

Planning Statement

Permission in principle application for the re-development of the former public house for between 1no. and 9no. dwellings (Use Class C3) (All matters of design including scale, demolition and/or conversion and all technical matters reserved for future application)

At Former Crown and Thistle, 132 Old Road, Headington, Oxford OX3 8SX

November 2023



1. Introduction

1.1. This Planning Statement is submitted in support of an application for permission in principle for the re-development of the former public house for between 1no. and 9no. dwellings (Use Class C3) (All matters of design including scale, demolition and/or conversion and all technical matters reserved for future application) at the former Crown and Thistle, 132 Old Road, Headington, Oxford.

1.2. The application is submitted in accordance with the T&CP (Permission in Principle) (Amendment) Order 2017 (as amended). It is accompanied by this Statement, a site location and block plan, a Schedule of Repairs and Covering letter from Andrew Eades Chartered Surveyors, and a report from Stuart Parsons of Fleurets Ltd.

1.3. In accordance with the Order, it is confirmed:

That the application relates solely to residential development;

That the minimum and maximum number of dwellings are set out on the application form;

That the application does not relate to major development, habitats development, householder development, Schedule 1 or Schedule 2 development;

That the application is accompanied by a plan which identifies the site, is to scale and includes a north point.

1.4. The application follows on from an application submitted under Council reference 22/00040/PIP which was refused for the reason set out in Appendix 1. The Council's officers recommended that the application be approved at the Oxford City Planning Committee 22 September 2022 (Appendix 2).

1.5. The refusal reason related solely to the Council's view that the change of use did not accord with Policy V6 of the Oxford Local Plan 2036 and paragraph 84 of the NPPF, a view not shared by its officers.

1.6. The former public house ceased trading at the end of 2011, more-or-less 12 years ago. There is a flat above the former public house which is occupied and has a separate access. The former public house is in a poor state of repair. It has been examined by Andrew Eades, Chartered Surveyors and the Schedule of repairs required shows a cost, including contractors' prelims but excluding vat and fixtures and fittings of some £446,113 to allow it to operate again as a public house. The surveyors suggest that some £25,000 should be added for fixtures and fittings for the former public house to operate again together with any other furniture which might be required for the flat.



1.7. The former public house is not listed as a building of special architectural or historic interest and is not in a designated conservation area. It was included on the Council's Oxford Heritage Asset Register on 23 March 2023 as a non-designated heritage asset. The proposal allows for the building to be retained, if required.

1.8. There are no other designations which affect the building or the site: it is not the subject of any tree preservation order, there are no known archaeological constraints, and the site is in the lowest risk of fluvial flooding, Flood Zone 1.

2. Planning Policy and Considerations

2.1. The application relates solely to the principle of the development with all other details reserved. Consequently, this Statement deals solely with that issue as other matters are not relevant to the consideration of the application.

2.2. The Council's refusal to permit the last application includes reference to two issues alone: the alleged non-compliance with Policy V6 of the Oxford Local Plan 2036 (OLP) and paragraph 84 of the National Planning Policy Framework (NPPF).

2.3. The Council's officers' report to the 22 September 2022 Planning Committee identified the following policies as being relevant to the proposal:

| 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 | | |

2.4. In addition to these, policy S1 of the OLP presumes in favour of sustainable development, consistent with paragraphs 10 and 11 of the NPPF. Policy H1 of the OLP seeks to ensure that as much of Oxford's housing need as possible can be met through site allocations and the efficient use of land. Other policies relate to the details of development which are not relevant to the determination of this application, which is to establish the principle of development alone. The National Planning Practice Guide notes that The scope of permission in principle is limited to location, land use and amount of development, Other matters should be considered at the technical details consent stage.



- 2.5. The previous application was not rejected on the basis that the site was inappropriate in any way for residential use. This is not surprising given that the site is “previously developed land”, it is well located in the built up area with residential uses and other services and facilities nearby. It is well-served by public transport and walking and cycling is able to be encouraged. It is a sustainable location appropriate for the proposed use.
- 2.6. The Council’s reference to paragraph 84 of the NPPF raises the issue of whether this is relevant to a site within the urban area. The paragraph occurs under the heading “Supporting a prosperous rural economy” and it is clear from the text that it does not relate to sites within the built-up areas of cities. Notwithstanding this, it is clear from paragraph 93 of the NPPF that the expectation is that a similar approach is recommended for all areas in order to promote healthy and safe communities, where LPAs should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs and ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community.
- 2.7. Policy V6 of OLP has a specific part which deals with public houses, and this is repeated below:

Public houses

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:

- e) all reasonable efforts have been made to market the premises for its existing use (refer to Appendix 8.1); and
- f) all reasonable efforts have been made to support and improve the operation and management of the business; and
- g) it is 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.

- 2.8. Appendix 8.1 provides details in relation to the Council’s expectations in respect of marketing, as part of the assessment of viability. The Council has also produced a Technical Advice Note 4 dealing with Community Pubs but this does not form part of the development plan and cannot be given weight in decision-making.
- 2.9. This application is accompanied by a report from Andrew Eades, Chartered Surveyors, in relation to the building and the work required to bring it up to a standard where it would be able to re-open as a public house. The report from Stuart Parsons of Fleurets Ltd



provides advice in respect of viability. In particular, Mr Parsons's report also comments on a previous report prepared for Oxford City Council by Davis Coffey Lyons in May 2022 which he has not had the opportunity to do before but which was used as part of the Council's refusal of the last application for permission in principle.

2.10. In May 2022, Davis Coffey Lyons noted that the building was in very poor condition. The cost of bringing the building back to a condition ready to trade was merely estimated and was suggested at £325,000. Andrew Eades has recently undertaken a detailed survey of the building and has provided a Schedule of Repairs required. The Schedule of repairs shows a cost, including contractors' prelims but excluding vat and fixtures and fittings of some £446,113 to allow it to operate again as a public house. The surveyors suggest that some £25,000 should be added for fixtures and fittings for the former public house to operate again together with any other furniture which might be required for the flat. Mr Parsons suggest that a figure of £500,000 should be regarded as required before the pub could open and trade. Even with the lower figure estimated by the Council's consultant, they concluded that it is unlikely that a pub operator would be willing to take on the restoration of this pub given the level of investment required and the level of return that could realistically be expected. Mr Parsons states that in support of my comment regarding marketing regard should be had to the ability of a prospective purchaser to fund an acquisition. The funding required will need to cover not only the acquisition of the property but also the cost of reinstating the property to a condition whereby it can trade. I have spoken with a mortgage broker, Business Mortgage Solutions (www.business-mortgage.com) who specialise in the licensed sector and explained the scenario to them. They were of the opinion the only likely scenario where they could arrange funding would be to an extremely experienced operator, who could prove their track record, with c.90% of the funds required available to them i.e. in this case they would effectively require cash funds in excess of £600,000.

2.11. The Council's consultant notes in the Summary and Conclusions that The property has been marketed on a leasehold basis at a market rent at various different times. The property does not appear to have ever been marketed on a freehold basis. Mr. Parsons of Fleurets Ltd makes clear in his report that they have known the former pub over a long time. He notes that The property was marketed for sale in 2012, this was the marketing which led to the sale of the property to the current owners. In 2015 the property was marketed as being available to lease, marketing was for a 6 month period. In 2019 the property was brought back to the market, on a leasehold basis, with



marketing continuing for c.18 months. During that time, part of the land has been developed for housing.

2.12. Mr Parsons notes that the Premises Licence has been surrendered such that that a new licence would be required for a pub to operate, which is not guaranteed. He states that:

Regard needs to be had as to whether a purchaser in the open market would proceed with an acquisition and refurbishment scheme which would cost c.£500,000 plus the acquisition costs of the property. Such a decision would need to be taken against a background of the business having not traded for c.12 years; where there can be no certainty as to the trading levels that can be achieved; and where there is a need to apply for a new Premises Licence and the uncertainties associated with that.

2.13. He draws attention to the conclusions of the Council's consultant that:

the project entails risk, and in my view it is unlikely that a pub operator would be willing to take on the restoration of this pub given the level of investment required and the level of return that could realistically be expected.

The cost estimated by the consultant being significantly less than a more accurate assessment recently undertaken.

2.14. Mr. Parsons of Fleurets Ltd. describes the past marketing of the property, which includes freehold and leasehold marketing. Notable amongst the details provided is that in 2015, whilst being offered on a leasehold basis, offers were made for the freehold for alternative use. The property was offered on a leasehold basis by agents in the period January 2019 to June 2021. No interest was received for use as a public house.

2.15. Mr. Parsons concludes that:

I am of the opinion if the property were now to be marketed for sale, with a view to a sale for public house use, it would not receive any proceedable interest be this on a freehold or leasehold basis. I anticipate the property would receive good levels of interest from prospective purchasers with a view to alternative use...

in support of my comment regarding marketing regard should be had to the ability of a prospective purchaser to fund an acquisition. The funding required will need to cover not only the acquisition of the property but also the cost of reinstating the property to a condition whereby it can trade. I have spoken with a mortgage broker, Business Mortgage Solutions (www.business-mortgage.com) who specialise in the licensed sector and explained the scenario to them. They were of the opinion the only likely scenario where they could arrange funding would be to an extremely experienced operator, who



could prove their track record, with c.90% of the funds required available to them i.e. in this case they would effectively require cash funds in excess of £600,000.

Of course, the Council's consultant stated (when estimating the costs to be much lower than is the case) that:

in my view it is unlikely that a pub operator would be willing to take on the restoration of this pub given the level of investment required and the level of return that could realistically be expected.

2.16. Given the above, the former public house has not been advertised for sale or lease since the last refusal. Frankly, if there was any realistic interest in the use of the pub as such I would have expected that to have emerged in any event. It has been closed and inoperative for some 12 years with no interest from any party wishing to reopen it. Offers have been made in the past for the freehold for alternative uses when advertised for lease; the advert has not prevented those wishing to purchase the freehold from coming forward but there have been no approaches for use as a pub.

2.17. Mr Parsons of Fleurets Ltd. considers the economic viability of re-opening the property as a pub and provides an assessment which carefully considers the views of the Council's consultant. He concludes that:

when all costs and risk are taken into account the opportunity does not provide an operator with an acceptable return.

I am of the opinion that Crown & Thistle in its current condition is neither economically viable or marketable as a public house.

2.18. As I note above, the property has not been open as a pub for some 12 years and there have been no approaches to re-open it as such. There are other public houses in the locality, and these are examined by Mr Parsons in his report. He concludes that the local area is reasonably well-served with public houses which may be reflected in the lack of approaches for it to be re-opened. Its use as a pub ceased many years ago.



2.19. The Council's OLP sets out at Appendix 8 the marketing expectations which the Council has.

8.1 Marketing expectations

- A property should be marketed for its existing use as a public house or live performance venue for a minimum period of at least 12 months.
- The applicant should then submit a supporting statement to accompany a planning application for a change of use from a public house/live performance venue.
- It should contain evidence to confirm the length of time the site has been marketed for; details of the agent used; information to show where this marketing has taken place for example in the local press, through signs on site, on the internet and/or in journals or publications used by the trade.
- The statement needs to confirm the price the property was advertised for to show that it has been pitched at a 'reasonable' rate to generate interest from potential operators.
- Finally there needs to be a summary of the interest received and the reasons why offers have not been accepted.

2.20. It does not require any particular form of marketing, leasehold or freehold, but requires marketing for at least 12 months. This property has been marketed for longer periods over a number of years for its existing use and it has not been taken up. There is a supporting statement prepared by Mr. Parsons of Fleurets Ltd which is an expert in the licensed trade, and which has detailed knowledge of the site's history. His report sets out full details of the marketing history, examines the Council's consultant's report, and clearly concludes that the former public house is not economically viable as such and is not marketable as such. In the light of the evidence provided it would be unreasonable to require further marketing to be undertaken.

2.21. Turning to policy V6, there have been more than reasonable efforts to market the pub; the business has been closed for some 12 years; and the local area is reasonably well-served with public houses, with no realistic approaches having been made for the pub to re-open.

2.22. On the other hand, there continues to be an urgent need for more housing to meet Oxford's needs. The site and building are well-located to assist in meeting those needs: this is a previously-developed site in the built-up area with predominantly residential uses nearby; there are services and facilities nearby for future residents; there is public transport available and walking and cycling can be encouraged. The proposals represent sustainable development where the presumption should be in its favour. The site is in Headington Quarry Controlled Parking Zone and adjoins the Wood Farm Zone. There are local shops in Atkyns Road.

2.23. The residential use in principle would make good use of a mostly vacant building bringing it back into a positive use for the community. Details of the use would be dealt with at the technical details stage. There are no constraints which would prevent the residential use. As the NPPF makes clear, LPAs should give substantial weight to the value

of using suitable brownfield land within settlements for homes and other identified needs.. and promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (paragraph 120 NPPF). As with land which is allocated for a specific type of development where there is no realistic prospect of it coming forward applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area (paragraph 122(b)).

3. Conclusions

3.1. This is an application to establish the principle that the site is able to be redeveloped for residential use of between 1 and 9 units. If approved, an application for technical details consent would follow. The application relates to a former public house which has not been used as such for some 12 years.

3.2. The Council refused to approve the last application due to alleged conflicts with policy V6 of the OLP and paragraph 84 of the NPPF (the latter referring to development in rural areas). The former pub remains unused as it has been for some 12 years and has deteriorated over time. This application is accompanied by a detailed Schedule of Repairs which would be required if the former pub was to be able to re-open as such.

3.3. Mr. Parsons of Fleurets Ltd. has provided a detailed analysis of the former pub and has considered the past marketing and economic viability of it. He has carefully considered the conclusions of the Council's consultant Davis Coffey Lyons on the last application, in particular that (even with suggested lower costs than is shown to be the case today) it is unlikely that a pub operator would be willing to take on the restoration of this pub given the level of investment required and the level of return that could realistically be expected.

3.4. Mr Parsons concludes that when all costs and risk are taken into account the opportunity does not provide an operator with an acceptable return.

I am of the opinion that Crown & Thistle in its current condition is neither economically viable or marketable as a public house.

3.5. In our view, the requirements of policy V6 of the OLP have been met and there is no realistic prospect of the building re-opening as a public house. On the other hand, the site and building are appropriate for residential use, for which there is an urgent need in Oxford. The NPPF encourages bringing back into effective use under-utilised land and



buildings, particularly where they can contribute towards meeting an unmet need for development, as is the case here.

3.6. The development proposed would represent a sustainable form of development. In accordance with paragraphs 10 and 11 of the NPPF and Policy S1 of the OLP, the presumption should be in favour of granting permission in principle.

