

Application number: 22/00040/PIP

Decision due by 21st February 2022

Extension of time 27th September 2022

Proposal Permission in principle application for the re-development of the former public house for between 7no. and 9no. dwellings (Use Class C3) (All matters of design including scale, demolition and/or conversion and all technical matters reserved for future application) (Amended description)

Site address The Crown And Thistle, 132 Old Road, Headington, Oxford – see **Appendix 1** for site plan

Ward Quarry And Risinghurst Ward

Case officer James Paterson

Agent: Mr Alex Cresswell **Applicant:** Mr S Gill

Reason at Committee This application was called in by Councillors Brown, Pressel, Lygo, Humberstone, Fry, Rehman and Munkonge due to concerns as to the loss of the public house, a locally important asset, whose closure has been felt by local residents.

1. RECOMMENDATION

1.1. Oxford City Planning Committee is recommended to:

1.1.1. **approve the application** for the reasons given in the report and grant permission in principle.

2. EXECUTIVE SUMMARY

2.1. This report considers a planning application for permission in principle, made under the Town and Country Planning (Permission in Principle) Order 2017 (as amended), for the redevelopment of the site of the Crown and Thistle to provide between seven and nine dwellings on the site. The proposal originally included the demolition of the public house building, however the application was amended to include the retention of the building following the addition of the building to the Oxford Heritage Asset Register, meaning the building is now locally listed.

2.2. Officers can only consider the principle of the proposed development, specifically in relation to the location, land use and amount of development being proposed.

Planning officers cannot consider other matters as part of this application, including matters of design, amenity, ecology or other technical matters; these matters would be dealt with via a subsequent application for technical details consent were permission to be granted for this permission in principle application. The Local Planning Authority must take into account any representations received.

- 2.3. Members are advised that if a decision were made to approve the application then this would, in officers' view, be a departure from the development plan and the application has been publicised on this basis.

3. LEGAL AGREEMENT

- 3.1. This application is not subject to a legal agreement.

4. COMMUNITY INFRASTRUCTURE LEVY (CIL)

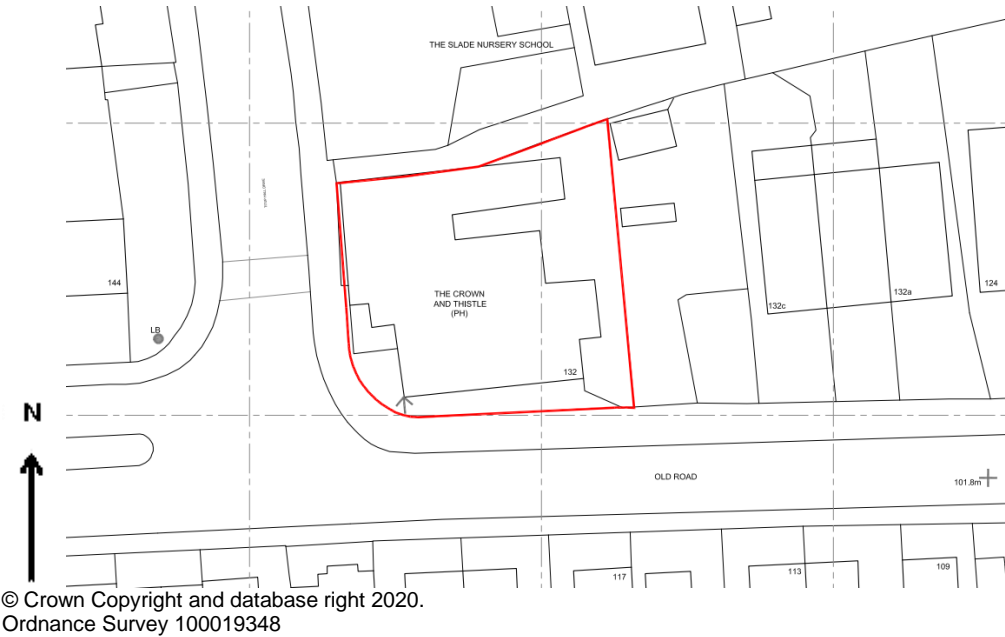
- 4.1. The proposal would be liable for CIL. Officers cannot advise on how much the development would be liable for as this application only deals with the principle of development and no specific designs or layouts have been provided. Government guidance on PIP applications states CIL may apply to development consented through the permission in principle route if technical details consent has been granted. Charges will become due from the date that a chargeable development is commenced.

5. SITE AND SURROUNDINGS

- 5.1. The application site is located at the corner of Old Road and Titup Hall Drive, which lies at the northern edge of the Wood Farm estate in East Oxford. The application site comprises a public house, the Crown and Thistle, along with the associated land which was formerly given over to use as a pub garden. Part of the site has not been included within the site boundary; it is noted housing was previously approved (ref: 13/01588/FUL), but not built, on the part of the site than has been excluded; that permission has now lapsed.
- 5.2. The existing building on the site consists of the original two storey building, with additional accommodation in the roof, along with various subsequent single storey extensions to the side and rear that have been added to the site throughout the years. There are also various small garages and outbuildings which occupy much of the land on the application site. The pub has been derelict since it ceased trading in 2011 although the first and second floor of the pub are currently occupied as a dwelling; this would have originally been to house the publican. The dereliction is the result of neglect of the site since it has been left vacant and has not been properly maintained since the closure of the pub in 2011. The result is that the decay is evident both internally and externally. Internally, at ground floor level where the pub operated there is significant damp, damage and debris throughout the building as well as there being a large hole in the floor. Officers were not able to access the upper floors but understand that area is still in a habitable condition. Externally, the garden is overgrown, the render is peeling off the building, many of the windows have been broken and boarded up and there appears to be some structural damage to parts of the buildings on the site.

5.3. The public house is of historical significance since it was first erected in the mid-19th Century and occupied the site of a previous inn called Titup Hall which was in situ for at least 200 years prior. The inn served one of the main routes out of Oxford towards London, shares an historic association with Morrell’s Brewing Company, and serves to illustrate the local area’s history prior to it being subsumed by suburban development. For these reasons the existing public house on the site, as well as the public house use of the site, are of historical significance and the building was therefore added to the Oxford Heritage Asset Register in 2022.

5.4. See block plan below:



6. PROPOSAL

6.1. The application proposes the redevelopment of the Crown and Thistle site in order to provide between seven and nine dwellings on the site. The proposal now seeks to retain the existing public house building on the site. No additional details have been submitted or are required at this stage.

6.2. The application originally proposed the demolition of the pub and then erecting between seven and nine dwellinghouses on the site. Indicative drawings were submitted as part of the original submission. However, following officers’ concerns with the regard to the heritage impacts of the demolition of the pub, particularly following its addition to the Oxford Heritage Asset Register, the application was amended to retain the pub building.

6.3. The application includes an Expert Witness Report in support of the application which states that the use of the site as a public house is no longer viable. The Council has instructed an independent viability expert to investigate the claims of non-viability and the findings in their Viability Assessment have been considered by officers when forming a recommendation on this application.

- 6.4. Planning officers note that the application accords with the criteria under which a permission in principle can be sought, as set out in Part 2A of The Town and Country Planning (Permission in Principle) Order 2017 (as amended).
- 6.5. It is officers' view that the proposal represents a departure from the development plan in relation to Policy V6 and the loss of public houses and has been publicised as such. This matter is fully explored in subsequent sections of this report.

7. RELEVANT PLANNING HISTORY

7.1. The table below sets out the relevant planning history for the application site:

<p>53/03136/A_H - Alterations. Approved 8th September 1953.</p> <p>54/03766/A_H - Beer Store. Approved 13th July 1954.</p> <p>56/05151/A_H - Alterations and additions. Approved 27th March 1956.</p> <p>56/05655/A_H - Ladies lavatories.. Approved 16th November 1956.</p> <p>59/07782/A_H - Car park.. Approved 24th February 1959.</p> <p>62/12883/A_H - Extension to bar and new lavatories.. Approved 27th November 1962.</p> <p>69/22073/A_H - Demolition of existing outbuildings and erection of new single-storey building as beer and bottle store and erection of concrete garage for use as bottle store.. Approved 14th October 1969.</p> <p>89/00350/NF - Single storey extension to create function room.. Refused 14th June 1989.</p> <p>93/00838/NF - Alterations to windows and doors on north elevation. Erection of wall and railings to enclose part of forecourt. Approved 6th October 1993.</p> <p>93/01030/A - Externally illuminated letters at 1st floor level. Existing externally illuminated hanging sign to 1st floor level. 2 externally illuminated amenity boards either side of main double entrance, and 2 either side of single entrance.. Approved 25th November 1993.</p> <p>00/01628/NF - Erect single storey rear extensions. Repositioning of spiral staircase. Refused 9th December 2000.</p> <p>02/00765/FUL - Single storey rear extensions. Repositioning of spiral staircase. (Amended plans). Refused 4th July 2002.</p> <p>13/01588/FUL - Erection 3 x 4-bed houses (Use class C3). Approved 21st August 2013.</p>

8. RELEVANT PLANNING POLICY

8.1. The following policies are relevant to the application:

Topic	National Planning Policy Framework	Local Plan	Other planning documents	Neighbourhood Plans:
Design	59-76, 130-136	DH1, RE2, RE7, H14		
Conservation/ Heritage	194-197. 203-208	DH5		
Social and community	84	V6		

9. CONSULTATION RESPONSES

9.1. Site notices were displayed around the application site on 4th February 2022. Following the submission of an amended scheme new pink site notices were displayed around the site on 23rd February 2022. A further round of public consultation was undertaken, with site notices being displayed on 22nd July, following an error in the application description. A final round of consultation took place with site notices being displayed on 16th August 2022 since officers considered that the proposal constitutes a departure from the development plan.

Statutory and non-statutory consultees

9.2. None Received

Public representations

9.3. 32 local people commented on this application in the initial consultation from addresses in Brindley Quays (Braunston), Bure Park (Bicester), Chequers Place, Colemans Hill, Dunstan Road, Gardiner Street, Hadow Road, Mark Road, Old Road, Pitts Road, Quarry High Street, Quarry Road, Ridgeway Road, Ringwood Road, Sandfield Road, South Avenue (Kidlington), St. Ebbas Close, Stansfield Close, 37 Weyland Road, Wharton Road, Wilcote Road, York Road). 2 local amenity groups (Friends of Quarry and Wood Farm Youth Centre) also commented on the application

9.4. 5 local people commented on this application in the final round of consultation from addresses in Old Road.

9.5. In summary, the main points of objection (32 residents and 2 amenity groups) were:

- Access
- Amount of development on site

- Effect on adjoining properties
- Effect on existing community facilities
- Effect on heritage assets
- Effect on pollution
- Effect on privacy
- Effect on traffic
- Effect on character of area
- Flooding risk
- General dislike for proposal
- Height of proposal
- Information missing from plans
- Lack of accessible homes
- Lack of affordable homes
- Light - daylight/sunlight
- Local ecology, biodiversity
- Local plan policies
- Noise and disturbance
- On-street parking
- Parking provision
- Public transport provision/accessibility
- Parking provision
- Safeguarding

Officer response

9.6. Officers have considered carefully the objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officer's report below, that the reasons for the objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted. Indeed many of the concerns raised cannot be taken into account in a PIP application as set out elsewhere in this report.

10. PLANNING MATERIAL CONSIDERATIONS

10.1. Officers consider the determining issues to be:

- i. Location
- ii. Land Use

- iii. Amount of Development
- iv. Other Matters

i. Location

- 10.2. Policy S1 of the Oxford Local Plan 2036 states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. This applies to paragraphs 10 and 11 of the NPPF which state that a presumption in favour of sustainable development is at the heart of national planning policy. The Council will work proactively with applicants to find solutions jointly which mean that applications for sustainable development can be approved where possible, and to secure development that improves the economic, social and environmental conditions in the area. Planning applications that accord with Oxford's Local Plan and national policy will be approved without delay, unless material considerations indicate otherwise. The supporting text for Policy S1 of the Oxford Local Plan 2036 also makes clear that the plan places the highest priority on providing additional housing (paragraph 1.33).
- 10.3. Policy H14 of the Oxford Local Plan 2036 states that planning permission will only be granted for new development that provides reasonable privacy, daylight and sunlight for occupants of both existing and new homes. Policy H14 sets out guidelines for assessing development in terms of whether it will allow adequate sunlight and daylight to habitable rooms of the neighbouring dwellings.
- 10.4. Policy RE7 of the Oxford Local Plan 2036 states that planning permission will only be granted for development that ensures that standards of amenity are protected including the amenity of communities, occupiers and neighbours. Developments must also not have unacceptable unaddressed transport impacts. Where developments do impact standards of amenity then appropriate mitigation measures should be provided where necessary. The factors the City Council will consider in determining compliance with the above elements of this policy include visual privacy, outlook, sunlight, daylight and overshadowing.
- 10.5. The application site is a brownfield site, albeit not a site on Part 2 of the Brownfield Land Register. The site lies within an existing residential area and is sustainably located with good access to public transport and cycle infrastructure. This site is therefore suitable for housing as the local plan prioritises such sites for housing. It is also considered that the proposed creation of dwellings on the site would be compatible with the surrounding residential land uses and would, in principle, not give rise to unacceptable impacts on surrounding land uses, including neighbouring dwellings. The location of the housing proposed as part of this location is therefore acceptable and accords with Policies S1, H14 and RE7.

ii. Land Use

Policy Framework

- 10.6. Policy V6 of the Oxford Local Plan 2036 states planning applications for the change of use of a public house must be accompanied by evidence to demonstrate

that the continuation of the use of the premises as a public house is not viable. It must be demonstrated that all reasonable efforts have been made to market the premises for its existing use (refer to Appendix 8 .1) and that all reasonable efforts have been made to support and improve the operation and management of the business. Lastly, it must also be demonstrated that suitable alternative public houses exist to meet the needs of the local community. Where a building is to be demolished or substantially re-developed; the impact on character, design and heritage and to the wider streetscape must be demonstrated to be insignificant.

10.7. Paragraph 84 of the NPPF states that planning decisions should enable the retention and development of public houses.

10.8. The lawful use of the site remains as a public house (a Sui Generis use) and, the NPPF and Policy V6 of the local plan seek its retention in its capacity as a public house. However, the applicant has provided evidence as part of their expert witness report to support the view that the use of the site as a public house is not viable and the application meets criteria where Policy V6 would allow the loss of the public house to other uses.

Marketing

10.9. The applicant has submitted evidence to demonstrate that all reasonable efforts have been made to market the premises for its existing use. Marketing exercises took place in 2012 following the pub ceasing trade on the site in December 2011. These marketing exercises in 2012 were undertaken by specialists in the public house sector and officers note that there was substantial interest from prospective buyers; however this interest was largely specifically to redevelop the site and not continue the use of the site as a public house. Further marketing exercises took place in 2015 on a leasehold basis with only one prospective operator showing an interest in the pub at this time. While it is unclear what state the site was in by this point, the marketing in 2015 was once again undertaken by specialists in the sector. Further marketing was undertaken on a more local basis between 2019 and 2021 which advertised the availability of the pub for use of the pub on a leasehold basis without any interest being generated.

10.10. No evidence has been submitted by the applicant that the pub was ever marketed on a freehold basis. Since officers are of the view that much of the marketing exercises, particularly those of 2015 and 2019-2021, took place when the pub was in a very poor state of repair, this would deter potential publicans from leasing the site on a temporary basis. This is because prospective publicans would need to finance significant repair work to the site while not benefitting from the long term benefits of such a high original outlaying of costs. Had the pub been advertised on a freehold basis then, in officers' view, and having considered independent specialist advice, there would have been a greater possibility of successfully marketing the property as more operators may have been willing to finance repairs in the pursuit of long term benefits of operating the pub on a permanent basis.

10.11. While some sporadic marketing exercises have taken place on a leasehold basis, albeit for a public house that has wantonly been left to deteriorate, planning officers are of the view that the applicant failing to have marketed the public house

on a freehold basis is a significant oversight and means that it cannot be reasonably considered that 'all reasonable efforts' have been made to market the public house for its existing use, as is required by Policy V6. The application therefore fails to accord with this part of Policy V6.

Improve the Operation of the Business

10.12. It is not clear what measures were put in place prior to the closure of the public house in 2011 with respect to improving the operation of the business, since the business closed over a decade ago and the public house was not in the ownership of the applicant at that time. It is reasonable to assume that some measures were put in place to improve the financial position of the business prior to its closure, however it is impossible to determine as to whether all reasonable efforts were made to improve the operation and management of the pub at that time.

10.13. The applicant has, since purchasing the property, not found an operator for the site nor operated the site as a pub themselves and have let the property deteriorate to the point that significant repairs and refurbishment would be needed to bring the building back into use as a pub. Little effort has therefore been made to ensure the site could operate as a pub, indeed following years of neglect officers are of the view that no serious consideration has been given as to the management of the pub with a view to continue or restart its operation following its acquisition by the applicant. Officers therefore consider that all efforts have not been made to improve the operation and management of the business in an effort to prevent the loss of the public house as is required by Policy V6. The application therefore fails to accord with this part of Policy V6.

Alternative Public Houses

10.14. The applicant has submitted an Expert Witness Report that indicates that there are numerous other public houses within the vicinity of the site, which has been taken as 0.6 miles by the expert. Following independent specialist advice as to whether these public houses would serve as suitable alternatives, officers are of the view that the offer of those pubs that have been identified are varied and offer a good mix of alternatives to that which can reasonably be offered on the application site. This assessment has also had regard as to how the Crown and Thistle operated prior to its closure, including officers' understanding that the pub's licence was revoked due to anti-social behaviour. Notwithstanding this, officers are of the view that the Wood Farm estate does not contain another public house, although parts of the estate, namely Slade Park, may be served by The Cornerhouse which is within walking distance to this part of the estate. It is unusual for an estate of this size, with around 6,500 residents, to not include its own pub to serve the local community. Furthermore, the pubs identified in the submitted statement are not within easy walking distance of much of the estate, unlike the application site which is within walking distance of the majority of the estate and lies approximately 550m from the local centre in Wood Farm. Therefore planning officers consider that it has not been demonstrated that suitable alternative public houses exists to meet the needs of the local community since the permanent loss of the Crown and Thistle to other uses would mean that much of Wood Farm would be without a public house within easy walking distance.

Viability

10.15. Evidence has not been submitted by the applicant as to the economic viability of the continued use of the site as a public house. The justification for this is because their expert witness considers that any such assessment would be subjective due to the extent of the repairs that would be necessary, the length of time the business has been closed as well as due to the lack of interest in operating the pub. Officers would dispute the lack of interest in operating the pub as such due to identified shortcomings of the marketing of the property on a leasehold basis only. Furthermore, having considered independent specialist advice, officers are satisfied that some estimation as to the potential viability of the pub can be made, despite the poor state of repair of the site and long gap since it last operated as a pub, by looking at national economic and social trends as well as the conditions on the site and its locality. The findings of this advice is that the pub could likely operate as a viable pub business and would likely be able to generate a modest return on profit.

Conclusions

10.16. Planning officers consider that the criteria for allowing the loss of a public house to other uses, as set out in Policy V6, have not been met. Specifically officers do not accept that it has been demonstrated that all reasonable efforts have been made to market the premises for its continued use as a pub. Furthermore, officers consider that no effort has been made to support and improve the operation and management of the business since its closure in 2011; indeed the pub has been so poorly managed so as to allow it to deteriorate significantly to the point where any continued operation of the site as a pub would be severely hamstrung. Planning officers have also not been satisfied that there exist suitable alternative public houses to meet the needs of the local community, as many of the public houses identified in the submitted expert witness statement are not within easy walking distance of the site and the Wood Farm estate is not readily served by an alternative pub.

10.17. Notwithstanding the above, having considered the submitted expert witness statement alongside the independent expert advice that the Council has received, planning officers are of the view that while there could be a scenario where the pub re-opens and trades successfully with a modest profit, the initial outlay of finances required to bring the pub into a state of repair where it could operate would be prohibitively high and fraught with risk. Having considered independent expert advice, alongside the expert advice submitted by the applicant, planning officers consider that no prospective publican could reasonably be expected to take on the purchase, repair and operation of the pub as the risk of doing so is now too great due to the extremely poor state of repair of the existing building. Planning officers consider that this is a material planning consideration and while the proposal does not accord with Policy V6 in this regard and is counter to the aims of paragraph 84 of the NPPF, it is not reasonable to expect the pub to be able to re-open as such due to the associated risks to any prospective occupier. Furthermore, the redevelopment of the site to provide housing would at least bring the site into a good state of repair where it would not be a flashpoint of anti-social behaviour in the area, as is currently the case and was evidently the case when it was in operation since the pub's licence was revoked for anti-social behaviour.

Planning officers also note that if permission were to be refused then it is likely that the site would continue to deteriorate through wanton neglect. Planning officers also note that whilst utilising the existing building for housing would result in the loss of the building's historic function, eroding the social and communal value the local heritage asset possesses as a public house, it would nonetheless secure the historic building's retention and maintenance following the proposed development taking place. Therefore it is the consideration of planning officers that the proposed change to the use of the land, from a Sui Generis Public House to C3 Dwellings, is acceptable in this instance, as there are clear and convincing material considerations in these circumstances.

iii. Amount of Development

- 10.18. Policy RE2 of the Oxford Local Plan 2036 states that planning permission will only be granted where development proposals make efficient use of land. Development proposals must make best use of site capacity, in a manner compatible with the site itself, the surrounding area and broader considerations of the needs of Oxford, as well as considering the criteria set out in the policy.
- 10.19. Policy DH1 of the Oxford Local Plan 2036 states that planning permission will only be granted for development of high-quality design that creates or enhances local distinctiveness. Proposals must be designed to meet the key design objectives and principles for delivering high quality development, set out in Appendix 6.1.
- 10.20. Policy DH5 of the Oxford Local Plan 2036 states that planning permission will only be granted for development affecting a local heritage asset or its setting if it is demonstrated that due regard has been given to the impact on the asset's significance and its setting and that it is demonstrated that the significance of the asset and its conservation has informed the design of the proposed development.
- 10.21. Paragraph 203 of the NPPF states that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss
- 10.22. While no drawings have been submitted alongside the amended application which retains the existing pub on the site, officers are conscious of the need to optimise the land use efficiency in the city for housing, given the shortfall of housing in the city and an acute shortage of developable land in the city. Officers also note that no details have been provided as to how many bedrooms would be provided for each new dwelling which would provide flexibility in terms of the scale and density of the dwellings at the technical details stage. However it is also noted that under the PIP process the number of bedrooms does not need to be provided. Having considered the planning history of the site, the existing situation of the site, the likely density of development, between 137 and 176 dwellings per hectare, and the layout of the site, planning officers consider that the site could reasonably accommodate up to nine dwellings without leading to an overdevelopment of the site that would lead to the resultant development not being compatible with surrounding uses. Officers are equally satisfied that the proposal would lead to an efficient use of the land in a sustainable location.

- 10.23. The application site comprises a locally listed heritage asset which is sensitive to unsympathetic development, although planning officers note that the revised application no longer entails the demolition of the public house which is welcomed. The significance of this heritage asset derives from its community value, although this has been eroded since its closure, as well as its associative value since the pub is illustrative of the area's history prior to it being subsumed by suburban development and the expansion of Oxford. The Crown and Thistle also possesses local historic interest due to its association with Morrell's Brewing Company, which was the only major brewery in Oxford, operating between 1782 and 1998. The Crown and Thistle, despite its neglected appearance, also possesses aesthetic value on account of its traditional design details and materials while also forming an important part of the local street scene due to its prominent location and strong visual presence. The Crown and Thistle is thought to have been constructed on the site of the earlier Titup Hall inn and therefore possesses evidential value, in that it is likely that archaeological investigation of the site would provide further understanding of this historic coaching inn. All of these important contributions of the existing building to its surroundings inform the significance of this locally listed heritage asset
- 10.24. Officers note that that paragraph 196 of the NPPF states that where there is evidence of deliberate neglect of, or damage to, a heritage asset, as appears to be the case here, then the deteriorated state of the heritage asset should not be taken into account in any decision. Officers therefore do not consider that the refurbishment of the existing building on the site as a result of this development would weight in favour of this application.
- 10.25. Officers consider that the use of the building as a pub partially informs its significance as a locally listed heritage asset. Therefore some harm to its significance as a result of this loss is intrinsic to this application since the use of the building as a public house would be lost as part of the proposed development. However, this application proposes to retain the existing pub building on the site which would minimise the harm caused as a result of losing the pub use on the site since the historic use of the building as a pub would still be evident. This weighs in favour of the application since paragraph 197 of the NPPF states that decision-makers must take into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. Furthermore, harm can be avoided by sensitively designing the proposed development via the following technical details application. Additionally, the public benefits associated with delivering housing on the site can outweigh the harm caused by the prospective development through careful design. In considering paragraph 203 of the NPPF, officers envisage that there would be a low level of less-than-substantial harm to the significance of the locally listed heritage asset. However, in taking a balanced judgement on the proposal, officers consider but that this harm could be readily outweighed by the public benefits of the application and careful design.
- 10.26. The lack of detail at this stage mean that officers will need to reassess if the public benefits outweigh harm caused to the heritage asset in considering any subsequent technical details application. Officers have secured the important retention of the pub at this PIP stage and any consent for technical details can explore that impact fully in light of the detailed design submitted at that time and

ensure that the public benefits still outweigh any harm that maybe caused. If Officers are not satisfied with the detailed design at the technical details stage, such an application can be refused.

10.27. Having considered the above, planning officers consider that the proposed amount of development on the site, particularly in relation to the retained pub building on the site would be appropriate to the surroundings of the site and would thereby accord with Policies RE2, DH1 and DH5, in principle.

iv. Other matters

10.28. Most of the concerns raised during the consultation period were addressed in the above sections, where they have not been, they are addressed in this section.

10.29. Officers note that numerous additional matters were raised during the consultation stage including, but not limited to, issues of safeguarding, flooding, car parking and the lack of affordable homes. These matters are not considered at this stage as the Council can only consider matters specifically relating to the location of the development, the land use being proposed and the amount of development being proposed. No specific details are required to be submitted at this stage which also limits the ability of officers to give specific feedback on other matters.

11. CONCLUSION

11.1. It is recommended that the Committee resolve to grant permission in principle for the development proposed.

11.2. Having regards to the matters discussed in the report, officers would make members aware that the starting point for the determination of this application is in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which makes clear that proposals should be assessed in accordance with the development plan unless material considerations indicate otherwise.

11.3. The NPPF recognises the need to take decisions in accordance with Section 38 (6) but also makes it clear that it is a material consideration in the determination of any planning application (paragraph 2). The main aim of the NPPF is to deliver Sustainable Development, with paragraph 11 the key principle for achieving this aim. The NPPF also goes on to state that development plan policies should be given due weight depending on their consistency with the aims and objectives of the Framework. The relevant development plan policies are considered to be consistent with the NPPF.

11.4. Therefore it would be necessary to consider the degree to which the proposal complies with the policies of the development plan as a whole and whether there are any material considerations, such as the NPPF, which are inconsistent with the result of the application of the development plan as a whole.

11.5. In summary, the proposal does not fully comply with all the relevant policies of the Oxford Local Plan 2036 since the proposal is contrary to Policy V6 and has been publicised as a departure from the development plan. Notwithstanding

this, the proposal would accord with the requirements of Policies DH1, RE2 and DH5. Although the proposal would be contrary to Policy V6 officers consider that there are material planning considerations which weigh in favour of the development which mean that permission should be granted despite this, as detailed in this report.

- 11.6. Therefore officers consider that the development accords with the development plan as a whole.

Material consideration

- 11.7. The principal material considerations which arise are addressed above, and follow the analysis set out in earlier sections of this report.
- 11.8. National Planning Policy: the NPPF has a presumption in favour of sustainable development.
- 11.9. NPPF paragraph 11 states that proposals that accord with the development plan should be approved without delay, or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
- 11.10. Officers consider that the proposal would accord with the overall aims and objectives of the NPPF for the reasons set out within the report. Therefore in such circumstances, paragraph 11 is clear that planning permission should be granted without delay.
- 11.11. Officers would advise members that, having considered the application carefully, the proposal is considered overall to be acceptable in terms of the aims and objectives of the National Planning Policy Framework and relevant policies of the Oxford Local Plan 2036 when considered as a whole. Although the proposal does not comply with the requirements of Policy V6 of the local plan, and is therefore a departure from the development plan, it is considered that there are material considerations that would outweigh any conflict with that policy.
- 11.12. It is recommended that the Committee resolve to grant permission in principle for the development proposed.

12. APPENDICES

- **Appendix 1 – Site location plan**

13. HUMAN RIGHTS ACT 1998

13.1. Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to approve this application. They consider that the interference with the human rights of the applicant under Article 8/Article 1 of Protocol 1 is justifiable and proportionate for the protection of the rights and freedom of others or the control of his/her property in this way is in accordance with the general interest.

14. SECTION 17 OF THE CRIME AND DISORDER ACT 1998

14.1. 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 permission in principle, officers consider that the proposal will not undermine crime prevention or the promotion of community.