

**East Area Planning Committee**

3<sup>rd</sup> December 2014

**Application Number:** 14/02181/FUL

**Decision Due by:** 30th September 2014

**Proposal:** Erection of single storey extension over existing yard to provide extension to bar area. New external doors to utility room and bar area and associated works. Provision of a kitchen extract flue.

**Site Address:** The Prince Of Wales Church Way, Oxford (**site plan: appendix 1**)

**Ward:** Rose Hill And Iffley Ward

**Agent:** Mr Paul Oakley

**Applicant:** Mr L Stephens

**Application Called in** by Councillors Turner, Seamons, Fry and Price on the basis that similar applications and particularly extract flues for the public house have created concern from neighbours and therefore need to be looked at carefully to avoid any adverse impacts or at least mitigate them as far as possible.

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## **Recommendation:**

APPROVE

## **Reasons for Approval**

- 1 The proposed development would represent an efficient use of land that would improve the viability of the public house without giving rise to any unacceptable environmental problems or disturbance for the adjoining residential properties or highway implications for Church Way and the surrounding area. The proposed extension would create an appropriate visual relationship with the built form of the existing building and would preserve the special character and appearance of the Iffley Village Conservation Area, while at the same time safeguarding the amenities of the adjoining properties. The proposed development would therefore accord with the relevant policies of the Oxford Core Strategy 2026, Oxford Local Plan 2001-2016, and Sites and Housing Plan 2026.
- 2 In considering the application, officers have had specific regard to all the comments of third parties and statutory bodies in relation to the application however officers consider that these comments have not raised any material considerations that would warrant refusal of the applications, and that any harm identified by the proposal could be successfully mitigated by

appropriately worded conditions.

- 3 The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.

**Conditions:**

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Samples in Conservation Area
- 4 Windows to be non-opening
- 5 The use of beer garden ceases after 23.00h
- 6 Full design details of extraction equipment
- 7 A scheme for the treatment of cooking odours

**Main Local Plan Policies:**

**Oxford Local Plan 2001-2016**

**CP1** - Development Proposals

**CP8** - Design Development to Relate to its Context

**CP9** - Creating Successful New Places

**CP10** - Siting Development to Meet Functional Needs

**CP19** - Nuisance

**CP21** - Noise

**HE7** - Conservation Areas

**TR3** - Car Parking Standards

**RC12** - Food & Drinks Outlets

**Core Strategy**

**CS2\_** - Previously developed and greenfield land

**CS18\_** - Urban design, town character, historic environment

**Sites and Housing Plan**

**HP14\_** - Privacy and Daylight

**Other Material Considerations:**

National Planning Policy Framework

This application is in the Iffley Village Conservation Area.

Planning Practice Guidance

**Relevant Site History:**

73/01734/A H: Two storey extension and alterations to improve facilities: Refused

74/00589/A H: Two storey extension and alterations to improve facilities: Approved

93/01325/NFH: Extension of car park from 8 to 14 spaces. Scheme B: Withdrawn

00/00138/NFH: Extension to provide replacement kitchen for public house. New entrance lobby. New chimney. External alterations including new doors and windows plus balcony on west elevation and screen wall on boundary with no. 71. (Amended plans): Approved

07/01709/FUL: Single storey extension to front, including new lobby entrance and balcony, and rear single storey extension: Approved

11/01701/FUL: Single storey extension over existing yard to provide extension to bar/dining area. New external doors to utility room and bar area and associated works: Approved

11/02875/FUL: The provision of a kitchen extract flue on the north gable of the building: Withdrawn

### **Representations Received:**

Letters have been received from the following addresses, and the comments are summarised below

- 12 Bay Tree Close; 71, 78, 78a, 79, 80, 86, 2 Church Way; 11, 12 Cordrey Green; 8 Fitzherbert Close; 68 Gloucester Court, Richmond
- The requirement for a pub to be economically viable is accepted but this needs to be delivered in harmony with local residents
- The scheme differs from the scheme approved 13 years ago, which had a balcony to the front for people to enjoy views of the river instead of the kitchen with blacked out windows. This scheme should be considered again
- The proposal will have an adverse impact upon the residential amenities of 71 Church Way
- There are residential properties on the opposite side of Church Way that also need to be considered
- The existing beer garden is separated from 71 Church Way by a yard which provides a buffer between the two properties from noise and smoke fumes. The conversion of this yard into a beer garden will have an adverse impact upon 71 Church Way from noise and disturbance along with uncensored adult conversation.
- The existing beer garden creates noise and disturbance to the rear garden and master bedroom of 8 Fitzherbert Close. The proposed double doors from the extension and extended beer garden will create further potential for disturbance, particularly in warm weather
- The new kitchen extract is 1.5m away from the bedroom window at 71 Church Way. The chimney breast will cause considerable visual impact as it will run directly opposite this window and the noise levels will extend beyond the existing noise limit for the premises.
- Church Way is a congested road. The parking proposed will provide 25 spaces, increasing the capacity from the existing 13 spaces. This can only be assumed to bring extra traffic and increase congestion on Church Way from overspill parking
- The development will increase the public area in the pub from 140m<sup>2</sup> to 182m<sup>2</sup> which is an increase of 30%. This will place pressure on the car park and

increase congestion

- The pub's entrance / exit are on a blind bend which creates a hazard for road users, and any increase in traffic will amplify this.
- The increase in use of the pub will increase the amount of noise generated from the pub especially at closing time.
- The proposed chimney breast or industrial type kitchen vent will not preserve or enhance the character of the conservation area

### **Statutory Consultees:**

#### Friends of Iffley Village:

This application is for much-needed upgrading and extension of facilities at this long established pub, prominently situated near the centre of Iffley on its main road. In response to local concerns, FOIV conducted a thorough review of a similar application in 2011, and supported it with some reservations about noise from vehicles & customers, traffic & parking and cooking fumes. Opposition from residents of adjacent homes to the current proposals focus on many of the same issues. All accept that the PoW pub is an important amenity for both residents and visitors to Iffley's many tourist attractions but changes in legislation and economic climate for such businesses require these improvements. The present plans achieve these objectives without detracting from the appearance of the building from the road or harming the conservation area.

The proposed upgrading of the arrangements for expelling kitchen fumes are expected to produce welcomed reduction in cooking odours but may increase noise and be unsightly for the adjoining home. One solution may be to place the flue inside the existing chimney. FOIV welcomes the proposal to shift towards meals in favour of just drinking and the diversification of food offered. Diners are usually less rowdy than drinkers thus mitigating both noise and traffic hazards. However, although residents of adjoining homes accept that the ban on smoking inside pubs inevitably leads to more customers being outside, and accept that the managers have implemented a previous agreement to move clients further away after 11pm, concerns remain that extension of the beer garden to the south may increase the noise and tobacco fumes that they experience.

Traffic and parking are a long-standing problem in Iffley, particularly that part of Church Way which is narrow, curving and adjacent to the community shop. The report on the 2011 application mentions a previous claim of 25 off-street car-parking spaces though around 14 seems to be the practical maximum. There was concern that the current proposal failed to address such matters thoroughly. However, many customers, especially residents of Iffley and Rose Hill, university students and the passing trade of long-distance walkers and cyclists, arrive without motor vehicles and we hope the improvements will attract more of them. Patrons of a country pub obviously do not wish to sit close to the car-park and road, so we understand why the seating is to be expanded behind the main building. There is no easy solution to the parking problem, as the PoW site is small and formal restrictions such as yellow lines and residents permits in Church Way would arouse strong opposition.

In conclusion FOIVs position is similar to that of the 2011 application: support with the reservations outlined above.

## **Officers Assessment:**

### **Site Location and Description:**

1. The site is located on the eastern side of Church Way, and is bordered by residential properties of 71 Church Way to the North, 8 Fitzherberts Close to the east, Bakers Lane to the south with 77 Church Way beyond. The site is within the Iffley Village Conservation Area (**site plan: appendix 1**)
2. The site comprises the Prince of Wales Public House, which is a large detached building that has a pub garden to the site and rear with an enclosed service area, and a frontage which is used for car parking.

### **Proposal**

3. Planning permission is sought for the erection of a single-storey extension over the existing yard to provide an extension to the bar area, alterations to the existing building to create new external doors to the utility room and bar area and other associated works.
4. The proposal is also seeking permission for the provision of a new kitchen extraction flue for the public house as part of on-going discussions with City Environmental Health Officers. The original plans showed a vertical flue located on the northern elevation which was enclosed by a false chimney. These plans have subsequently been amended with the vertical flue now located within the existing building and projecting through the rear roof slope.
5. Officers consider that the principle determining issues with regards to the proposal are as follows; principle of development; form and appearance; impact upon adjoining properties; environmental impacts; and highway matters.

### **Principle of Development**

6. The principle of extending the Public House including alterations to the internal layout of the premises to provide an additional bar has previously been accepted through the grant of planning permission 11/01701/FUL.
7. Since this decision was taken there has been a material change in national planning policy with the adoption of the National Planning Policy Framework [NPPF]. The NPPF has a presumption in favour of sustainable development and encourages the effective use of previously developed land provided that it is not of high environmental value. This is supported through the Oxford Core Strategy 2026 which encourages development proposals to make an efficient use of land in built up areas through Policy CS2.
8. Officers consider that the general principle of improvements to the public house would accord with the aims of national and local planning policy to make an efficient use of land.

## Form and Appearance

9. Policy CS18 of the Oxford Core Strategy 2026 requires development to demonstrate high-quality urban design responding appropriately to the site and surroundings; creating a strong sense of place; contributing to an attractive public realm; and providing high quality architecture. The Local Plan requires new development to enhance the quality of the environment, with Policy CP1 central to this purpose. Policy CP8 requires development to relate to its context with the siting, massing and design creating an appropriate visual relationship with the form, grain and scale of the surrounding area. The site lies within the Iffley Village Conservation Area. Policy HE7 of the Local Plan states that new development should preserve or enhance the special character and appearance of the conservation area or its setting.
10. The proposed extension would be identical to the one approved under 11/01701/FUL. It would be sited in the current service area of the public house and would be single storey with a double pile roof and lantern. The extension would be of a modest size and would create an appropriate visual relationship with the built form of the existing building. As the structure would be sited to the rear there would be no views from the frontage and as such the extension would not have an impact upon the significance of the conservation area or its setting. There will also be some minor alterations to the existing building through the formation of a new doorway in the existing bar and the closing of the existing rear door to enable the provision of a disabled WC. Again the alterations would create an appropriate visual relationship with the built form of the existing building.
11. The scheme also includes the provision of a new kitchen extraction flue. The original plans showed this to be located on the northern elevation and encased within a false chimney. The plans have subsequently been amended to locate the flue internally within the building with the extract projecting through the rear roof slope. The location of the flue within the building would represent the best option in terms of minimising the visual impact upon the building and preserving the significance of the conservation area. Although the flue would project above the ridgeline of the building this would not go beyond the height of the existing chimney breast and views from the public realm will be limited given the orientation of the site and the change in land levels between the building and Church Way. Although the flue will be visible in private views from the surrounding residential properties the visual impact of this will be minimal. It would be important to ensure that the flue is appropriately coloured in a grey or mid-grey to help reduce its visual impact further, however this could be secured by condition.
12. Overall officers consider that the proposed development would be of a size, scale, and design that would create an appropriate visual relationship with the built form of the existing building and has been designed in a manner to preserve the significance of the Iffley Village Conservation Area. This would accord with the aims of the above-mentioned policies.

## **Impact upon Adjoining Properties**

13. Sites and Housing Plan Policy HP14 states that permission will only be granted for development that protects the privacy and amenity of proposed and existing residential properties, and will be assessed in terms of potential for overlooking into habitable rooms, sense of enclosure, overbearing impact and sunlight and daylight standards. This is also supported through Local Plan Policy CP10.
14. Having regards to the location of the single storey extension and the minor works to the existing building, the proposal would not have an impact upon the adjoining properties in Church Way or Fitzherbert Close in terms of loss of light, overbearing impact, or overlooking of private open space.
15. The main issues that have been raised during the public consultation in relation to the impact upon the adjoining properties relate primarily to environmental problems from noise and odour disturbance which will be dealt with in the next sections of the report.

## **Environmental Impacts**

16. During the consultation process concerns have been raised by the adjoining properties that the public house is currently causing environmental problems in terms of noise and disturbance from the kitchen extraction, and the use of the pub garden. The public house is a well-established use within the local community, but it is important to bear in mind that this use has the potential to create noise and disturbance for adjoining residential properties. That said it is equally important to consider that there is a level of noise that can reasonably be attributed to the practical needs of the business that also has to be balanced against the needs of adjoining residential properties.
17. Policy CP19 of the Local Plan states that permission will be refused for development that causes unacceptable nuisance, but where such nuisance is controllable, appropriate planning conditions will be imposed. Policy CP21 also states that permission will not be granted for development that causes unacceptable noise, with particular attention paid to noise levels close to noise-sensitive developments; and public and private amenity space, both indoor and outdoor. It goes on to state that the Council will impose enforceable conditions to minimise any adverse impacts as a result of noise and transmission. When imposing conditions it is necessary to consider that such matters are also dealt with through other regulatory authorities such as Environmental Health and Licensing and in instances where there appears to be a cross-over between such authorities and different legislation, care needs to be taken to ensure the appropriate authority regulates the matter in question.

### *Kitchen Extraction*

18. The existing kitchen extraction for the public house has been subject to a long standing investigation by City Environmental Health Officers. These investigations have found that the extract is currently causing a noise and odour nuisance to the upper floor bedroom window in the side gable of the adjoining

property at 71 Church Way. As a result of this investigation, Environmental Health officers have been discussing a suitably designed solution for the kitchen extraction with the applicant that will reduce the impact upon the adjoining property at 71 Church Way. The current proposal stems from these discussions.

19. The proposed extraction has been amended since it was originally submitted and now proposes to locate the vertical flue within the existing building, projecting through the rear roof slope and terminating above the existing ridge line in order to discharge odour at high level. This designed solution would represent a significant improvement on the existing situation whereby the kitchen extract currently discharges at low level through a ground floor level vent in the side gable with limited filtration and no noise attenuation.
20. City Environmental Health Officers have advised in the first instance that given the proximity and layout of both buildings it is unlikely that noise and smell disturbances from the kitchen extraction could be removed altogether. The public house has the right to operate on this site and to some extent generate noise and emissions commensurate with their use on the proviso that all reasonable action has been taken to mitigate these impacts. The submitted plans indicate that the proposed extraction flue will use a single din padded silencer, 500mm axial extractor and double din padded silencer to reduce noise impact, and a carbon filter with pre-filter to remove any cooking odours. This would introduce a level of extraction that does not currently exist on site at present. As proposed the flue will also be set within the existing building and therefore behind the gable wall which would provide a further level of insulation between the extract and the adjoining property at 71 Church Way. Similarly the use of carbon filters to remove smells and discharge at high speed and high level will ensure that smells do not linger and also represent an improvement on the existing situation. As a result Environmental Health officers have advised that on the basis of the information and revised drawings submitted for the kitchen extract they are satisfied that the scheme will properly address the noise and odour issues experienced by 71 Church Way. In order to ensure that this is properly addressed a condition should be imposed requiring the full details of the extraction flue to be approved by officers before the development commences.

#### *Pub Garden / Alterations to building*

21. The public house has a beer garden to the side and rear of the building. The proposal is seeking to extend the beer garden into the small area of space behind the proposed extension. The use of this area would not materially increase the potential for noise and disturbance beyond the existing situation when you consider the proximity of the current beer garden to the adjoining properties and that the existing premises licence restricts live and recorded music, other entertainment and dancing facilities to indoors only, and all licensable activities of the current outside areas to cease after 23.00 hours. The potential for further noise and disturbance from the use of this area would normally be controlled through the Environmental Protection Act 1990 and also the Licensing Authority. However the condition on the licence (**appendix 2**) relates to the existing external area and may not cover the new beer garden, therefore for completeness officers would recommend imposing a condition which requires the beer garden to cease



use after 23.00hours

22. The proposed extension would result in a modest increase in the size and scale of the bar / dining area for the public house and also the provision of a pair of French doors in the rear elevation. As this would increase the area of licensable activity within the public house, there would be a potential for noise to escape from this area when the windows and doors are open. The premises licence currently stipulates a set noise level (35dba) for regulated entertainment when measured 1m from any residential building, and also that all external doors (except when persons are entering and leaving the premises) and windows shall remain closed when regulated entertainment takes place. Therefore a condition should also be attached which imposes the same on this planning permission to ensure that the new extension and works are consistent with the licence.
23. Officers consider that subject to appropriate conditions the proposed works would not create any unacceptable noise and disturbance for the adjoining properties that would conflict with Policies CP19 and CP21 of the Oxford Local Plan 2001-2016, and that where any such impact has been identified this could be appropriately dealt with by way of condition.

### **Highway Matters**

24. During the consultation process concerns have been raised that the extension to the public house will result in a significant increase in traffic and parking problems for Church Way.
25. The Public House currently has a large forecourt to the frontage which provides parking for patrons of the public house. The forecourt does not have any designated spaces marked out in this parking area although the application states that this area can accommodate 25 vehicles and that this level of parking will be maintained on site. The previous planning permission for the site (07/01709/FUL) identified the frontage as having space for 14 spaces which was to be reorganised to provide 16 spaces. On this basis the comment that 25 spaces can be provided in the forecourt may not be accurate, however, it is clear that the fact that the car park does not currently have any designated spaces may well prevent the existing car park from meeting its maximum potential.
26. The proposed extension to the public house would be modest in terms of the additional floor area created and identical to the scheme approved under reference number 11/01701/FUL. In considering this proposal, the Local Highways Authority concluded that there would be no highway implications with the proposal. Officers would suggest that there has been no material change in site circumstances since this previous decision. The roads within Iffley Village are narrow and Church Way does experience some congestion at busy periods. However, the proposal would offer a small scale extension to the existing premises which in turn would not generate significant levels of traffic. The public house is a community pub which serves the residential area of Iffley and Rose Hill along with walkers and tourists from further afield, and, as such, there would be a high proportion of customers that would visit the premises by alternative means to the car (i.e. walking and cycling). Officers would therefore maintain the

previously held view that there would be no unacceptable highway safety consequences resulting from this modest extension to the bar area that would conflict with the overall aims of Oxford Local Plan Policy CP1.

## **Conclusion**

27. The proposal is considered to be acceptable in terms of the relevant policies of the Oxford Core Strategy 2026, Oxford Local Plan 2001-2016, and Sites and Housing Plan 2026 and therefore officer's recommendation to the Members of the East Area Planning Committee is to approve the development.

## **Human Rights Act 1998**

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

## **Section 17 of the Crime and Disorder Act 1998**

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to grant planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

**Contact Officer:** Andrew Murdoch

**Extension:** 2228

**Date:** 17th October 2014