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Dear Lauren

New Castle Inn, Fydell Street, Boston

I write further to our correspondence regarding the above planning application and the two outstanding issues, namely the loss of what your colleagues have determined to be the loss of a non-designated heritage asset, and the loss of what you describe as a community facility.

Non-designated heritage asset

As I have previously set out, in determining planning application B/18/0370 and defending the associated appeal the Council did not consider the building to be a non-designated heritage asset. Indeed, the planning application and appeal were dismissed solely on the grounds of scale and inadequate car parking provision. The Inspector did not conclude that the building was a non-designated heritage asset and this did not form part of the Council's case. Notwithstanding the fact that there has been no change in planning policy since that time, that the Council has failed to produce any Local List, and that the matter was not raised during pre-application discussion, a Heritage Impact Assessment prepared by specialist consultants ELG Heritage has now been prepared and submitted to you.

Community facility

In determining planning application B/18/0370 the Council's Committee report stated that:

'Loss of public house as a community facility

7.35 The New Castle Public House has been vacant since 2013 and has been marketed since that date with no viable interest. The public house was de-licensed in 2015. A previous application, granted in 2017 for the conversion of the public house into 4 flats plus associated residential development remains extant. The principle of the re-development and the resultant loss of the public house has therefore already been established.'

The Council itself has therefore already determined that the loss of the use is acceptable and there has been no change in development plan policy since that time. The only change is that the building has now been vacant for 9 years and has suffered from physical deterioration, vandalism, rough

sleeping and arson. The loss of use did not form part of the Council's reasons for refusal in August 2019 or its subsequent appeal case. Nor did the loss of use form part of the Inspector's reasons for dismissing the appeal. The Council's appeal statement of case is not available online and I would be grateful if you could send this to me. Notwithstanding these material considerations which weigh heavily in favour of the application, I will address the points you have made (your points in blue italics).

In terms of Policy 32 (Community, Health and Well-being) it states:

The redevelopment or change of use of an existing community facility will be permitted only if:

1. *an assessment has been undertaken which has clearly shown that the facility is:*
 - a. *surplus to requirements; or*
 - b. *not economically viable; or*
 - c. *unfit for purpose; and*
 - d. *in the case of recreational open space, does not make an important contribution in amenity, visual or nature conservation terms; or*
2. *the loss resulting from the proposed redevelopment or change of use will be replaced by equivalent or better provision (in terms of quantity and quality) in a suitable nearby location; or*
3. *(in the case of sports facilities or recreational open space) the redevelopment or change of use is for alternative sports or recreational provision, the need for which clearly outweighs the loss.*

In your text you have failed to recognise that Policy 32 includes an explicit definition of **community facilities**. This is clearly set out as:

*'Where a development will increase the need for community facilities (**education, childcare, teenage services, emergency services, social care, health care, libraries, museums, other cultural facilities, places of worship, community halls, sports facilities, recreational open space, or other green infrastructure**)'*

Public houses are not included within this definition. The words 'such as' or 'including' are absent from the bracketed text meaning that only those facilities listed are covered by the Policy. A public house, a commercial premise, is a sui generis use and cannot reasonably be considered to fall within either *other cultural facilities* or *other green infrastructure*, the only non-specific terms. Put simply, the policy and its associated criteria do not apply to public houses. It is unacceptable to try to interchange the terms 'cultural' and 'community' in an attempt to try and retrofit the policy to meet your interpretation. They are not the same. If you disagree with my interpretation then I would very strongly suggest that you seek legal advice to avoid a potential award of costs at any future appeal.

As stated in my previous correspondence, the National Planning Policy Framework confirms that community facilities such as public houses should be retained. Paragraph 93 states:

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

- a) *plan positively for the **provision** and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, **public houses** and places of worship) and other local services to enhance the sustainability of communities and residential environments;*

Using your NPPF reference reinforces that a public house is a community and not a cultural facility and that Policy 32 does not apply to the proposal. Setting aside that the public house use ceased in 2013, long before the current version of the NPPF, you have misinterpreted paragraph 93 and cited the wrong criterion. Criterion a) refers to the provision of community facilities as part of new development, not to the protection of existing ones. It is not relevant to this proposal. Criterion c), set out below, specifically relates to existing facilities:

'c) 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;'

It is clear that this public house, vacant since 2013, is not a valued facility and that its loss would not reduce the local community's ability to meet its day to day needs. As far as I am aware there have been no objections from members of the public or community groups to the loss of the long vacant public house use.

I request that the application now be approved without delay.

Yours sincerely

Simon Machen

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Barmach Ltd