

**6. FULL APPLICATION – CHANGE OF USE OF DINING ROOM FOR BOTTLING ON SITE
SPRING WATER ON A PERMANENT BASIS AT CRAG INN, CLOUGH ROAD,
WILDBOARCLOUGH (NP/CEC/0723/0764) TS**

APPLICANT: MR DORAN BINDER

UPDATE:

The application was considered by members at the meeting of the planning committee on 03 November 2023. Members resolved to defer a decision to a future meeting. This was because concerns were raised that the applicant would be unable to follow recommended condition number 2 in respect of future business plans.

Recommended condition 2 is that:

“The water bottling use and any associated storage shall be restricted to the dining room shown on the approved plans and the enclosed yard area directly to the east of the public house only.”

Recommended condition 2 is a replica of condition 3 of the existing temporary permission (pursuant to application ref NP/CEC/0121/0101).

The concerns raised by members at the November meeting are understood to have stemmed from observations at the site visit the previous day. At the site visit, members observed that the main public house car park was being used for storage associated with the water bottling use. The main car park is outside of the permitted storage area allowed under existing condition 3 / recommended condition 2. The storage that members observed at the site visit was in breach of condition 3 of the current temporary planning permission and would be in breach of condition 2 of a permanent permission as recommended.

This matter was discussed with the applicant following the November meeting. The applicant very quickly took steps to remove the unauthorised storage from the car park and has provided photographic evidence of this.

The applicant is fully aware of the limitations that the conditions place on the water bottling activities, both in respect of the physical limitations of where in the site those activities can take place and the limitations in terms of volume of water / numbers of bottles that can be produced.

The applicant has confirmed that they wish to proceed on the basis of securing a permanent planning permission on the same terms as the existing temporary permission. The existing / recommended conditions are compatible with the existing business activities.

It is unfortunate that there was a clear breach of an existing condition of the temporary permission at the time of the site visit. However, the applicant has taken steps to remedy this breach and this shows that the existing conditions are effective and can continue to be so if a permanent permission is granted.

Whilst the applicant has not expressed any intentions to grow the business beyond the scope of the current conditions, if this changes in the future then the planning system allows the applicant to make further applications to vary those conditions. Any such proposals should be considered on their own merits as and when they come forward.

There is no reason why planning permission cannot be granted on a permanent basis subject

to the same conditions in respect of limitations on the areas of the site that can be used for water bottling and the extent of the water bottling production that exist on the current temporary permission.

The resolution of the breach that was observed by members at the site visit should be taken as reassurance that the conditions can be complied with. Whilst it is, of course, hoped that there will be no further breaches of the conditions, any such breach would be open to appropriate planning enforcement action. This is not a matter that should prevent the determination of the current application on the basis set out below.

Summary

1. Planning permission was granted on a temporary basis in 2018 for use of the dining room at Crag Inn public house for the bottling of water from an on-site spring. The permission was granted on a temporary basis in order to allow for an assessment of the impact of the water bottling use on the public house as a community facility and also on the residential amenity of neighbouring properties over a prolonged period of time. The current application now seeks to make the planning permission for the use permanent.
2. We are of the view that the water bottling use at the scale as previously approved is an appropriate commercial use that does not have an unacceptable impact on the public house as a community facility. Furthermore, the nature of the water bottling use does not give rise to any unacceptable impacts in respect of any other material planning considerations, including residential amenity.
3. It is recommended that the application should be approved, and permission granted for the water bottling use on a permanent basis.

Site and Surroundings

4. The Crag Inn is a public house located adjacent to the minor road through Wildboarclough and to the south of the main group of buildings in the dispersed settlement. The building is not listed but is in keeping with the local building tradition and it is constructed primarily from natural gritstone under a blue slate roof.
5. The pub is served by a large car park to the south-west of the pub premises, which has two entrances at either end of the site frontage. The pub operates on the ground floor of the property with the applicant's living accommodation above.
6. The premises lie outside the confines of any named settlement and therefore the Crag Inn lies in open countryside for the purposes of the Development Plan and national planning policies in the National Planning Policy Framework.
7. A public right of way (Wildboarclough no.16) runs from the public highway to the west of the car park alongside the car park before heading in a westerly direction.
8. In April 2018 planning permission was granted for the change of use of the Crag Inn from a public house to a mixed use of a public house and water bottling plant (NP/CEC/0118/0031). The permission was granted for a temporary period of three years. A further temporary permission, also for three years, was granted in April 2021.

Proposals

9. Planning permission is sought to change the use of the Crag Inn from a public house to a mixed use of a public house and water bottling plant on a permanent basis. As with the existing temporary permission, it is proposed to use the current public house dining

room, which is located on the ground floor, on the western side of the building as an area for bottling spring water that is extracted from below ground via an existing borehole located within the curtilage of the property.

10. The room in question has a floor area of approximately 29.5 m². The bottling equipment that has been installed within the room in question consists of a rinsing machine, filling machine and a capping machine together with a double sink.
11. After bottling (in glass bottles) the water is stacked into crates and removed from the building through an existing window opening in the east facing elevation of the building into an enclosed yard, ready for delivery. No alterations to the pub building itself are proposed.
12. An updated supporting statement has been submitted which sets out that the public house would not have survived covid or the energy price crisis without significant subsidy from the spring water business. The spring water business allows the public house to open for 4 hours a week, despite the public house being loss-making. The applicant's intention remains to open the public house for more hours as the spring water business provides income to allow this.

RECOMMENDATION:

13. That the application be APPROVED subject to the following conditions:

1. **Development to be carried out in accordance with the submitted plans.**
2. **Water bottling and associated storage to be restricted to the dining room and enclosed yard to the east of the public house only.**
3. **Maximum of 500 crates / 5000 litres of water to be bottled and/or distributed in any day.**
4. **The water bottling use shall cease if the Crag Inn ceases to trade as a public house.**
5. **Use of machinery and deliveries and activity in the external yard to be limited to between 08.30am and 6.00pm only.**
6. **No direct sales of bottled water from the site other than from the bar within the Crag Inn public house**

Key Issues

14. Principle of Development
15. Relationship with the public house as a community facility
16. Visual Impact.
17. Amenity Impact.
18. Access and Highways.
19. Climate change mitigation

History

20. 2009 - Planning application seeking change of use of public house to dwelling withdrawn prior to determination.
21. 2011 - Planning permission refused for change of use of public house to dwelling.

22. 2011 - Planning application seeking change of use of public house to dwelling withdrawn prior to determination.
23. March 2012 – Planning permission refused for change of use of public house to a dwelling. The application was refused on several grounds, including that it had not been satisfactorily demonstrated that the loss of this valued community and tourist facility was justified and that it could no longer be operated as a viable concern. A subsequent appeal was dismissed.
24. May 2014 – planning consent granted for erection of camping barn. This permission was not implemented, and the permission has now lapsed.
25. October 2017 – planning permission refused for erection of single storey building incorporating 2 short term holiday lets.
26. April 2018 – temporary 3 years planning permission granted for the change the use of the current dining room at the Crag Inn into a bottling plant for bottling on site Spring Water.
27. April 2021 – second temporary 3 years planning permission granted for the change the use of the current dining room at the Crag Inn into a bottling plant for bottling on site Spring Water.

Consultations

28. **Highway Authority** – No objection, noting that *“There are no material highway implications associated with the continuation of this use, which I note has been operational since 2018 and I am not aware of any highway related issues that have arisen during this period.”*
29. **Cheshire East Council** – *“can confirm that the development does not appear to affect a recorded right of way”.*
30. **Parish Council** – No response.

Representations

31. Fifty-four letters of support have been received raising the following points (in summary – the full letters can be read on the application file):

Environmental and sustainability benefits of bottling spring water in recyclable glass.
Employment generation and economic benefits.
The development adds to the tourism offer of the area.
No impact on the host building or local environment.
No impact on wildlife or ecology.

32. Five letters of objection have been received, including one from Ward Councillor O’Leary raising the following points (in summary – the full letters can be read on the application file):

Concerns about the impact on the public house business and that the Crag Inn should be returned to a place for the local community.
The potential loss of the public house to a non-policy compliant business use.
The impact on the water table.
The use has created an untidy site.

Main Policies

- 33. Relevant Core Strategy policies: GSP1, GSP3, E2, HC4, CC1
- 34. Relevant Local Plan policies: DMC3, DMC14, DME7, DMS2, DMT3

National Planning Policy Framework

- 35. The National Planning Policy Framework (NPPF) was published on 27 March 2012 and replaced a significant proportion of central government planning policy with immediate effect. A revised NPPF was published in July 2020. The Government's intention is that the document should be considered as a material consideration and carry particular weight where a development plan is absent, silent or relevant policies are out of date. In the National Park the development plan comprises the Authority's Core Strategy 2011 and Development Management Policies (adopted May 2019) in the Development Plan provide a clear starting point consistent with the National Park's statutory purposes for the determination of this application. It is considered that in this case there is no significant conflict between prevailing policies in the Development Plan and more recent Government guidance in the NPPF.
- 36. Para 176. of the NPPF states that *'great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.'*

Core Strategy

- 37. Policy GSP1 sets out the broad strategy for achieving the National Park's objectives having regard to the Sandford Principle, (that is, where there are conflicting desired outcomes in achieving national park purposes, greater priority must be given to the conservation of the natural beauty, wildlife and cultural heritage of the area, even at the cost of socio-economic benefits). GPS1 also sets out the need for sustainable development and to avoid major development unless it is essential, and the need to mitigate localised harm where essential major development is allowed.
- 38. Policy GSP3 sets out development management principles and states that all development must respect, conserve and enhance all valued characteristics of the site and buildings, paying particular attention to, amongst other elements, impact on the character and setting of buildings, scale of the development appropriate to the character and appearance of the National Park, design in accordance with the National Park Authority Design Guide and impact on living conditions of communities.
- 39. Core Strategy policy E2 states that in open countryside businesses should be located in existing traditional buildings of historic or vernacular merit in smaller settlements, on farmstead and in groups of buildings in sustainable locations.
- 40. Core Strategy policy HC4 seeks encourage the provision and retention of community facilities.
- 41. Core Strategy Policy CC1 states that development must make the most efficient use of land, buildings and natural resources and take account of the energy hierarchy.

Development Management Policies

42. Policy DMC3 expects a high standard of design that respects, protects and where possible enhances the natural beauty, quality and visual amenity of the landscape.
43. Policy DMC14 sets out that development that presents a risk of pollution or disturbance including soil, air, light, water or noise pollution, or odour that could have adverse environmental and amenity impacts will not be permitted unless adequate control measures are put in place to bring the pollution within acceptable limits.
44. Policy DME7 states that expansion of existing business development outside of specific named settlements will only be permitted where it is of a modest scale in relation to the existing activity and does not extend the physical limits of the established use and it does not harm and wherever possible secures an enhancement to the amenity and valued character of the area and the site.
45. Policy DMT3 states the development will only be permitted where, having regard to the standard, function, nature and use of the road, a safe access that is achievable for all people, can be provided in a way that does not detract from the character and appearance of the locality and where possible enhances it.
46. Policy DMS2 sets out relevant considerations for proposals for the change of use of shops, community services and facilities.

Assessment

Principle of Development and Relationship with the Public House Business

47. When planning permission was granted in 2018 for the use of part of the public house as water bottling plant (for spring water that emerges at the site), it was granted on the basis that *'the proposals could provide a valuable additional income stream to help to support the (pub) business and at the scale proposed the use would remain modest in scale in relation to the main use.'* The reasons we took that view were because it was demonstrated that the loss of the dining room could be compensated by additional tables within the remainder of the pub, and that the scale of the business was limited by restricting the bottling use to the dining room and adjacent yard only. A condition to limit the number of crates of water produced to 500 per day was also considered to be necessary to further control the level of use. A 3 year temporary consent was granted to enable any impacts of the main use of the site as a public house and on residential amenity to be re-assessed after a reasonable period of time.
48. The applicant sought to make the permission permanent in 2021, in the midst of the covid pandemic. The Covid 19 pandemic had meant that public houses were either closed or subject to restrictions for a significant proportion of the initial permission granted in 2018. This meant that it had been difficult to properly understand the long-term impact that the water bottling business had on the public house. As such, a further temporary permission was granted in 2021. This was also for a three year period, which expires in April 2024.
49. Planning guidance makes it clear that there will not normally be reasonable justification for the issuing of a temporary permission on more than one occasion. Whilst the covid pandemic provided exceptional justification for a second temporary permission, no such circumstances exist now. At this stage, the options before the Authority are to approve the water bottling use on a permanent basis, or to refuse it which would force the cessation of the water bottling business once the current temporary permission expires in April 2024.

50. The two temporary permissions have served the intended purposes of allowing a good understanding of the impacts of the water bottling use. It is evident that the water bottling has become a successful business, and this is welcomed. Supporting information from the applicant sets out that the water bottling business employs up to 15 people.
51. Concerns raised by objectors in respect of the impact on the public house are noted and fully acknowledged. It is understood that the public house currently opens for 4 hours a week, at the weekend.
52. Whilst this is clearly a very limited offer in terms of the public house as a business and community facility, the applicant has stressed that the public house business would not have survived the pandemic and energy price issues without significant subsidy from the water bottling business. Information has been supplied that shows very modest takings from the public house business, and the applicant states that these takings represent a loss-making enterprise (when the public house business is considered in isolation from the water business).
53. As with any business, the extent of the opening hours (at least in respect of minimum opening hours) are a matter to be determined by the business operator and not by the Local Planning Authority. It would clearly be preferable for the public house to be open to serve members of the local community and visitors for far more than 4 hours a week. However, significant weight is also given to the very realistic likelihood that the public house would have closed altogether without the business diversification that the water bottling business provides.
54. The applicant has reiterated an aspiration to open the public house for more hours as the success of the water bottling business provides more income to subsidise the public house to a greater extent.
55. It is apparent that, as things stand today, the water bottling business has overtaken the public house business as the main income generator, and this is reflected in the very limited opening hours of the public house. However, significant weight is also given to the difficulties faced by the hospitality industry throughout the last three years, and it is accepted that there is a very high possibility that the public house business will close altogether if the water bottling business is brought to an end.
56. As with the previous permissions, it remains the case that there is no reason to conclude that the water bottling business actively harms the public house. It remains limited to one room and the external yard area. There is no practical reason as to why the water bottling and public house businesses cannot both thrive in the same building.
57. Whilst the limited opening hours of the public house could be said to be disappointing, the applicant's stated commitment to extending these hours is encouraging and it is considered that the continuation of the water bottling business provides the best likelihood of the public house surviving and being able to open for longer hours in the future.
58. The repetition of the previous condition requiring the water bottling business to cease if the public house business closes is necessary in order to protect the public house as a community facility and to incentivise efforts to make the public house more viable. Similarly, conditions limiting the scale of the water bottling operation are again recommended in order to ensure that the public house business is not subsumed by the water bottling business and to protect residential amenity, as discussed further below.
59. Overall, the use of part of the public house site for a water bottling business on a

permanent basis represents an appropriate and sustainable form of business diversification, and which makes use of a traditional building. The proposal, therefore, accords with policies E2 and DME7 in this respect. Furthermore, the water bottling use on a permanent basis does not result in the loss of the public house as a community facility and the proposal accords with policies HC4 and DMS2. The principle of the water bottling use on a permanent basis is, therefore, considered to be acceptable.

Impact on Residential Amenity

60. The other reason for the temporary permission was to allow the impact on residential amenity to be re-assessed after a reasonable period. The main property that had the potential to be affected by the proposals was 'Old Beams', which is located immediately to the north of the public house. Concerns were raised by the occupier at the time of the original application with regard to potential for noise to emanate from the yard where the bottles are stored and delivered/collected and that this could cause harm to amenity. We took the view that it would be unlikely that the proposed use would increase the noise levels from the yard significantly over and above existing potential levels if the pub were operated more intensively (the yard's existing use was as a delivery and storage yard for the pub). However, the 3 years permission would enable a re-assessment of any impacts.
61. We have not received any complaints from the occupier of Old Beams since the bottling plant has been in operation and they have written in with regard to the current proposals, raising no objections. Consequently, we are satisfied that the bottling plant, as originally approved does not cause harm to the privacy and amenity of neighbouring properties and therefore amenity issues would not be a barrier to a permanent consent.
62. Subject to a repetition of the conditions that limit the scale and hours of the water bottling operation, it is considered that the use on a permanent basis would not result in harmful amenity impacts and the proposal accords with policies DMC3 and DMC14.

Visual Amenity

63. Concerns raised in representations regarding the site being untidy are acknowledged. However, the use of one room within the public house business for water bottling has no visual impact. Furthermore, the yard to the eastern side of the public house building is well contained and the use of this area for storage has little impact on the appearance of the site and no impact on the wider landscape character and special qualities of this part of the National Park.
64. A tent has been erected over the yard area. This does not have planning permission and is not under consideration as part of this application for the use of the site. A separate application would be needed for the erection of the tent on a permanent basis. The use of the tent to provide shelter on an occasional basis, for example during adverse weather, is unlikely to constitute operational development as long as it is entirely removed when not in occasional use. A repetition of the previous condition limiting storage to the eastern yard is again recommended in order to prevent the use extending into the main car park and outdoor space to the front of the building.
65. Given that the water bottling use is limited to one room within the building, and to the eastern yard area, the general condition of the exterior of the public house building and any issues relating to the external space to the western side of the building are not directly related to the proposed use that is under consideration and, therefore, do not carry any significant weight in the consideration of this application.
66. Overall, it is considered that the water bottling use on a permanent basis does not harm the visual amenity, landscape character or special qualities of the National Park and

accords with policy DMC3 in this respect.

Access and Highways Impacts

67. The site includes adequate space for delivery vehicles and staff and visitor parking. The local highways authority has raised no objections, noting that the water bottling use has been in operation for several years now and that a permanent permission would not result in any adverse impacts. The proposal accords with policy DMT3.

Sustainability and Climate Change Mitigation

68. Representations have noted the suitability benefits of the water bottling business, and these points are noted. Water is taken from a borehole on site and also bottled on site. This, therefore, does not require any transportation between the source and bottling stages and is sustainable in this respect. The water is also bottled in reusable glass bottles, and not single use plastic. Whilst no specific renewable energy or carbon reduction measures have been put forward, it is considered that the water bottling is a sustainable operation that reduces emissions and traffic movements compared with the situation if water was to be tanked and taken elsewhere for bottling. The scheme is considered to sufficiently accord with policy CC1.

Other Considerations

69. A representation has raised concern about the impact of the water bottling process on the water table and on the water supplies of other properties in the locality. The applicant has provided information that sets out that a hydrogeology survey has been undertaken that indicates a source capacity of about 500,000 litres of water per day. An extraction licence is required for extraction of over 20,000 litres per day. At 5000 litres of water per day (in accordance with the recommended condition) the volume of water extraction is well below both the indicative source capacity and the threshold for licencing. The hydrogeology report sets out that the yield will always be maintained at this level of extraction as the water is replenished at a faster rate than it is extracted.
70. Based on the above information, we have no technical evidence to substantiate any concern that the water bottling operation has an adverse impact on the water table or on other local water supplies.

Conclusion

71. It is concluded that the water bottling use represents a suitable and appropriate form of business diversification at the established public house site, and would not adversely impact on the viability of the public house as a community facility. Furthermore, the temporary consents have demonstrated that the use does not have an unacceptable impact on the amenity of neighbouring residents. Whilst concerns relating to the limited extent of the public house use at the moment are noted and well understood, this is weighed against the continued provision of an alternative income source that has subsidised the public house during very difficult conditions for the hospitality sector. Overall, it is considered that permanent permission should now be granted for the water bottling use alongside the public house business. The proposal is considered to accord with policies GSP1, GSP3, E2, HC4, CC1 of the Core Strategy, policies DMC3, DMC14, DME7, DMS2, DMT3 of the DMP and the relevant sections of the NPPF.

Human Rights

72. Any human rights issues have been considered and addressed in the preparation of this report.

List of Background Papers (not previously published)

73. Nil

Report Author and Job Title

74. Tom Shiels – Consultant Planner