Kirby Malzeard
MAIL_RECEIVED: Tue 05/06/2018 4:47:04 PM

Dear Ms Hubbard

I refer to your email of 31 May 2018.

The target date for determination of the application is 13 June 2018. The application as submitted is clearly contrary to planning policy and therefore the Local Planning Authority will seek to determine the application by 13 June. I note that you and your client intend to meet with the previous owner in the next 2/3 weeks. I would therefore suggest it might be appropriate to withdraw the current application until you have the information you require.

The submitted application relates to the conversion of part of the pub and flat to a dwelling. The application does not deal with the remaining part of the pub so it does not show how the remaining pub facility would meet community needs. Also, because the applicant is now different to the owner of the remainder of the building, there is no mechanism to make sure the pub facility would be available to meet community needs. The proposal would result in the loss of part of what was the pub with no evidence that the remainder of the building could meet the needs of the community or be available to meet those needs.

Your email also raises the issue of whether the HJCC proposal is compliant with Policy CFX. However, the supporting text to policy CFX does state "Consideration should also be given to innovative diversification of existing facilities to improve custom and viability e.g the combined village hall/creche and the "pub in the community" where a shop or post office is located in the pub. Eliciting the views of the local community will be very important in this respect". We are not currently dealing with an application from the community group, what we are assessing is the application for the dwelling, which clearly would not be 'innovative diversification' to improve the custom and viability of the community facility. With regards to the HJCC proposal, what is relevant though is that in the words of the Inspector "there seems to be a very real possibility on the strength of what I have seen that there are options to re-use the HJ in a sustainable way and to give this limited weight in the consideration of this appeal would not only be unreasonable but would be contrary to what CFX is trying to achieve for rural communities".

On the Planning Unit issue, the Inspector said “In any event, it is unclear as to whether the flat may be tied to the HJ in some way such as whether it is part of the same planning unit or indeed whether it has to be occupied by the tenant of the HJ if it were to be a public house. I accept that some of these restrictions may be outside of planning controls but nonetheless this adds doubt to my mind as to whether the sale of the first floor and the car park would necessarily affect anything fundamental. In essence, the separation of the two elements may not be as clear cut as the appellant considers”. There are indications in the planning history that the building is all one planning unit and the residential part was therefore part of the pub rather than a separate entity, and third parties suggest this has been the case for a considerable period of time.

I trust this information is of use to you. Please advise as soon as possible how you wish to proceed. You will appreciate this is officer opinion only and is given without prejudice to the formal decision of the Council on the submitted application

Yours sincerely

Naomi Waddington

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Please note my normal working hours are Wednesday to Friday 8:30 – 17:15

From: Jennifer Hubbard [mailto:planning@jenniferhubbard.co.uk]
Sent: 31 May 2018 12:15
To: Naomi Waddington
Subject: FW: RE: Planning application 18/01087/FULL: The Henry Jenkins, Kirby Malzeard

From: Jennifer Hubbard [mailto:planning@jenniferhubbard.co.uk]
Sent: 31 May 2018 12:14
To: 'Naomi Waddington'
Subject: FW: RE: Planning application 18/01087/FULL: The Henry Jenkins, Kirby Malzeard

Bounced back first time so re-sending.

Kind regards.

Karen Patrick

Secretary to Jennifer Hubbard

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From: Jennifer Hubbard [<mailto:planning@jenniferhubbard.co.uk>]

Sent: 31 May 2018 12:12

To: 'Naomi Waddington'

Subject: RE: Planning application 18/01087/FULL: The Henry Jenkins, Kirby Malzeard

Dear Ms Waddington,

Thank you for your e-mail. I appreciate the time you have taken to explain the Council's position.

I am hampered somewhat in interpreting some of the comments of the recent Appeal Inspector as I was not instructed at the time of the appeal and am relying on second or third hand reports of what was discussed at the Hearing. You note that the Inspector records the Council's view that *the existing use did not create unacceptable planning problems*. I assume "planning problems" in this context would potentially include parking but my understanding is that the appeal was not conducted by the Appellant on grounds relating to parking provision.

Clearly I need to understand – or better understand – the basis on which my Client purchased the application site and I have suggested to him that we (he and I) should meet the previous owner of the site to discuss their respective aspirations. My diary is relatively clear for the next 2/3 weeks

so I hope the meeting can take place, if agreeable to the other parties, in the very near future.

There are also aspects of the Council's position that I do not yet fully understand. For example, Policy CFX and its accompanying advice note appear to contemplate the change of use of part of a community facility if the facility is – and I paraphrase – too big to remain viable. Clearly I am not in possession of all of the facts but, as I pointed out in my e-mail of 21st May, the Save Henry Jenkins group's proposals for the premises as set out on their website include a number of commercial facilities and in its response to my Client's application, the Henry Jenkins Community Co-op reiterates its proposal to introduce a range of other (i.e. non-pub) enterprises in the event that it could acquire the Henry Jenkins.

I appreciate some commercial facilities could also reasonably be described as community facilities – the post office - for example - but it seems to me that in its interpretation of Policy CFX and related national guidance the Council is spreading the definitional net far too widely. On what basis, for example, could a micro brewery, gym, cafe or cycle repair shop be considered as community facilities? Would the Council oppose the change of use or redevelopment of premises occupied by – say – Theakstons, a David Lloyd Leisure Centre, Betty's or Halfords on the grounds that these were community facilities? The difference is only one of scale and I feel I need to investigate this aspect further.

In the meantime, I would welcome your comments on one particular related issue. In my view, the sale of part of the Henry Jenkins has had the effect of creating 2 separate planning units one of which (the “retained” Henry Jenkins) contains all necessary facilities to enable it to operate as a “pub”. The other (the application site) was added to the Henry Jenkins in the mid 1970s to provide a restaurant. It seems the Council is saying that despite a change in ownership of part of the premises, the various activities which previously took place in different parts of the Henry Jenkins prior to my Clients acquisition of the application site, cannot be disaggregated and, in planning terms, the “pub” use extends across the entirety of the premises. It is on this basis the Council contends Policy CFX remains relevant. I think, re-reading your e-mails, this must be the Council's position but your confirmation would be appreciated.

Yours sincerely,

Jennifer Hubbard

Sent on behalf of Jennifer Hubbard

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