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Converting Pubs to Residential Use



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In July, we looked at the issues that can arise when looking at pub conversions to residential use. Despite a brief break last month, when we digressed to consider some of the new changes to permitted development rights (none involving pubs, I hasten to add), we now move back this month to consider the subject of pub conversions, looking in particular at a recent case study.

Last orders for the business

Our client had entered into a deal with a publican and his wife in respect of a pub in Ramsgate, Kent.

The public house business had suffered over a number of years from increasing preference for the younger generation towards bars, clubs or restaurants to consume alcohol and as places outside the home to socialise, as well as changes over time in the Licensing laws and consumption of alcohol at home, often with takeaways, with friends. Then the pandemic hit and a succession of lock-downs was very much the final straw for the business.

Alternative Provision & Competition

The premises operated in a very competitive environment. There were 13 other licensed public houses operating within a 1 mile radius of the premises; the radius we looked at was specifically dictated in this case by the Council's local plan policy.

This was clearly shown in the pub's business accounts. We went back five years, and the profit and loss account showed a slow and steady decline in the business. Sales went from £87,000 in 2017 down to £18,726 in 2021 - a drop of over three quarters of the 2017 revenue. Although much of this was down to the impact of COVID in the fifth year, it was already falling on an annual basis.



This was clearly not down to the management of the business. The present owner of the business was very experienced and had strong local connections. It is very unlikely that it would somehow completely turnaround as a business and start turning a significant profit again if a new owner with new ideas was 'parachuted' into the business overnight.

Marketing and other factors

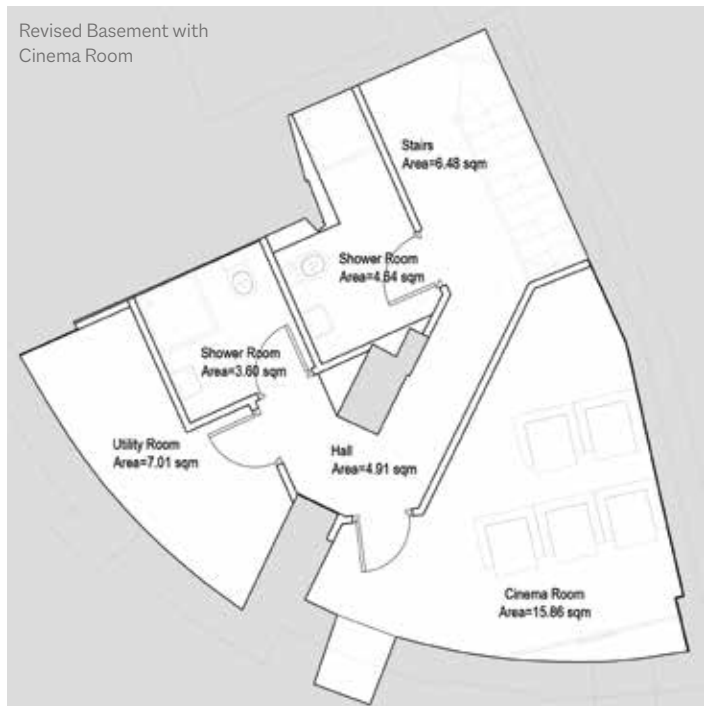
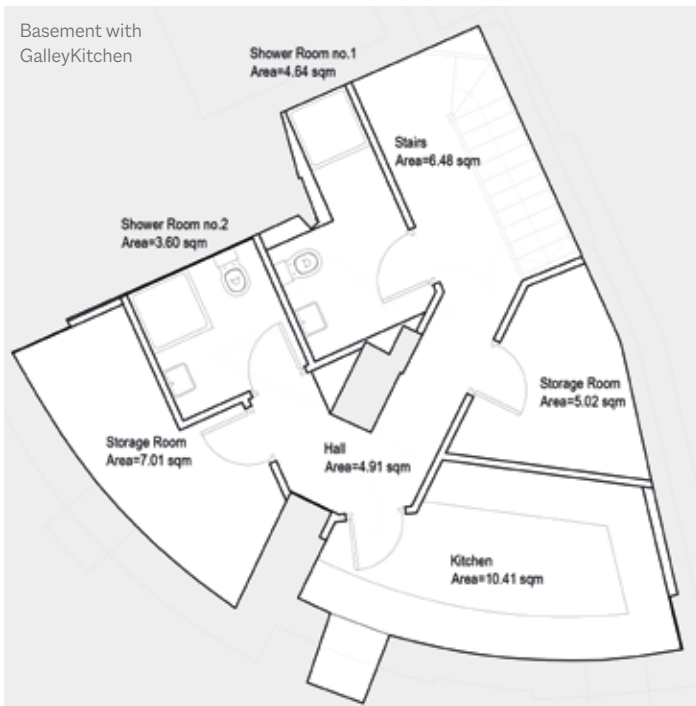
The premises were also actively marketed in the local press and on Rightmove for more than 12 months in total, but there was very little interest in taking the premises on. In addition, in terms of alternative uses for the pub that might serve the local community in some way, instead of converting straight to residential use, we considered the following (all under Use Class E):

- Shops
- Financial and professional services

- Restaurants & Cafes
- Medical health Services
- Creches or day car nurseries

There was enough provision locally for all of these alternatives and thus little demand from potential occupiers for such uses.

In addition, it was important for us to remind the Council of the 'human factor' involved in this case. The business was not generating sufficient money for the publican and his wife to pay themselves a reasonable living wage, despite having operated the business for many years and consistently working around 10 hours per day. They had little to no quality of life and no viable exit from the business, while having to use up their own savings, such as they were, to continue to run a dying business. This puts enormous physical, mental and emotional stress on people over time.



Conversion to HMO use

The client's initial proposal was to seek a change of use to two HMOs over part of the property and a self-contained flat over the remainder. This approach presented a number of design-led, amenity challenges.

Firstly, the ground floor courtyard area needed to find a balance between space for bins and bicycle storage on the one hand, and on the other sufficient privacy for users of individual bedrooms and living rooms

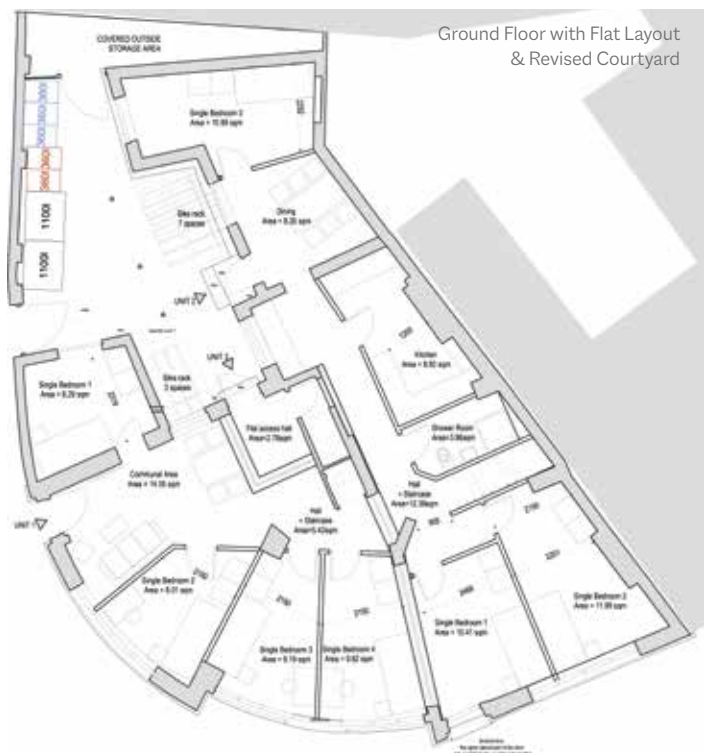
where the windows to some of these spaces were located close to entrances and storage which would be used by all occupants.

Secondly, the basement was a large, potentially underutilized space, unserved by any direct natural light and with the possibility of non-habitable, communal use.

Thirdly, the size and shape of the proposed living rooms to the HMO communal spaces, working around bedroom walls, stairwells and the overall

ground floor internal plan created challenges in terms of configuration, circulation and adequate privacy and outlook from these spaces, linked with the first issue above.

Officers generally sought to push back on this proposed approach, as they were generally not supportive of the proposed layouts. Applying obscured glazing to habitable rooms can be a 'Catch 22', as it will assist with privacy, stopping passers-by and other residents from looking in, but ▶





will diminish outlook and possibly give rise to a sense of enclosure.

There can, though, often be a case for slightly more flexibility to be applied on standards of privacy vis-à-vis outlook in these situations. HMOs tend to be occupied by people who stay for a shorter time period (compared to self-contained apartments) and, as long as the living room has good quality space and outlook, some planning officers will not kick up too much of a fuss over the use of obscured glazing to bedrooms.

The use of the basement

The basement space presented a conundrum and appeared to be the real sticking point on the HMO scheme. Officers were generally flexible on amenity issues and proposed solutions around the HMO space proposed on the ground and first floor. However, they were very resistant to the use of the basement as a ‘galley kitchen’:

An image was sent through to the planners to convey the sense of what was proposed in terms of a kitchen in the basement. This kitchen would have freed up space on the ground floor for possibly one or two extra HMO bedrooms, adding possible rental and capital value to the scheme.

However, officers resisted this proposal, fearing that the space would be used for habitable purposes and thus, in the absence of natural light and ventilation and outlook, would be inappropriate for this use.

Such galley kitchen arrangements in basements are common with many HMOs but can often depend on the flexibility of officers and their discretion in how

they apply planning policy, which can often be worded in a way that it is open to interpretation and not overly-prescriptive. Kitchens normally have to meet certain ventilation and other safety requirements, but even in basements this can be accommodated, such as with the use of mechanical ventilation.

A galley kitchen would also have prevented habitable use as there was no space in the design for a living or dining room – this would have had to be located at ground floor level. The layout would have been secured, and ultimately enforced, through a planning condition. That being said, kitchens are defined in the relevant local plan as ‘habitable rooms’ and also the BRE Sunlight and Daylight technical guidance normally seeks an adequate degree of natural light to kitchens and not a reliance on artificial lighting, hence this Council’s officers were particularly resistant to these proposals where other officers in different parts of the country might not have been.

This was the ultimate sticking point to this proposal and officers would not move on this.

Conversion to flats

It was decided ultimately to accept the refusal of the HMO proposals. We submitted an appeal to the Planning Inspectorate on 2 October 2022. The ‘Start Letter’ was received on 31 March 2023 – six months later. We are still waiting on PINS’ decision, 11 months after the submission of the appeal.

Therefore, it was thought prudent in September 2022, when we became aware

of the risk of refusal of the HMO scheme, to prepare a scheme for flats instead, but which substituted the galley basement kitchen for a ‘cinema room’ instead for one of the flats.

There were validation delays to the new application and some ‘back and forth’ with Validation officers on the labelling of plans and other information. However, the application was validated in late December 2022. Planning permission was granted for this alternative proposal in May 2023 with a section 106 agreement for financial contributions toward local environmental impact, taking about five months in total. The decision on the appeal has still not yet arrived.

Conclusion

The principle of the change of use and case for it with pubs has to be very carefully and thoroughly researched from the outset. Every Council tends to take a unique policy approach to this matter, and this can sometimes cross-over with other factors such as the impact on the local conservation area.

However, it is also worth considering a primary and a secondary development strategy in these cases as there may be particularly contentious aspects of the proposed layout (e.g., a basement kitchen) that may need to be changed and a back-up plan pursued. Acute delays with PINS, and the general unpredictability of the appeal process, mean that it is best if you can ‘bag’ a viable scheme in the meantime if timescale and opportunity permits.

