

**West Area Planning Committee**

7th November 2012

**Application Number:** 12/02310/FUL

**Decision Due by:** 1st November 2012

**Proposal:** Change of use and conversion from public house (class A4) to a single dwelling house (class C3)

**Site Address:** Chester Arms, 19 Chester Street (**Site Plan: appendix 1**)

**Ward:** Iffley Fields Ward

**Agent:** John Philips Planning Consultancy

**Applicant:** Woodchester Estates Limited

**The application has been called in by** Councillors Benjamin, Williams, Hollick and Simmons for the following reasons; loss of local pub (including concerns about how pub viability is assessed) and impact on local flood zone (there is a suspected underground stream very close to the application site which has flooded in the past); and by Councillors Van Nooijen, Price, Rowley, Canning, McManners, Tanner and Curran.

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## **Recommendation:**

The West Area Planning Committee is recommended to approve planning permission for the following reasons:

- 1 Having regards to the evidence provided with the application officers consider the general principle of the loss of the public house and its conversion to a single detached dwelling would be acceptable. The proposal would make an efficient and effective use of a previously developed site in order to provide a good quality detached dwelling which has a good standard of internal and external environment that adequately provides for the future occupants of the dwelling. The proposal will provide adequate off-street parking for the dwellinghouse in a manner that maintain highway safety. The change of use will not have an adverse impact upon the protected trees within the site, or flood risk within the site or surrounding area. Therefore the proposal would accord with the National Planning Policy Framework and the relevant policies of the adopted Oxford Local Plan 2001-2016, Oxford Core Strategy 2026, and the Sites and Housing Plan.

- 2 In considering the application, officers have had specific regard to 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 any harm identified 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 Details of Refuse and Cycle Storage
- 4 Details of Means of Enclosure
- 5 Details of Parking Areas including Visibility Splays
- 6 Design - no additions to dwelling
- 10 Flood Risk Assessment mitigation measures

**Main Local Plan Policies:**

**Oxford Local Plan 2001-2016**

**CP1** - Development Proposals

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

**TR3** - Car Parking Standards

**TR4** - Pedestrian & Cycle Facilities

**HS19** - Privacy & Amenity

**HS20** - Local Residential Environment

**HS21** - Private Open Space

**RC18** - Public Houses

**Core Strategy**

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

**Sites and Housing Plan - Submission**

**HP9\_** - Design, Character and Context

**HP12\_** - Indoor Space

**HP13\_** - Outdoor Space

**HP14\_** - Privacy and Daylight

**HP15\_** - Residential cycle parking

**HP16\_** - Residential car parking

**Other Material Considerations:**

National Planning Policy Framework

**Relevant Site History:**

The site has been subject to a number of applications those of most relevance to the application are as follows:

61/10487/A H - Extension to Public Bar for Chester Arms: Approved

65/16146/A H - Provision of car park on land adjacent to Chester Arms: Approved

69/21224/A H - Outline application for erecting one pair of semi-detached houses with garages (9 and 11 Argyle Street): Approved

86/01037/NF - Single storey rear extension to form cellar and conversion of existing cellar to kitchen for Chester Arms: Refused

98/00689/NF - Demolition of existing single storey extension, erection of new single storey extension for Chester Arms (Amended Plans): Approved

**Representations Received:**

76 Letters of comment have been received from the following addresses, whose comments are summarised below:

Objection

- The proposal would result in the loss of a public house, that has the potential to be transformed into a viable business and asset to the local community
- The pub plays an important part in defining the areas distinct local character
- The pub is one of the few pubs in the city which has a large garden, that is suitable for families
- The pub is the only one on the west side of Iffley Road
- The pub was used by local community groups for meetings (such as the Friends of Aston's Eyot, Oxford Wheels Project)
- The pub is in a good location and when doing well drew people from a mile or more away for events at the pub such as pub quiz, music nights, live sports, Sunday lunch, pool night, atmosphere and good beer
- The pub has not been successful in recent years as it has been run as a music venue which is not suitable in a residential area
- The 2010 investment in the pub followed standard 'chain pub' models and did not adopt an innovative approach to responding to community needs or local demand
- The pub has not been run well by the most recent landlords in comparison to previous ones but this does not mean it is not viable.
- It is clearly sustainable as a Free House under the right management as demonstrated by the Rusty Bicycle and Magdalen Arms
- The other pubs in the area (i.e. Rusty Bicycle and Magdalen Arms) do not fulfil the same role as the Chester Arms as they aim at different markets
- Too many pubs are being closed down and converted to residential use
- There may have been noise complaints, but most residents are happy if this terminates at 11pm
- The property is suitable for live music, but this doesn't have to be amplified music as there could be acoustic sets.

- The change of use would facilitate the development of the car park, and this was obviously the developers intention all along
- The proposal has not demonstrated that it satisfies Policy RC18 which deals with the loss of public houses
- The pub was sold as a quick sale and was not placed on the market locally where there is interest from local restaurant and pub owners
- The viability report is one sided as it was paid for by the application, though accurate in parts, it is misleading and also not balanced
- It is not correct to say there is no passing trade in Iffley Fields as it is a diverse community with plenty of residents (circa 15,000) in walking distance to the pub
- The site is on a busy bus route linking it to Rose Hill and the City centre
- The study was completed only 5 months after purchase which is too soon to draw conclusions as to viability and the pub does not appear to have been operated under a supportive investor
- There is plenty of parking at the pub in comparison to others in the area
- CAMRA objects to the change of use, there is still a demand for the public house use as evidence by the campaign from local residents to retain the use
- Advice from industry specialists including Cask Marque, The British Beer and Pub Association, and CAMRA show that whilst the sales of keg beers (including largers) are in decline the sale of cask and bottled beers is growing
- The level of confidence in the community for the proposal, would make it likely that a suitable operator could be found should permission not be granted
- The conversion to housing will result in more cars.
- The pub is clearly shown on the 1900 South Oxford Ordnance survey map and is an important part of the historical fabric of the area
- The layout of the new dwelling is not good, as a four bedroom dwelling would only have one bathroom and would retain all the other pub extensions
- The development will cause flood risk
- The comments on the Tree Preservation Order is out of date (i.e. crack willow replaced by Ailanthus) as this was replaced by a Silver Birch
- The dwelling is likely to be turned into a HMO

### Support

- While a shame that it represents a loss of a local pub, in our experience it was little used by the community
- Noise nuisance and parking have been issues for the pub for 20 years
- The car park is insufficient for the number of customers
- No reasonable efforts have ever been attempted to cut noise pollution and on occasions the mess in the street after a weekend were unpleasant
- It should be converted to residential use, or anything other than a pub
- There are many other pubs in easy walking distance, including premises with outdoor drinking
- The proposed change of use should include a landscape strategy to better manage the conifer hedge and beech tree on site which have not been properly managed and cause problems for adjoining properties
- The change of use to single dwelling is likely to have the least impact on the community

#### Iffley Fields Residents Association:

- Object to the application
- The proposal does not satisfy Policy RC18
- The viability assessment is compromised and should be disregarded
- The Chester Arms was never marketed in Oxford. It was marketed by Everard Cole in Cambridge who carried out a discreet off-market process. As a result catering and pub businesses in Oxford were unaware of the availability
- The reason the pub has not been successful is because the pub has not been managed in a way that would attract local residents. The model of management as deployed by Pubmaster and Punch taverns, and more recently the applicant has proved unsuccessful whereas previous landlords engaged with residents and were members of the residents association
- While the economic downturn has not helped, investment can be found in the business plan is realistic. The pub would be of huge interest as a freehold pub to independent landlords which is an area of growth in the pub trade
- There is a large catchment area with a diverse community and a number of amenity groups that would use it
- Wet sales and amplified music need not be the way forward, and acoustic music could be offered to deal with concerns in local area
- The viability assessment only relates to keg beer sales and does not consider other revenue streams except 'beer' and the pub could diversify. The tobacco ban need not have a negative effect
- The 2010 investment was targeted at the wrong audience and should have followed example of other local pubs
- The assessment does not provide any information on pubs assets such as the enclosed garden, car park, proximity to other revenue sources
- The pub is the only one on the Iffley Fields side of the Iffley Road and is a 'social resource' and valued community asset
- The pub would not be empty if it had been put up for sale in October 2001
- The applicant understands the value of the pub to the local community having met with the residents association. The applicant may feel that the pub is a development opportunity as it is unloved by the local community. This is a misunderstanding
- There are many pubs which have turned around from the Punch Taverns type model to vibrant and well used community assets
- The NPPF guards against the loss of valued facilities
- The single dwellinghouse would have a lack of privacy and bathing facilities which make it somewhat improbable as a saleable home.
- The application is precursor to future development on site
- There is a lot of support amongst other pubs/cafes as well as potential pub users to retain the Chester Arms

#### **Statutory Consultees:**

##### Oxfordshire County Council Highways Authority:

The Highways Authority has no objection to this application as proposed subject to the following conditions; suitable vision splays at the parking areas; cycle parking and refuse storage in an appropriate location

## **Officers Assessment:**

### **Site Location and Description**

1. The site is located at the junction of Chester Street and Argyle Street and is within the residential area of Iffley Fields (**site plan: appendix 1**)
2. The site comprises the Chester Arms Public House, which is a detached two-storey building situated on the north-western corner of the site. The existing building has the main commercial area of the public house on the ground floor, and residential accommodation at first floor.
3. The public house has a small single storey extension added to the side, a large pub garden to the rear of the site, and a car park with space for 10 vehicles accessed from Argyle Street. There is a Beech Tree and Silver Birch within the application site that is subject to a tree preservation order. A part of the site is located within Flood Zone 2

### **Proposal**

4. Planning permission is sought for the change of used and conversion of the public house (Class A4) to a single dwellinghouse (Class C3)
5. Officers consider that the principle determining issues with regards to the proposal are as follows:
  - Principle of Development
  - Loss of Public House
  - Residential Use
  - Highway Matters
  - Trees
  - Flood Risk

### **Principle of Development**

6. The National Planning Policy Framework [NPPF] encourages the effective use of previously developed land, provided it is not of high environmental value. This is supported by Policy CS2 of the Oxford Core Strategy 2026.
7. The site is within a residential area, and would involve the reuse of an existing building, and therefore the general principle of re-using the existing building for a residential use would broadly accord with the aims of the above-mentioned policies.

### **Loss of Public House**

8. The Local Plan states that public houses have two distinct roles, firstly as a community facility in residential areas and secondly as part of the historic legacy of Oxford. This is supported by the National Planning Policy Framework which identifies public houses as community facilities which enhance the sustainability of

communities and residential houses.

9. In assessing development proposals that involve the change of use of a public house, Policy RC18 of the Local Plan is clear that permission will only be granted where **one or more** of the following criteria are met.
  - that no other potential occupier can be found following a realistic effort to market the premises for its existing use;
  - substantial evidence of non-viability is submitted; and
  - it is demonstrated that suitable alternative public houses exist to meet the needs of the local community.
10. The application is accompanied by a Viability Assessment which has been prepared by Fleurets Chartered Surveyors in response to this policy. In terms of marketing, the assessment states that the public house was first marketed by Everard Cole in September 2011 for a period of seven weeks. The main focus of the marketing being to existing use operators with two offers received both of which considered alternative uses for the building. Having reviewed this information, officers consider that the marketing exercise carried out for the premises would fall short of the normal requirement of at least 6 months, and would appear to have a limited focus. Therefore the first criterion of the policy has not been met.
11. The second criterion relates to substantial evidence of non-viability. In this regard the expert witness from Fleurets has set out a detailed case in his viability assessment. The reasons advanced in the statement that the public house is not a viable proposition include; the business is loss making despite recent investment in 2010; the potential return on investment that does not reflect the risk; the potential difficulties in raising finance; there would be no interest from corporate pub companies, either leased or managed operators; lack of prominence in the area and passing trade which reduces the prospect of food trade; the location within a residential area would not support live or recorded music events; and that beer sales are generally in decline. In addition the former landlord has provided a statement which highlights the problems experienced of running the public house in this location together with the various business models and attractions which were undertaken to make it a successful community facility. This statement concludes that the location did not allow for passing trade, and so relied heavily on the support and patronage from local people. Furthermore the close proximity to other residential properties caused problems in terms of noise and disturbance from music events, which has been confirmed by Environmental Health records.
12. During the consultation process, concerns have been raised by local residents about the contents of the viability assessment, and that there are potential local operators interested in taking on the premises. While officers are sympathetic to the concerns about the loss of a facility such as this from the local area, the assessment has been prepared by an expert witness to address the policy criteria and therefore the application needs to be assessed on the basis of the evidence provided. As a result officers consider that the viability assessment has made a reasonable case to demonstrate non-viability. In addition the former landlord has actively explored a range of options to attract more custom, such as encouraging

community events; quiz nights; improving the food offer; and introducing music nights, but that these did not generate the consistent increase in business to make the pub viable. Therefore on balance, officers consider that the second criterion of the policy has been met.

13. Finally the third criteria of the policy require applicants to demonstrate that there are suitable alternative public houses in the area to meet the needs of the local community. In this regard the assessment has looked at the available premises within a 0.8m radius of the site, which is considered a reasonable approach. The assessment identifies 16 public houses that are within the 800m radius. While the majority of these are on the Cowley Road, a small number exist in the Iffley Road area which are well within walking distance (i.e. The Fir Tree, Magdalen Arms, and Rusty Bicycle) even if they are not on the same side of the Iffley Road as the Chester Arms. Similarly there are a further 6 clubs and other alternative venues within the local area (i.e. Gladiators Club, Oxford University Sports Rugby Club, East Oxford Conservative Club, Pegasus Theatre and Café, and Magic Café) which provide facilities for local people. As such officers consider that the third criterion of the policy has also been met.
14. In summary, officer consider that while the marketing exercise is not convincing a reasonable has been made in terms of non-viability and also the availability of suitable alternative premises in the local area. Therefore, officers consider that the proposal has, on balance, satisfied parts (b) and (c) of Policy RC18.

## **Residential Use**

15. The National Planning Policy Framework requires development proposals to deliver a wide choice of quality homes in order to create sustainable, inclusive and mixed communities.
16. The proposal would convert the existing public house into a self-contained 4 bedroom dwellinghouse with a large kitchen, family room, living room, dining room, and study at ground floor level and four bedrooms, and a bathroom at first floor level. Officers consider that the proposed conversion would create a good standard of residential accommodation that would satisfy Policy HS20 of the Oxford Local Plan and Policy HP12 of the Sites and Housing Plan.
17. During the consultation process concerns have been raised that the conversion would not create a good quality family home, as there would be a lack of bathing facilities and also a lack of privacy as a number of habitable rooms would face directly onto the street. Having considered these concerns, officers consider that the lack of ensuite facilities would not be a material reason to withhold permission. The property clearly has a separate bathroom that would provide suitable bathing facilities for occupants. Similarly while a number of rooms at ground floor level would face directly onto the street, this type of arrangement could be found in a number of other residential suburbs throughout the city.
18. In terms of private amenity space, the property would have use of the large pub garden which would be more than adequate for a property of this size in accordance with the aims of Policy HS21 of the Oxford Local Plan and Policy



HP13 of the Sites and Housing Plan. While there may be elements of this garden that can be viewed from the public realm of Chester Street, this arrangement could also be considered of many corner plots within residential suburbs throughout the city which have return frontages on public roads and does not impact upon the overall quality of the space. Similarly there would be ample space available for suitable refuse and cycle storage at the property, and this could be secured by condition.

### **Highway Matters**

19. The site is in a sustainable location with good access to shops, services and public transport which would normally support a reduction in off-street parking. However the site is not within a controlled parking zone and there are on-street parking pressures in the area.
20. The proposal would utilise the existing access to the pub car park from Argyle Street to provide vehicular access to 3 off-street parking spaces at the rear of the site. This would satisfy the maximum parking standards for a 4 bed dwelling in accordance with Policy TR3 of the Oxford Local Plan 2001-2016.
21. The existing access to the pub car park is shared with the properties at 9 and 11 Argyle Street providing access to their parking spaces. This shared access will be maintained and as such it is proposed to improve the vehicular vision splays and pedestrian awareness splays to the right (when egressing the access) where this is under the control of the applicant, while the splays to the left will remain as existing. A condition should be attached requiring these to be provided.

### **Trees**

22. The site is covered by a Tree Preservation Order that relates specifically to two trees a Beech Tree (T1) and a Silver Birch (T2). The proposal does not involve any alterations to the built form of the existing building and will therefore cause no issues for the protected trees. It should also be recognised that the protected trees are a constraint which may have an impact on any future development proposals for the site.

### **Flood Risk**

23. The site is located within Flood Zone 2 according to the Oxford City Council Strategic Flood Risk Assessment. A Flood Risk Assessment has accompanied the application which concludes that the site will not result in any changes to the existing hard surfacing within the site or surface water regime, and therefore will not result in increased flood risk. The dwellinghouse will be designed to incorporate flood resilience and safe access measures in order to mitigate any residual risk during times of flooding; and adopted a design process which responds to the potential impacts of climate change.
24. Having regards to the nature of the proposed development and the contents of the Flood Risk Assessment, officers consider that the proposed development would not increase flood risk, subject to a condition being attached requiring the

measures set out within the Flood Risk Assessment being carried out.

**Conclusion:**

25. The proposal is considered to be in accordance with the relevant policies of the Oxford Core Strategy 2026, Oxford Local Plan 2001-2016, and Sites and Housing Plan and therefore Members of the West Area Planning Committee are recommended to grant planning permission for the proposed 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, subject to conditions officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

**Contact Officer:** Andrew Murdoch

**Extension:** 2228

**Date:** 22nd October 2012