

Application No: 12/00678/F	Ward: Sibford	Date Valid: 10/05/12
Applicant:	Mr and Mrs Noquet	
Site Address:	Bishops End, Burdrop, Banbury, Oxfordshire, OX15 5RQ	

Proposal: Change of use of a vacant public house to C3 residential

Date site visited: 01/06/2012

1. Site Description and Proposal

- 1.1 The application relates to a substantial stone built property under a slate roof, on the edge of Burdrop, overlooking the 'Sib-valley' which separates Sibford Gower and Burdrop from Sibford Ferris. Whilst there are three settlements, they are functionally and socially linked, with each of the settlements providing services and custom for the other.
- 1.2 The site is within the Sibford Gower and Burdrop Conservation Area; first designated in January 1988. That Conservation Area, as well as the contiguous Sibford Ferris Conservation Area was subject to a review and appraisal in April 2012.
- 1.3 The site lies within the locally designated Area of High Landscape Value and there are several Grade II listed buildings opposite and adjacent to this site. The building is not listed.
- 1.4 The application seeks consent to change the use of the site from a public house to a single dwelling.
- 1.5 The existing public house has an ancillary three bedroom flat on the first floor.
- 1.6 The redline area for the application includes the main building, barn, bottle store, car park and a substantial area of land to the south of the main building.

2. Application Publicity

- 2.1 The application has been advertised by way of a site notice. It was attached to the gates of the property. The final date for comment was 21st June 2012.
- 2.2 40 letters of representation received (this represents the number of individual contributors and not the total number of letters). Full details are available electronically via the Council's website.

The material planning considerations raised as objections are as follows:

- Loss of community facility
- Deliberately ran down trade
- Planning history shows previous refusals
- No material change since last application
- Identified in the Conservation Area appraisal as a positive feature
- Not marketed at a reasonable price
- Does not contribute to housing need (due to existing ancillary

accommodation)

- Wykham Arms is aimed at a different type of customer
- Serves a network of villages
- Pub was viable under previous owners
- Attracts visitors to the village
- Pub looked better before more recent alterations
- Very well located with large garden and stunning views
- New owners were unwelcoming and un friendly
- Previous offers included one that would have produced a profit
- Failed to supply selling agents with up to date accounts
- Flood damage was claimed on insurance, therefore pub should have been restored
- Local policies aim to retain village facilities
- If open it would provide local employment
- Could set an undesirable precedent
- First year accounts appear to include one off costs as they differ greatly from previous owners
- All other pubs are a car journey away

Non material planning comments: (if any)

- Owners have flouted planning law
- Property is not vacant
- Other work carried out without consent
- Deliberate dumping of waste on site
- Concerned it will lead to further development on the site
- Brought the pub with the intention of closing it
- Difficult to keep track of all the applications and appeals
- Decision should be deferred until after the enforcement appeal inquiry

3. Consultations

3.1 **Sibford Gower Parish Council** raises objections on the following grounds:

- Appear to have deliberately run down the pub to make it appear unviable
- Offered it for sale at an inflated price, without providing the selling agents with up to date trading accounts
- They have received a number of reasonable offers
- Pariash Council remains convinced that the pub is a viable option
- Conservation Area appraisal states: (9.12.3) 'Loss of facilities such as the village pub and village hall, which help reinforce Burdrop's identity as a separate hamlet, not just a residential suburb of Sibford Gower'
- Previous owners accounts show it was a viable pub

3.2 **Local Highways Authority:** raises no objection subject to conditions relating to the provision of a turning area and parking spaces

3.3 **OCC Drainage:** No comments received

3.4 **Head of Strategic Planning and the Economy (Conservation)**

The following points were made in relation to Conservation:

- The building has a high visual impact on the setting of both Burdrop and Sibford Gower's Conservation Areas and looking from Sibford Ferris

Conservation Area it is clearly seen across the valley

- The buildings themselves are of local importance as they highlight a vernacular style and more importantly the changes and development of pubs. This set of buildings is an exemplar version of this development
- The entrance of the pub has been 'lost' and it is no longer clear where the public entrance was and this has temporarily lost significance to the building
- The building works to the bottle store has changed the roof line and therefore has changed the relation this building has with the main building
- A minor note, regarding the change to the name of the pub. The previous name is really important to the Sibfords as it is named after the Saint of Sheep

3.5 **Housing** The size of the unit would not generate any concerns as a single dwelling in relation to housing standards

3.6 **Severn Trent Water** raises no objection subject to a planning note

3.7 **Campaign to Protect Rural England (CPRE)** raises the following points:

- We would consider Policy S29 of the adopted Cherwell Local Plan to be relevant to this application
- The existing residential use is ancillary and therefore of a subservient nature. Not to take the place of its primary function
- The function is still protected under Policy S29 , a policy which we support as it resists the potential loss of village amenities
- In this context, we are aware of two other similar applications (99/00587/F and 00/00953/F) for the change of use of pubs. These applications were refused and the pubs are still trading
- In our view, this demonstrates the robustness of Policy S29 and its relevance

3.8 **Campaign for Real Ale (CAMRA)** raises an objection on the following grounds:

- Would result in the total irreversible loss of a community facility
- Public houses are explicitly classified as community facilities in the NPPF
- Comments make reference to para 28 and para 70 of the NPPF
- Argues that Policy S29 of the adopted Cherwell Local Plan is not out of date
- Nothing in the application demonstrates any effort to seek employment re-use
- Provides detailed comments on the applicants design and access statement

4. Policy Considerations

National Planning Policy Framework

Core planning principles and the delivery of sustainable development with particular regard to the following sections:

3: Supporting a prosperous rural economy

8: Promoting healthy communities

12: Conserving and enhancing the historic environment

Annex 1: Implementation

South East Plan 2009	Cross Cutting – Policies CC6: Sustainable Communities & Character of the Environment
	Management of the Built Environment – Policies BE5: Village Management BE6: Management of the Historic Environment
Adopted Cherwell Local Plan 1996 Saved Policies	S29: Protection of existing village services
Non-Statutory Cherwell Local Plan 2011	S26: Protection of existing village services
Proposed Submission Draft – Cherwell Local Plan 2012	The draft Cherwell Local Plan 2012 was approved by Members of the Executive for public consultation on 28 May 2012. As this decision is very recent, and no further action has yet been taken, the Plan carries very little weight.
Other relevant documentation	Conservation Area Appraisal – Sibford Ferris, Sibford Gower and Burdop (2012)

5. Appraisal

5.2 The key issues for consideration in this application are:

- Relevant History
- Policy Context
- Viability of the public house
- Impact on the village community
- Impact on heritage assets
- Highway Safety
- Other matters raised by the applicant
- Other matters

5.3 Background

The applicant purchased the premises in February 2006 and following a down turn in trade put it back on the market in May 2006 as a going concern and there was some interest from potential buyers (as shown in the applicants design and access statement). However, the pub was not sold and ceased trading on 09 March 2007. The history section below sets out a number of applications that have been made for the change of use of the pub and for lawful development certificates between 2006 and the current application.

5.4 Relevant History

- 82/00329/N: Change of use of the premises to a single dwelling (The application was withdrawn as a condition of the approval was that the liquor licence had to be surrendered prior to a decision being issued. The licence was not surrendered and the pub was sold as a going concern)
- 85/00698/N: Change of use to a single dwelling (resolution to approve the application but a condition of any approval was that the liquor licence had to

be surrendered prior to the decision being issued. The landlord at that time wished to keep the pub open and withdrew the application)

- 06/00248/F: Single storey bar extension to provide non-smoking restaurant facility (Application permitted)
- 06/01579/ADV: Retrospective – 3 no. free standing signs (in accordance with drawing received on 09/11/06) (Application permitted)
- 06/01697/F: Change of Use from licensed premises into dwelling house (Application refused)
- 06/01697/F: Change of Use from licensed premises into dwelling house (Application refused)
- 07/00630/F: Resubmission of 06/01697/F – Change of Use from licensed premises into dwelling house (Application refused)
- 09/01275/F: Alterations and extensions to barn to provide 4 no. en-suite letting rooms (Application withdrawn)
- 09/01557/F: Change of Use from closed public house to dwelling (Application withdrawn)
- 12/00011/CLUE: Certificate of Lawful Use Existing – Use as a single dwelling house (Application refused)
- 12/00020/ECOU: Enforcement Notice – Change of Use from public house to dwelling house (Served 09 February 2012)
- Appeals 2170904 and 2170905: Appeal against enforcement notice 12/00020/ECOU (Pending public inquiry)
- 12/00796/CLUE: Certificate of Lawful Use Existing – Use as a single dwelling house (Application pending decision)

5.5.1 **Policy Context**

As all planning applications must be determined in accordance with development plans unless material considerations indicate otherwise, the logical starting point for this application is the adopted Local Plan. The importance of village services and amenities is set out in Policy S29 of the adopted Cherwell Local Plan 1996. This policy states that *“Proposals that will involve the loss of existing village services which serve the basic needs of the local community will not normally be permitted”*. The supporting text to the policy sets out that in adopting that policy the Council *“recognises the importance of village services, particularly the local shop and pub, to the local community and will seek to resist the loss of such facilities whenever possible. However, it is also recognised that it will be difficult to resist the loss of such facilities when they are proven to be no longer financially viable in the long term”*.

5.5.2 Whilst the change of use must be assessed against the particular policy and the development plan as a whole, it is important to set out in detail the interpretation

and understanding of the intention of the policy.

- 5.5.3 From the wording of the policy and the supporting text, it is clear that public houses are to be considered as “*village services*” owing largely to their role in community and social cohesion. It is of vital importance to note that the policy does not impose a simple restriction on the loss of village services, but imposes a burden of proof on those seeking approval for the loss of such services (in planning terms by change of use, not of course in economic terms). This is clearly acknowledged where the policy notes that such changes will not “*normally*” be permitted, and in the supporting text where it is set out that the Council will resist the loss of such facilities “*whenever possible*” and acknowledges the difficulty in resisting such proposals where they are “*proven*” to be no longer “*financially viable in the long term*”.
- 5.5.4 The National Planning Policy Framework, does not change the statutory status of the development plan as the basis for planning decision making, but is a material consideration in decision making.
- 5.5.5 Paragraphs 214 and 215 of the Framework set out the criteria by which extant development plan policies are accorded weight following the publication of the Framework. Paragraph 215 states that due weight should be accorded to pre-2004 policies according to their degree of consistency with the Framework.
- 5.5.6 The Framework places a strong emphasis on the social role of planning in delivering sustainable development through the provision of and (by logical extension) the protection of community facilities. This is made explicit in Section 3 (‘Supporting a prosperous rural economy’) where the Framework sets out the conformity of saved policy S29 (and therefore its continued weight), stating that “*plans should... promote the retention... of local services and community facilities in villages, such as... public houses*”. The weight of saved policy S29 is further reinforced in Section 8 (‘Promoting healthy communities’), where decision makers are encouraged to take decisions which “*plan positively for the...community facilities*” and to “*guard against the unnecessary loss of valued facilities and services*”.
- 5.5.7 This Council’s understanding of the intention of the Framework with regard to community facilities has also been recently supported by the Inspectorate in a reported case outside of the district (notably in appeal reference 2167572).
- 5.5.8 As such, the saved policy retains full weight owing to its degree of conformity with the Framework, the key issue in considering the application is the viability of the business and whether or not the viability (or lack thereof) has been properly demonstrated.
- 5.5.9 Although saved policy S29 retains full weight, the Council does acknowledge that as a policy written in 1996, its relevance to planning decision making some sixteen years later may be questioned. It is important to note therefore that whilst it never became a formal part of the development plan, the non-statutory Cherwell Local Plan, published in 2004 as a material consideration for development control purposes, effectively repeated Policy S29. The policy in that plan (S26) stated that “*Proposals that will result in the loss of an existing village service which serves the basic needs of the local community will not be permitted, unless there is conclusive evidence that the provision of the service is no longer viable and that it cannot be*

made viable.”

- 5.5.10 The policy does lend increased weight to the saved adopted Cherwell Local Plan Policy. The repetition of the saved policy in the now abandoned plan (which was programmed to run until 2011) clearly demonstrates that although the saved policy dates from 1996, the intention and need for the policy was still considered appropriate in 2004. Coupled with the already discussed impact of the Framework, the policy is still appropriate and relevant to the modern planning system.
- 5.5.11 The saved Policy S29, and the reliance upon it in the assessment of this application is lent further weight when looking at similar applications across the District in recent years. The most notable recent case relates to a public house in Hethe (Application reference 10/01340/F). In that case, the application was refused for the following reason: *“The proposal has failed to adequately demonstrate that the business is unviable in the longer term such that closure is inevitable. The marketing price is likely to be too high and there is insufficient evidence to show how that valuation was arrived at. On this basis, the loss of this village service which serves the basic needs of the local community cannot be justified at this time in accordance with policy S29 of the adopted Cherwell Local Plan and policy S26 of the non-statutory Cherwell Local Plan”*. That decision was unchallenged and the public house in question has since been renovated, extended and appears to be trading well. Whilst there is a clear difference in approach between urban and rural public houses, this is to be expected given the wording of the policy.

5.5.12	Policy BE5 of the South East Plan is consistent with the local plan policies that have been discussed. It places emphasis on ‘community-led local assessments of need and action planning to inform the decision making process’. Although a community-led assessment has not been undertaken as part of the application, the policy clearly highlights the need for community involvement in decision making and gives weight to the views of the local community.
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- 5.5.13 The sub-text for Policy BE5 states ‘villages form an important part of the network of settlements in the region, and are often the subject of pressures arising from their location in a highly dynamic region, but also from stagnation or exclusion, in some cases resulting from a loss of service or changing community structure’. This reference to the impact of a ‘loss of service’ supports the aim of both the local policies and the Framework to protect village services.
- 5.5.14 Policy BE6 of the South East Plan states that ‘when developing and implementing plans and strategies, local authorities and other bodies will adopt policies and support proposals which protect, conserve and, where appropriate, enhance the historic environment and the contribution it makes to the local and regional distinctiveness and sense of place’.
- 5.5.15 The reference to the impact of the proposal on ‘sense of place’ is important when considering this application. Consideration should be given to the impact of losing a community facility and not just the visual changes that may occur.

5.6.1 Viability of the public house

As set out in the policy context above, the issue of viability is an important element in assessing the acceptability or otherwise of an application of this type. The policies require that the application must clearly demonstrate the lack of viability of

a business such as this in order for the application to succeed. Demonstrating viability requires an assessment of the trade at present, the trade potential, competition, sales and advice.

- 5.6.2 The importance of demonstrating a lack of viability and demonstrating adequate marketing of the public house in order to establish the lack of demand is reinforced by a notable recent appeal decision in Great Rollright (PINS reference 2134643)
- 5.6.3 The applicants have submitted a supporting statement that sets out general market commentary, population information and marketing efforts.
- 5.6.4 The general market commentary discusses the general decline in public houses and the economic changes that have occurred since 2007. However, the applicant does not make it clear how this specifically relates to the Bishops End which has not been trading since March 2007.
- 5.6.5 The statement makes reference to factors that have impacted on public houses in general. There is no specific evidence of how these factors impacted on the Bishops End. It is acknowledged that with the current economic situation all businesses have been affected, but there are many rural pubs that are still clearly thriving. The Council has two examples of public houses within the district which sought a change of use to residential (Application 99/00587/F for the Horse and Groom in Milcombe and application 00/00953/F for the George and Dragon in Shutford), were subsequently refused and are still trading today. If the Council were to accept these general assumptions as evidence of non-viability, they could very easily be applied to any village pub.
- 5.6.6 The applicant's statement states that 'the problem with the Bishops Blaize is clear – there are 20 pubs within a 13 minute drive time of the application site, but with a total population of just 395 in the parish'. The applicants have failed to provide population statistics for the wider area that currently supports these 20 pubs. Officers believe that, what this shows is that there are 20 viable pubs within a 13 minute drive of the application site and no clear evidence of why the Bishops End should be different to these.
- 5.6.7 With regards to the marketing of the pub, the applicants argue that it is clear that there have been serious endeavours to sell the pub over the last five years, but to no avail.
- 5.6.8 The evidence provided shows that the property was first marketed in March 2006 for an asking price of £600,000. The letter from Fleurets (one of the applicant's selling agents at the time) (dated 16 March 2007) confirms five offers had been received. It is acknowledged that these were all below the asking price, but two offers were received for £575,000 (5% below the asking price) and the letter states that 'as you will recall, when we commenced marketing I thought the original price of £600,000 was on the high side, but agreed to test the market'. The letter also states that a lack of up-to-date trading information (which had been requested on three separate occasions over an eight month period) had restricted interest. Based on this information, it is not unreasonable to conclude that the two offers made were not unreasonable.
- 5.6.9 No further evidence has been submitted of marketing the site between that time and April 2009. A further three offers were received in September 2010 (all of the

offers were below the asking price of £450,000).

- 5.6.10 Third party representations have been received that show that the property suffered significant water damage in 2009. The applicant has not explained the extent of the damage caused or the impact that this had on the property value at the time. It is also not clear if the interior of the pub was re-instated or upgraded following the flooding. Without this information it is difficult to assess whether the pub was being marketed at a 'reasonable price' in 2010.

5.6.11	The report by GA select (one of the applicants selling agents) entitled 'Report Bishop Blaize Public House' (submitted with the application) states that the asking price of £499,000 (August 2010) was 'justified by the price paid by Mr & Mrs Noquet'. There is no evidence to show if the price reflected the potential flood damage that had occurred previously.
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- 5.6.12 There is no evidence of any marketing of the site for the last 18 months

- 5.6.13 The Council has commissioned an independent viability study as part of its case for the forthcoming appeal. The results of the study were not available at this time this report was written, but members will be provided with an update at the committee.

- 5.6.14 The fact that the public house has been closed since 2007 does not in itself satisfy the requirements of the policy. Whilst the appellant may not either wish to, or be able to re-open and operate the public house as a long term viable business, it does not necessarily hold that another operator may not be able to do so. The permanent loss of such a facility, and the permanent loss of the opportunity for another operator to try, is not therefore justified or acceptable.

- 5.6.15 In an appeal decision for a neighbouring authority (planning inspectorate reference 2134643, February 2011) the inspector commented that 'the success or otherwise of a public house can change markedly with a change of personnel or management, or type of fare or cuisine, or facilities being offered'. This approach is reflected in the Council's view that the inability of an operator to make a public house viable does not in itself mean that another operator could not do so. It also recognises that allowing a change of use without strong evidence of lack of long-term viability does not allow any other operators to have that opportunity.

5.7.1 Impact on the village community

The impact of the implementation of a change of use such as this on a rural community has the potential to cause harm to the character of the village and the level of community facilities provided. Despite the existence of another public house within the adjacent settlement, the loss of this public house would remove a facility which had previously served the villagers. The importance of community facilities is reflected in the content and direction of national government policy as well as in the adopted Cherwell Local Plan Policy. The importance of village facilities is further emphasised by the 'saving' of the 1996 Local Plan Policy and the degree of conformity of that policy with the Framework.

- 5.7.2 In addition to the local and national policy support for the retention, wherever possible, of essential village services, such as public houses, it is clear that there is also strong local support. This is clearly shown in the third-party representations made in respect of this application which make significant reference to the

importance of the facility to the community. Responses refer to the site as a “*central hub where young and old can meet up and be part of a village community*” are far from atypical. The concept of the public house as a meeting place is reiterated by many of the respondents; “*a vibrant meeting place for villagers and a hub of the community*”, “*focal point for local gatherings and acted as a link point for [the] community*”, “*much more valuable to the community as a public house providing...a village hub*” and “*an indispensable amenity...an integral part of village life*”.

5.7.3 The level of public objection to the proposal (and the consistency of objection seen in previous applications) also highlights the importance of the Bishops End as a social facility in the village. Although the pub has been closed since 2007, third party contributors have provided anecdotal evidence of the social activities that the pub used to support.

5.7.4 In addition to the third party comments which add to the weight of concerns over the loss of the public house as a community facility, it is important to note that the weight of representations received is considered to add weight to the possibility of the facility being viable in the long term. This approach is supported by that taken by the Inspector in a similar application in Great Rollright (PINS reference 2134643) who noted that “*the strength of local opinion which was positive about regaining a PH, adds weight to my view that the lawful use... as a PH should be retained to enable it to come back into active use*”.

5.7.5 It is clear therefore that central government policy is supportive of, and recognises the importance of the retention of community facilities. It is also clearly established that a public house is an important community facility.

5.8.1 Impact on Heritage Assets and impact on visual amenity

Moving away from issues directly related to saved policy S29 of the adopted Cherwell Local Plan 1996, the matters under consideration must also be considered against the tests set out in the Planning (Listed Buildings and Conservation Areas) Act. Namely, whether the proposal would preserve or enhance the character or appearance of the designated Conservation Area, and whether the proposal would harm the setting or significance of the surrounding listed buildings.

5.8.2	The Council’s Conservation Officer has highlighted the importance of the buildings stating they are ‘of local importance as they highlight the vernacular style and more importantly the changes and development of pubs (i.e. move from home brew to local breweries, from an Inn to a public house). This set of buildings is an exemplar version of this development’. This not only highlights the importance of the buildings in terms of their architectural style, but also suggests the historic importance of the use of the buildings as a public house.
5.8.3	The Conservation Area Appraisal reinforces the importance of the public house to the character of the Conservation Area. It notes the significance of the building, as a non-designated heritage asset making a positive contribution to the area, and also as a building worthy of inclusion on a ‘local-list’ of buildings of special architectural or historic significance, and notes the degree of desire locally to see the public house re-opened.

- 5.8.4 The applicant argues that there will be no external alterations to the building. However, it is noted that several changes have already occurred including the loss of the main entrance, the loss of the pub signs and alterations to the bottle store (outbuilding). Although the removal of the pub signs and loss of a clearly identifiable entrance did not require planning permission, if the pub was re-opened these are features that are likely to be re-instated to encourage trade. If a change of use to residential is granted, it is likely that these features will be permanently lost. The retention of these features adds to the sense of place and the visual character of the area surrounding the public house.
- 5.8.5 The Council's Conservation officer has raised concerns about the loss of these features and the changes to the bottle store.
- 5.8.6 It is clear that the change of use of the property has resulted in changes to its appearance and it is likely that there would be future pressure for further changes. Along with the change of use of the building is the change of use of the surrounding land which would form the domestic curtilage for the property.
- 5.8.7 The redline area submitted denotes the area of land that would be included in the domestic curtilage if a change of use were granted. The redline area includes a substantial amount of land to the south of the property stretching down to the bottom of the Sib Valley.

5.8.8	The Sib Valley is an undeveloped rural scene, little affected by modern agricultural practice. The valley separates the three settlements and the lack of development emphasises their 'separateness' and provides a clear distinction between the villages.
5.8.9	The change of use of this land would allow for the encroachment of domestic activity and associated paraphernalia into the Sib valley. Although outbuildings and fencing could be controlled by removing the permitted development rights for the property, the Council would have no control over the introduction of items such as washing lines, garden furniture, children's play equipment and ornamental/domestic planting. All of which would significantly alter the character of the landscape and its visual appearance.
5.8.10	The Sib Valley has been included within the Conservation Area boundary and the appraisal states that 'the valley is an integral part of the Conservation Area and is included within the boundary as it has a significance in its own right and not just as a setting for the settlements'. This emphasises the importance of this land as an unspoilt agricultural landscape and highlights the need to protect its character.
5.8.11	Barn Close and Carrier's Cottage to the east of the application site are both Grade II Listed Buildings. The Sib valley, and the area of agricultural land included in the application, is considered to form part of their setting and therefore the impact of the proposal on their setting is a key consideration in this application.
5.8.12	It is the Officer's opinion that the introduction of a domestic character in the Sib Valley would have a detrimental impact on the setting of the listed buildings, which are currently viewed across open countryside.

5.8.13 The curtilage area is far too large as it includes a large area of agricultural land to the south of the site. The importance of the Sib Valley has been discussed and due to its significance, a separate reason for refusal has been suggested to deal with this aspect of the proposal.

5.8.14 With regards to the Conservation Area, the relevant primary legislation requires that planning applications in such areas must preserve or enhance the character or appearance of the Conservation Area. Permanently changing the site from a public house to a private residence would change the character of the Conservation Area as it would permanently alter the appearance and use of this prominent building in the centre of the Conservation Area. Similarly the works would change the appearance of the Conservation Area as a functional public house has a very different appearance to a private residence, albeit a converted public house. It is clear therefore that the proposal cannot be considered to preserve either the character or appearance of the Conservation Area and does therefore fail the test set out in the legislation.

5.9.1	<p>Highway Safety The application site has an existing large car park that was used for the public house. This would provide sufficient space to allow vehicles to enter and leave the site in a forward facing manner and provide a sufficient number of parking spaces for the residential property.</p>
5.9.2	<p>The Local Highway Authority raises no objections to the application. They have requested conditions relating to the provision of parking spaces and a turning area within the site.</p>

5.9.3 The site would provide sufficient standards of on site parking and therefore would not have a detrimental impact on Highway Safety. The application is considered acceptable with regards to highway safety.

5.10.1 Other matters raised by the applicant

The applicant has suggested that the allowing the change of use of the public house to a dwellinghouse would assist in the delivery of housing across the district. The Council does not consider that this is a valid argument as the change would only provide for a larger dwelling than already exists on the site (being the ancillary first floor accommodation) rather than additional dwellings in the district.

5.10.2 The applicant has stated that ‘the application property is in a relatively poor state due to its vacancy. It is also situated on the corner in a prominent position at the entrance to the village. If something is not done to remedy the situation, its appearance can only get worse’. The Council does not consider this to be a material planning consideration for this application.

5.10.3 The applicant’s statement makes reference to PPS3 and PPS7. These policies were superseded by the introduction of the National Planning Policy Framework in March 2012 and therefore are not considered to be relevant.

5.11.1 Other matters

Third party contributors have claimed that the pub is not currently vacant and therefore suggest the application should be retrospective. The claim that the pub is not vacant is also supported by the submission of a certificate of lawful

development application by the applicant (12/00796/CLUE). Although this matter has not been clearly resolved, the considerations of the application would not differ and therefore this is not considered to be a significant factor in the determination of the application.

5.11.2 Third party contributors have also claimed that the photos and floor plans submitted are out of date. Amended floor plans have been verbally requested from the agent but have not been forthcoming. For similar reason as stated above, this is not considered to have a significant bearing on the determination of the application as the redline area (denoting the site area) includes the whole of the building.

5.12.1 **Conclusions**

Determining any application for the change of use of a public house to a private residential dwelling always causes difficulties as it represents the imposition of social and community considerations by the state upon commercial decisions made by private companies.

5.12.2 Notwithstanding that, Officers consider that this proposal does not satisfy the tests set out in adopted Policy S29 or non-statutory Policy S26 as the evidence presented is not sufficient to satisfy this Council that the business is no longer viable and can not be made viable.

5.12.3 It is clear from the relevant national and local policy, coupled with the strength of local feeling, that it would be inappropriate to allow this change of use at this time, without strong and clear justification that the use of the public house is not financially viable in the long term as required by the policy.

5.12.4 In conclusion, it is considered that there is not sufficient evidence to suggest that the Bishops End cannot be made viable, and that the loss of this amenity would cause harm to the character and community of the village. The level of public objection to the application is considered to be material evidence of this.

5.12.5	The application is therefore recommended for refusal as being contrary to Policy S29 of the adopted Cherwell Local Plan, Policy S26 of the non-statutory Cherwell Local Plan, Policy BE5 of the South East Plan and government advice on supporting a prosperous rural economy and promoting healthy communities contained within the National Planning Policy Framework.
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5.12.6 With regards to the inclusion of the area of land to the south of the property, this land currently forms part of the Sib Valley which has a distinct agricultural character and provides clear separation between the villages. The encroachment of domestic activity and paraphernalia into the Valley would have a detrimental impact on the visual appearance and rural character of the land between the settlements, thus causing unacceptable harm to visual amenity, the significance of the Conservation Area and the setting of nearby listed buildings, in direct conflict with The Sibford Ferris, Sibford Gower and Burdrop Conservation Area Appraisal, Policies C27, C28 and C33 of the adopted Cherwell Local Plan, Policies BE5 and BE6 of the South East Plan and Government guidance on conserving and enhancing the natural and historic environments contained within the National Planning Policy Framework.

6. Recommendation

Refusal,

REASON(S) FOR REFUSAL:

1. The proposal would result in the loss of a village service which on the basis of the application and the contributions received is not conclusively demonstrated as being no-longer viable. As such, the loss of the service would lead to an unacceptable impact on the character of the area and the local community and would therefore be contrary to Policy S29 of the adopted Cherwell Local Plan 1996, Policy S26 of the non-statutory Cherwell Local Plan 2004, Policy BE5 of the South East Plan 2009 and government advice on supporting a prosperous rural economy and promoting healthy communities contained within the National Planning Policy Framework.

2. The proposed change of use of the land, which would include a significant area of land to the south of the building, to residential would result in the encroachment of domestic activity and associated paraphernalia into the Sib Valley; a sensitive and undeveloped gap between the settlements of Burdrop and Sibford Ferris. This would cause damage to the visual appearance and rural character of the land between these settlements, thus causing unacceptable harm to visual amenity, the significance of the Conservation Area, and the setting of nearby listed buildings, in direct conflict with The Sibford Ferris, Sibford Gower and Burdrop Conservation Area Appraisal, Policies C27, C28 and C33 of the adopted Cherwell Local Plan, Policies BE5 and BE6 of the South East Plan and Government guidance on conserving and enhancing the natural and historic environments contained within the National Planning Policy Framework.

CONTACT OFFICER: Rebekah Morgan
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TELEPHONE NO: 01295 221822
