

**SUPPLEMENTARY INFORMATION**

**Planning Committee**

**19 July 2012**

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*If you need any further information about the meeting please contact* Natasha Clark, Law and Governance [natasha.clark@cherwellandsouthnorthants.gov.uk](mailto:natasha.clark@cherwellandsouthnorthants.gov.uk), 01295 221589

# Agenda Item 17

## CHERWELL DISTRICT COUNCIL PLANNING COMMITTEE

19 July 2012

### WRITTEN UPDATES

**Agenda Item 6 12/00290/F Land rear of 33-59 Oxford Rd.  
Bodicote**

- Thames Valley Police Crime Prevention Design Advisor has commented on the amended plans and is satisfied that her concerns have been addressed

**Agenda Item 7 12/00305/OUT - Land to the west and south of numbers  
7 to 26 The Green Chesterton**

- 1 further letter of objection received;  
Number of houses disproportionate to the size of the village  
Development outside the existing village boundary on a greenfield site  
No necessity for additional housing in Chesterton given the adjacent developments in Bicester  
proposed benefits are illusory and or unnecessary  
new village hall not required, already provision in the existing village hall and school hall  
No village shop has been financially viable in the last 20 years
- A letter has been received from the applicant's agent which has been circulated by them to Members. It makes the following points;
  - Inspector previously recognised number of benefits proposal offered, but council had got five year housing land supply
  - Situation now different - there is a shortage in housing land supply, NPPF published which emphasises need for LPAs to boost significantly the supply of housing
  - Differences between the two applications, scheme reduced from 63 to 44 units, reduction on the impact on the countryside, additional landscape planting and affordable housing increased from 30% to 35%
  - Committee report does not make reference to own evidence in relation to sustainability, i.e. Cherwell Rural Areas Integrated Transport and Land Use Study (CRAITLUS) - Chesterton one of the fourteen most sustainable villages in the district for accommodating new growth
  - Proposal would improve sustainability of the village through more affordable housing, provision of new village hall and enhanced sporting facilities
  - Committee report makes reference to the amount of housing Chesterton is likely to have to accommodate but also acknowledges that facilities won't come forward with this level of development
  - Client been encouraged by Parish Council and local residents to submit another application and majority of local people are supportive of the scheme - (quotes from letters provided)
  - Government committed to Localism, Hill Residential committed to working with District and Parish Councils and people of Chesterton to deliver much needed facilities
  - Members are asked to support the application

**Agenda item 9    12/00678/F    Bishops End, Burdrop**

- As mentioned at para 5.6.13 in the officers report the Council has commissioned an independent viability study. It concludes that
  1. The Bishop Blaize has been closed for so long that it will have had a negative impact on its future viability but, fortunately, few structural alterations have been carried out.
  2. The pub would require a significant level of extra investment to enable the pub to re-open – extra furniture, new equipment, refurbishment of toilet accommodation and re-instating of a catering kitchen and bar servery but some of this would have been necessary in any event. I would anticipate, however, that a prudent future operator would budget accordingly.
  3. In my view the pub's future would lie in it being a food-led village pub with a good cask ale offer.
  4. Diversification would be possible but without significant cash capital it would be difficult at present to raise finance through the banks. Once the pub has a re-established track record and trading history raising finance would be easier and development of the property a more realistic proposition
  5. The pub is still viable assuming that a new operator came forward and the current owners were prepared to sell at the value determined by the market. In re-opening there is a question mark over the long term survival of both pubs but with a sufficiently differentiated offer it is possible that both pubs could co-exist.
  
- E-mail received from applicants agent

*Much of the case revolves around policy S29 of your local plan - "Proposals that will involve the loss of existing village services which serve the **basic needs** of the local community will not normally be permitted".*

*1) The Wykham Arms is a pub within reasonable walking distance of The Bishops End. We would argue that **basic need** does not include having the choice of two pubs in a village of just 395 adults.*

*2) The Council commissioned Thomas Teague to provide a viability assessment. The conclusion of this report notes "The Sibfords, taken as a whole, could struggle to support two pubs and for that reason it would be essential to attract trade from outside the village". We consider that this conclusion (from a report produced for the Council) demonstrates that the Bishops End is not a viable village service providing a basic need.*

*There has been lots written about this application, with 40 vociferous objections, but I urge you to focus on whether the proposal complies with the development plan or not. Policy S29 only seeks to protect village services that serve **basic needs**. Local pubs are important, no doubt, and if this was the only pub in the area then you should refuse the application, but there are 20 pubs in a 13 minute drive time, and one pub within a reasonable walking distance ('reasonable walking distance' is commonly accepted as 800m, The Wykham Arms is 690m). The basic needs of The Sibfords are met - a point reinforced by the fact that the Thomas Teague report agrees that*

*The Sibfords would struggle to support two pubs (so, even if the Council are successful at forcing The Bishops End to re-open, The Wykham Arms may fail).*

*Attached are two documents:*

- *My comments in response to the case officer's report (5 pages)*
- *Geoff Noquet's comments in response to the belated Thomas Teague report (2 pages).*

*I urge you to read them both. They are not long, but summarise our case succinctly and, I hope, logically.*

*If this application is refused it will end up at a three day Public Inquiry at great expense to my client and the Council, and even should you win the appeal and somehow force the re-opening of The Bishops End it would appear that one of the two pubs in The Sibfords will fail (according to the Council's own expert).*

*I urge you to reconsider your recommendation.*

- In the light of the offer to change the red-lined site to exclude the southern area of land the contained in the agent's response above it is possible to withdraw the second reason for refusal. It is **recommended** that the second for refusal be omitted .

## Response to Case Officer report

<b>Application No:</b> 12/00678/F	<b>Ward:</b> Sibford	<b>Date Valid:</b> 10/05/12
<b>Applicant:</b>	Mr and Mrs Noquet	
<b>Site Address:</b>	Bishops End, Burdrop, Banbury, Oxfordshire, OX15 5RQ	

We wish to make the following responses to the case officer report relating to the change of use of The Bishops End, Burdrop.

The case is recommended for refusal on two grounds:

- Loss of village service is not conclusively demonstrated as being no longer viable;
- Impact on Sib Valley due to size of proposed residential curtilage.

We respectfully disagree with these conclusions.

### **Size of curtilage**

One of the reasons for refusal is that the red line plan includes land all the way down into the Sib Valley. Concerns are raised that this would result in residential paraphernalia impacting on the conservation area.

We consider that any concerns can be overcome by conditions including the removal of permitted development rights.

Alternatively a revised red line plan can be substituted (see attached).

### **Protection of community uses**

The case officer is quite right that the NPPF seeks to protect community uses, but within reason. Market and economic signals are given equal importance in the NPPF.

The NPPF states:

*“Planning policies and decisions should...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”*

The Local Plan policy S29 states:

*“Proposals that will involve the loss of existing village services which serve the **basic needs** of the local community will not normally be permitted.”*

With 20 pubs within a 13 minute drive the community will not lose the ability to meet their ‘basic needs’ of a pint of beer (a questionable ‘need’). Furthermore, The Wykham Arms is within 690m of the Bishops End. When considering the accessibility of alternative pubs it has been found that as a general guide there is an 800m threshold when considering how far people are prepared to walk (800m is regularly used by Highways and TfL for judging acceptable walking distances).

So, we would argue that the community are able to still meet their day-to-day needs.

This is reinforced by the recently released Thomas Teague report (commissioned by the Council).

*“I do have a concern, however, at the impact that a re-opened Bishop Blaize may have on The Wykham Arms which over the last five years has been unopposed. I have expressed the view earlier in this report that The Sibfords, taken as a whole, **could struggle to support two pubs and for that reason it would be essential to attract trade from outside the village**”*

So, we have a situation where the case officer is recommending refusal due to loss of a village facility, but independent advice commissioned by the Council makes absolutely clear that the village on its own cannot support two pubs.

Furthermore, ‘Community uses’ are **expressly included** within the definition of ‘Economic Development’ in the NPPF. One of the core principles of the NPPF is to:

*“ the Local Plan [should] take full account of **relevant market and economic signals**”*

The national decline in pubs appears to have been largely dismissed in the case officer’s report. Ignoring market trends is in conflict with the general message of the NPPF.

Oxfordshire is not immune from the well documented national decline in pubs, with 35 pubs lost in 2011 (see <http://ukpubsales.wordpress.com/2012/01/26/oxfordshire-lost-35-pubs-in-2011/> and <http://www.closedpubs.co.uk/oxfordshire/banbury.html>).

Given that the Cherwell Development Plan is largely out-of-date, we consider that economic market signals should play a central role in determining planning applications, as required by the NPPF.

### **Precedents**

The case officer has chosen to cite appeal precedents in the report. Generally every case should be judged on its own merits. Nevertheless, I would like to make the following comments:

Appeal 2167572: in this case no marketing whatsoever took place – this is clearly not the same as the Bishops End. Also the Inspector noted that the pub was located within ‘a settlement with a growing population’ – hardly the case in Burdrop.

Appeal 2134643: The Inspector recommends that the appellant should have used ‘multiple agents’. Also the nearest pub is a 10 minute drive. In the case before you, The Bishops End has been marketed via multiple agents and another pub is a short walk away.

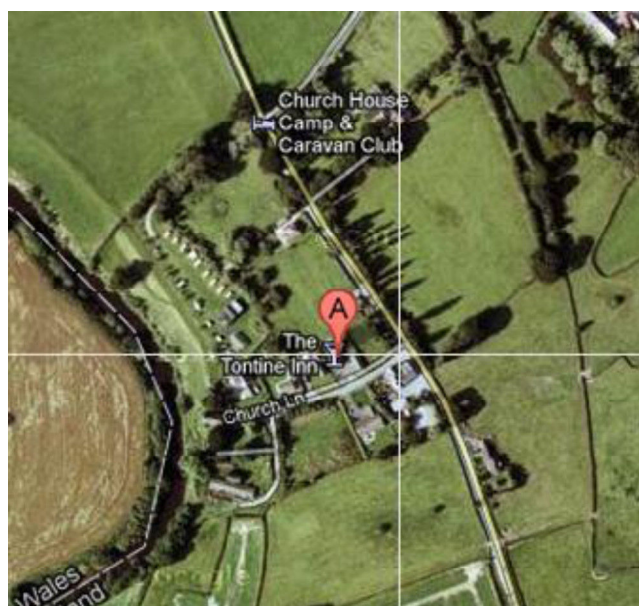
If you consider that the above precedents carry weight then I respectfully ask you to review the following cases:

APP/X3215/A/06/2017004

Appeal allowed.

It was the only pub in the area. The pub was marketed and offers received.

An offer was received for the pub, but below the asking price. The Inspector commented: *“I do not find it unusual that a first offer at a level described as tentative and thought unacceptable*



would be refused. The lack of any follow up from the prospective purchaser confirms the tentative nature of the offer”.

“During my inspection of the wider area, I saw that the Royal Hill Public House on the road to Pentre and The Grove Public House at Pentre both of which offered a full range of restaurant/drinking facilities were some 1.6 miles and 2.5miles respectively from the Tontine Inn. Given that Melverley is a dispersed rural settlement, I consider such distances are not unreasonable. In these circumstances, I consider the residents of Melverley would still have reasonable access to a public house facility”.

APP/Y2430/A/06/2024940

Appeal allowed.

Pub located in a village of 500 people.

“No provision is made for a replacement building or site as part of the proposal but, importantly, Hose is served by two public houses, approximately 300m-400m apart... I have taken into consideration the views of the Inspector in a recent appeal relating to the closure of a public house elsewhere in the area where he concluded that a pub in another village 1mile away provided a reasonable replacement facility.”

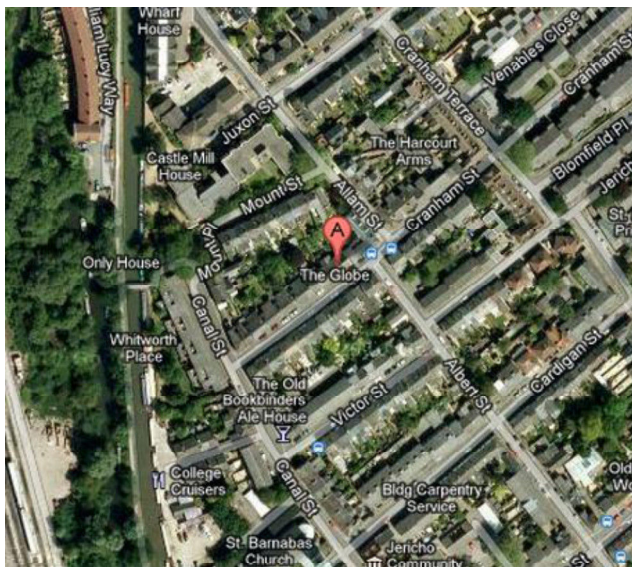


APP/G3110/A/06/2027265

Appeal allowed.

No marketing evidence or viability put forward.

“I appreciate that The Globe pub may have provided a slightly different ambience to others and that this was its attraction in meeting the particular





*requirements and personal tastes of a section of the local community. However, there is no guarantee that under new management the pub would operate in the same way that it had previously, and indeed such factors are beyond planning control”.*

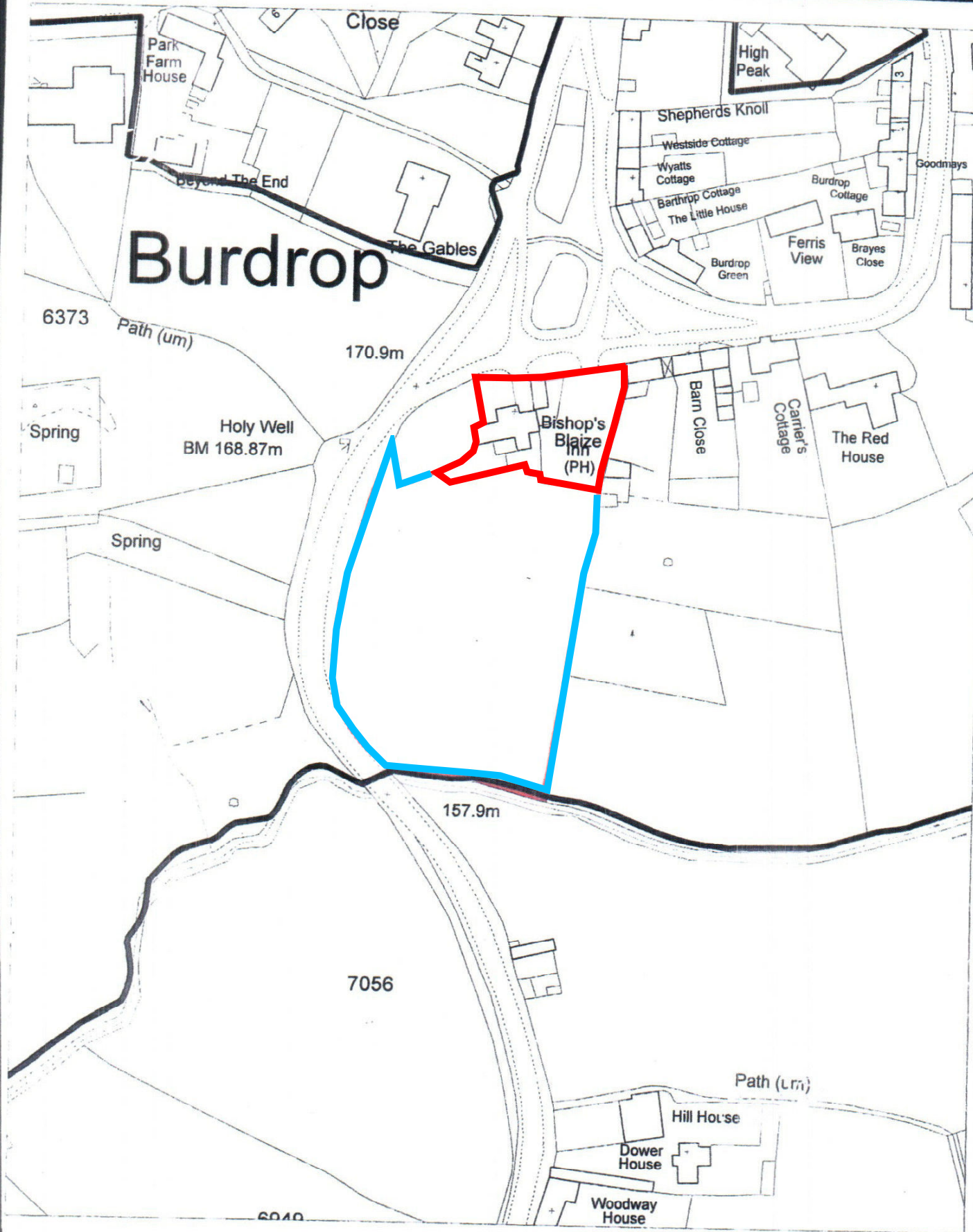
These appeals suggest a pragmatic response is often adopted when determining the loss of a pub.

### **Conclusion**

The loss of a pub is always a shame, but in this case the ‘community facility’ does not appear to be viable and therefore a change of use should be supported.

- Cherwell local policy only resists the loss of village services that provide a ‘basic need’ ;
- Thomas Teague report confirms that Sibfords could not support 2 pubs on their own;
- NPPF notes that plans should take full account of market signals.

We respectfully ask that the application be approved.



Date: 26/6/2007

Scale: 1:1,250

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**Cherwell**  
 DISTRICT COUNCIL  
 North Oxfordshire

## **Viability Assessment: John Joseph Keane**

### **Initial observations from: Geoffrey Richard Noquet.**

Firstly we were promised to be given sight of this document on or around 21<sup>st</sup> 22<sup>nd</sup> of June 2012 and I find it to be totally unacceptable to eventually receive the Study one day before the LPA Committee Meeting.

Nevertheless I believe that we should be given the opportunity to address certain points raised in the Viability Assessment and that the Committee Members are made fully aware of our submissions.

**3.2** Mr Keane's observation demonstrates that the vast majority of objectors were completely wrong in their accusations that we had converted the pub without planning permission.

**4.5** The Sibford Gower village hall holds numerous Licensed bar events through-out the year. In 2009 Mr Keane supported the closure of the Whitemore Arms, Hethe, Bicester the only remaining pub in that village. In his Report he stated that he believed that Village Hall was a sufficient remaining amenity for that village if the pub were closed.

**4.9** Motor borne trade is not only unsustainable it increase the risks of drink-driving.

**6.1** The removal of the bar servery is an inaccurate statement; the fact is that part of the bar was removed because it was damaged beyond repair by the escape of water. Likewise the removal of the wall was necessary because of water penetration.

**6.9** This is another incorrect statement; when J Keane and Ross Chambers visited the site the asbestos sheet roof had been replaced with Welsh slates. Furthermore Mr Keane states: 'the barn has a raised floor level and is situated on a rise in the road meaning the car park behind is almost at roof level'. Mr Keane's comment is simply absurd the reality is that the difference in levels is approximately 7 foot.

**12.2** Incorrect Statement: Central heating and domestic hot water are supplied by a wood-burning stove and LPG.

**19.2** These accounts do not include salaries for my wife or myself.

**19.5** The trading levels were already falling.

**19.7** Prior to the boycott we were extremely successful publicans. In October 2006 we employed a new management couple to run the pub so as to distance ourselves from the boycotters yet the pub's turnover still remained at approximately £1,000 per week and continued to be un-viable.

**continued**

2.

20.22 Mr Keane states that. 'In the past both The Bishop Blaize and the Wykham Arms appear to have co-existed' the fact is that since 1999 until 2005 there had been 6 failures at the Wykham Arms clearly demonstrating that this was not the case. Mr Keane goes on to admit that **'I do have concerns that in more difficult economic circumstances the village by itself would struggle to support two pubs.'**

This accurate assumption and concern then leads Mr Keane on to widen and consider a much larger catchment area. To include Banbury as part of the catchment area is not only unrealistic it is also somewhat surprising bearing in mind that Mr Keane dismissed Bicester as being part of the catchment area for the Whitmore Arms less than 5 miles from that pub.

Clearly there are some seriously conflicting views and assessments when Mr Keane is acting for someone who wishes to close a pub than to those when he is acting for a Council wishing to oppose any similar application.

There are numerous other inaccuracies in Mr Keane's Report but in view of the unreasonable and limited timeframe in which I been allowed to respond to the contents I surmise as follows:

In essence Mr Keane is advocating that it was acceptable that we were subjected to a village boycott and our business ruined. That it was also alright that we lost monies by way of our capital investment and unpaid salaries. That it was okay that we were subjected to an onslaught of lies about our abilities, characters, honesty and intentions.

Mr Keane obviously believes that we should simply accept that it was our fault that the village cannot truly sustain two village pubs and that furthermore we should sell our pub at a massive loss. Why should he worry he has just been paid to support the LPA?

More importantly he is has, I say, now submitted a factually flawed Viability Assessment Report that is quite frightening in its implications.

Mr Keane is supporting a case that we should sell at a personal potential loss of some £300k to some other operators. Furthermore in the extremely unlikely event that those new owners are eventually successful then in consequence they will probably drive the Wykham Arms out of business!

How many more families have to suffer because of this ridiculous and unsustainable situation?

Geoffrey Richard Noquet