

<b>Case Officer:</b>	Stuart Howden	<b>Contact Tel:</b>	01295 221815
<b>Applicant:</b>	Mrs Sarah Robinson-Smith		
<b>Proposal:</b>	Proposed accommodation block – Alteration to approval 15/00185/F		
<b>Expiry Date:</b>	12 <sup>th</sup> September 2016	<b>Extension of Time:</b>	N/A
<b>Ward:</b>	Launton and Otmoor	<b>Committee Date:</b>	24 <sup>th</sup> November 2016
<b>Ward Councillors:</b>	Cllrs Hallchurch, Holland and Hughes		
<b>Reason for Referral:</b>	Relative of the applicant works for Cherwell Council		
<b>Recommendation:</b>	Approval		

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## 1. APPLICATION SITE AND LOCALITY

- 1.1 The Lion Public House is situated on the south east side of Main Street within Wendlebury. The detached public house building is constructed from limestone rubble under a slate roof and fronts Main Street. The building is Grade II listed and the site is within close proximity to two other Grade II listed buildings across Main Street. The site is accessed from Main Street at the north end of the site and to the north of the site is an ancillary parking area. The site is located within an area of archaeological interest and within a Zone 2/3 flood plain.

## 2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1 Planning permission is sought for a detached two storey building for guest accommodation to the rear of the public house building. The proposal is an amendment of a similar scheme approved last year (ref: 15/00185/F – see Paragraphs 2.5 and 3.4 of this report). The structure is proposed to accommodate 13 rooms. The proposed building would form an L-shape and would run adjacent to the western boundary of the site. The building would measure approximately 19 metres x 25.3 metres and would have a width of approximately 5.8 metres. The building would have a maximum height of approximately 7.2 metres. This proposal includes hard and soft landscaping works such as a new paved link between the public house and the proposed accommodation building.

## 3. RELEVANT PLANNING HISTORY

- 3.1 14/01026/F and 14/01027/LB – Single storey extension, internal alterations and extension to parking area – APPROVED on 4<sup>th</sup> November 2014. Planning permission and listed building consent for a number of works to the listed building were approved, including three extensions to the rear of the existing public house, a refuse store to the rear of the building enclosed by fencing, the increase in the size of the parking area to the rear of the site in order to

accommodate 8 additional parking spaces and the raising of the stone wall on the southern boundary of the site.

- 3.2 14/01030/F - Detached building to provide hotel accommodation – WITHDRAWN on 24<sup>th</sup> October 2014. It was considered that the proposed building would have caused substantial harm to the significance and the setting of the Grade II listed building by virtue of its poor design and excessive scale, and the argued public benefits of the proposal were not sufficiently demonstrated. It was also considered that the proposed building would have caused detrimental harm to the visual amenities of the locality.
- 3.3 15/00072/LB and 15/00172/F proposed amendments to 14/01026/F and 14/01027/LB. APPROVED on 24<sup>th</sup> April 2015. This included alterations to openings as well as the addition of an oak framed porch.
- 3.4 15/00185/F - Detached accommodation block - re-submission of 14/01030/F – APPROVED on 2<sup>nd</sup> July 2015. Planning permission was granted for a two storey accommodation building with 13 guest rooms and this permission is extant. The proposed building formed an ‘L-shape’ and ran adjacent to the western boundary of the site. The building was proposed to be constructed from stone and slate. It was considered that the proposed building would have caused less than substantial harm (albeit serious harm) to the significance and setting of the Grade II listed public house by virtue of its proximity to the listed building and its scale. However, financial justification was submitted to support the proposal which displayed that this guest accommodation would contribute in covering the costs of refurbishing and maintaining the public house as well as ensuring that the business remains viable. A viability advisor was employed by the Local Planning Authority who was of the opinion that there was financial justification for the approval of this scheme having read through the applicant’s documentation. It was considered that the benefits of ensuring the long term viability of this community facility outweighed the identified harm to the significance and setting of the Grade II listed pub.
- 3.5 The proposed building before members has a relatively similar footprint to the one approved in 2015, but the building is approximately 0.5 metre wider than this building approved in 2015 as well as approximately 0.7 metre longer at the western end and approximately 0.3 metre longer at the northern end. The proposed building would also be approximately 1 metre higher than the one approved in 2015 as a result of the increase in width of the building. The Design and Access Statement notes that this increase in size is required to improve disabled access and allow for a disabled WC. There are also alterations proposed to the appearance of the approved building including:
  - The glazed barn door element on the north elevation has had its arch oaked beams straightened;
  - A recess has been created on the north elevation at the disabled WC location to allow for the door swing and to give a covered entrance;
  - Repositioning of a door on the west elevation;
  - The replacement of a window with a larger glazed opening at first floor level on the east elevation;
  - Five small windows are proposed at ground floor level on the east elevation;
  - A roof light has been added to the south elevation, whilst 3 roof lights have been added to the west elevation;
  - A roof light has been removed from the north elevation and 5 have been removed from the east elevation.

3.6 Unfortunately, in addition to the works it has permitted, the Local Planning Authority has been made aware of works on the site that did not benefit from planning permission or listed building consent. The Council's planning enforcement team has advised the applicant of the works which would be unlikely to receive officer support including:

- An external fire place to the side of a rear extension;
- The tarmacking of the extension to the car park as the approved plans refer to porous paving;
- Two external extractor units on the kitchen extension;
- Stone wall built around the existing refuse area and construction of area to store ancillary kitchen items;
- Fencing around the beer garden and close boarded fencing along the southern boundary.

3.7 The applicant has been advised to remove these above breaches. A retrospective planning application and listed building consent application has been submitted to regularise other breaches (refs: 16/01876/F and 16/01877/LB) including:

- The addition of a linking corridor between kitchen and dining room and the use of metal cladding to the gable end of the existing building;
- Changes to the roof of the rear extension to the south of the site;
- Changes to the side elevation of the rear extension to the south of the site;
- The addition of new openings;
- The reinstatement of a southern boundary wall;
- Addition of external wall lights mounted on the kitchen extension.

For the avoidance of doubt, the unauthorised works do not form part of the application currently before Planning Committee and so are not material to the determination of the current application.

#### **4. PRE-APPLICATION DISCUSSIONS**

The following pre-application discussions have taken place with regard to this proposal:

14/00041/PREAPP – Extensions to Grade II listed building – Closed 31<sup>st</sup> March 2014. A two storey extension including guest accommodation was proposed to the rear of the building, but given its scale and proximity to the listed building it was deemed to cause substantial harm to the significance and the setting of the Grade II listed building. An independent building was recommended, that was constructed to look more like a traditional agricultural building that would appear ancillary to the main public house building. However, it was stated that sufficient justification would be required for such an accommodation building (i.e. that it is required for the long term viability of the public house) to overcome the harm caused to the significance and setting of the Grade II listed building.

#### **5. RESPONSE TO PUBLICITY**

5.1 This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records.

5.2 The comments raised by third parties are summarised as follows:

- Loss of privacy;
- The car park is often full and cars park on the road restricting access to driveways and causing congestion on the village street. As there are no footpaths this is dangerous for pedestrians. This matter will only worsen with the addition of the accommodation building;
- Will increase traffic going through Wendlebury;
- Will increase flooding risk to neighbouring properties;
- The submitted Flood Risk Assessment is inaccurate;
- The Flood Risk Assessment carried out for the previous application for the accommodation block is flawed;
- Foul water treatment concerns;
- When permission was given for the refurbishment of the public house, the parking area was not constructed in accordance with the approved details and this has increased the flooding risk in the area;
- The application form does not state the hours of opening and this raises noise nuisance concerns;
- It is important that the tree protected by the Tree Preservation Order is not damaged by the proposed development.
- The disabled access toilet facility in the public house is inadequate for people with mobility problems and this should not be part of a large building. It should also be possible for a wheelchair to access the toilet from the public house;
- There is currently a lighting nuisance issue and external lighting should not disturb neighbouring properties;
- A new access is displayed on the site location plan, but this is not specified on the application form;
- The installation of raised and banked ground works fully across the extreme rear of the site has taken place without consent and this has increased the flooding risk elsewhere.

5.3 The comments received can be viewed in full on the Council's website, via the online Planning Register.

## **6. RESPONSE TO CONSULTATION**

6.1 Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

### PARISH/TOWN COUNCIL

6.2 WENDLEBURY PARISH COUNCIL: have not objected to the application, but have noted the following:

- Consideration should be given to Policies C27 and C28 of the Cherwell Local Plan 1996;
- Concerns in relation to the foul water treatment from the development;
- Flooding is a concern and the submitted Flood Risk Assessment is poor and uses out of date information. Furthermore, no commitment has been made to reduce the overall level of flood risk in the area;
- Concerns in relation to light pollution and noise pollution;
- Loss of privacy.

Wendlebury Parish Council stated that: *“In summary, as long as Cherwell Planning Department have judged the development to be appropriate to the environment and village, EA and Thames Water have considered and responded positively to any issues of flooding and waste disposal and the applicant can also demonstrate the same consideration to the issues, and come up with meaningful solutions that are acceptable to the PC and residents, then the Parish Council will be mindful to support the application.”*

#### STATUTORY CONSULTEES

- 6.3 CONSERVATION OFFICER: **No comments received.**
- 6.4 ENVIRONMENT AGENCY: **No objections**, commenting that *“I have checked our records and found that this application is within flood zone 1 and therefore did not fall within a category to which we required a consultation on. I note our previous responses on this and if you wish to apply them again you can.”*
- 6.5 OCC HIGHWAYS AUTHORITY: **No comments received.**
- 6.6 OCC DRAINAGE: **No comments received.**
- 6.7 THAMES WATER: Following initial investigation, Thames Water has identified an inability of the existing waste water infrastructure to accommodate the needs of this application. Thus, if the application is to be approved, a condition should be imposed which requests a drainage strategy detailing any on and/or off site drainage works. This is to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.

Thames Water has no objections in relation to water infrastructure capacity.

#### NON-STATUTORY CONSULTEES

- 6.8 CDC ENVIRONMENTAL PROTECTION OFFICER: **No objections.**
- 6.9 OCC ARCHAEOLOGY OFFICER: **No objections.**
- 6.10 CDC ARBORICULTURAL OFFICER: **No comments received.**
- 6.11 CDC BUILDING CONTROL: *“Windows - bedroom 5 adjacent the staircase exit would require to be fire resistant. Family room 6 would require a lobby on to staircase enclosure. Bedroom 7 likewise would require a lobby”*
- 6.12 CDC ECOLOGY OFFICER: **No comments received.**
- 6.13 CDC EMERGENCY PLANNING: **No comments received.**
- 6.14 MOD SAFEGUARDING: **No objections.**

#### **7. RELEVANT PLANNING POLICY AND GUIDANCE**

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2 The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to

2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

#### CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- PSD1 – Presumption in Favour of Sustainable Development
- SLE2 – Securing Dynamic Town Centres
- SLE3 – Supporting Tourism Growth
- SLE4 – Improved Transport and Connections
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems (SuDs)
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15 – The Character of the Built and Historic Environment

#### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- T2 – Proposals for hotels, motels, guest houses and restaurants within settlements
- TR1 – Transportation funding
- C28 – Layout, design and external appearance of new development
- C31 – Compatibility of proposals in residential areas
- ENV1 – Environmental pollution

#### 7.3 Other Material Planning Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Home Extensions and Alterations Design Guide (2007)

## **8 APPRAISAL**

### 8.1 Officers’ consider the following matters to be relevant to the determination of this application:

- Principle of the Development;
- Impact upon the Significance and Setting of Grade II Listed Buildings;
- Visual Impact and Local Character;
- Highways Safety;
- Residential Amenities;
- Flooding Risk and Drainage;
- Archaeological Impact;
- Ecological Impact;
- Sustainability and Energy Efficiency;
- Other Matters.

#### Principle of the Development

8.2 Paragraph 14 of the National Planning Policy Framework (NPPF) states that a presumption of sustainable development should be seen as a golden thread running through decision taking. There are three dimensions to sustainable development, as defined in the NPPF, which

require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.

- 8.3 The Council, as Local Planning Authority, has previously accepted the principle of a two storey 13 guest room accommodation building on a similar footprint granting planning permission in 2015 (ref: 15/00185/F) and this permission is still extant. The variations in the schemes are listed above in Paragraph 3.5 of the report, but ultimately the proposed building would be slightly larger in scale and would differ slightly in appearance to the approved building, and it is noted in the Design and Access Statement submitted alongside the application that this is in order to improve disabled access. Its siting and general form would remain as previously approved.
- 8.4 When considering the principle of the development in the original 2015 application, Paragraph 28 of the NPPF which encourages Local Planning Authorities to support growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development, formed a significant material consideration. The same was the case for Paragraph 70 of the NPPF which notes that to deliver social, recreational and cultural facilities and services the community needs, planning decisions should:
- plan positively for the provision and use of shared space, community facilities (such as public houses) and other local services to enhance the sustainability of communities and residential environments;
  - 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 in a way that is sustainable and retained for the benefit of the community.
- 8.5 A financial justification statement was submitted alongside this approved planning application for an accommodation building which stated that the public house required refurbishment, especially due to a lack of investment in the public house over previous years, and that this guest accommodation would contribute in covering the costs of refurbishing and maintaining the public house, as well as ensuring that the business remains viable. The Council employed a viability advisor to assess the submitted documentation and agreed that the refurbishment of the building (approved under 15/00072/LB and 15/00172/F) would enable the business to generate higher levels of income than before. Given a lack of other services in the village of Wendlebury, it was considered that the proposed refurbishment of the public house was necessary in order to prevent the loss of this valued community facility. Three different scenarios were put forward by the applicant, with profit/loss forecasts as a result of the three scenarios and the Council's viability advisor was in agreement with the financial justification statement that such a guest accommodation building would be the most viable option put forward.
- 8.6 Weight was also given to saved Policy T2 of the Cherwell Local Plan 1996 and Policy SLE3 of the Cherwell Local Plan Part 1 when considering the principle of the guest accommodation building. Saved Policy T2 states that within the built up limits of a settlement the provision of new hotels, guest houses and restaurants will generally be approved subject to other policies in the plan. Policy SLE3 echoes this saved Policy to a certain extent, but states that tourist facilities should be in sustainable locations.
- 8.7 However, consideration was given to Policy SLE2 of the Cherwell Local Plan Part 1, as the NPPF defines hotels as a 'Main Town Centre Use' and Policy SLE2 states that such uses will be directed towards the town centres of Banbury and Bicester and the village of Kidlington. Policy SLE2 goes on to state that when considering out of centre proposals, preference will be given to accessible sites that are well connected to the town centre and that the Council will

consider if the proposals satisfy the sequential test and if they are likely to have a significant adverse impact on one or more of the factors in the NPPF. Policy SLE2 goes on to state that an impact assessment will be required if the proposal is over 350 square metres, in accordance with the NPPF. In relation to the sequential test, given that the purpose of the proposed development was to support the viability and functioning of the public house, the location of the guest accommodation next to the public house was considered logical. That said, the location of the site was not considered to be very well connected to Bicester or Oxford, but the site was considered to be in a relatively accessible location in Wendlebury. Whilst the floor space created exceed 350 square metres, the NPPF does not specifically refer to tourism development when requiring an impact assessment. Given its scale though, it was considered that such a development would not have a significant adverse impact upon the vitality and viability of Bicester town centre.

- 8.8 It was therefore concluded that the benefits of the proposed accommodation block, those being the prevention of the unnecessary loss of a valued community facility and supporting the growth of a rural business, outweighed the limited harm to the viability and vitality of the town centre of Bicester by having a town centre use in this out of town location. The principle of the proposal was therefore considered acceptable.
- 8.9 These key policies which formed a significant material consideration when the Council accepted the principle of the development in 2015 remain part of the Development Plan and there has been no significant change in policy in the intervening period which would lead the officers to form a different opinion now. There has also been no material change to site circumstances that would now warrant the application unacceptable in principle.
- 8.10 The principle of the proposed development is therefore considered acceptable, but the principle of the development is also dependent on other material considerations which will be discussed below.

#### Impact upon the Significance and Setting of Grade II Listed Buildings

- 8.11 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the Local Planning Authority gives special regard to the desirability of preserving a listed building or its setting. In this case it is the impact on the setting and significance of the Grade II listed public house that is to be considered.
- 8.12 Section 12 of the NPPF (Conserving and Enhancing the Historic Environment) states that in determining planning applications, Local Planning Authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Proposals that preserve those elements should be treated favourably.
- 8.13 Paragraph 132 of the NPPF states that: *“Significance can be harmed through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.”*
- 8.14 Paragraph 134 of the NPPF states that: *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.”*
- 8.15 Policy ESD15 of the Cherwell Local Plan Part 1 states that development should: *“Conserve, sustain and enhance designated and non-designated ‘heritage assets’ including buildings,*

*features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and PPG.”*

- 8.16 In relation to the Grade II listed buildings across the road from the site, it is considered that due to intervening structures and landscaping between the proposed siting of the accommodation building and these designated heritage assets, the proposal would not harm the significance and the setting of these two Grade II listed buildings.
- 8.17 Given the scale of the proposed accommodation building and the close proximity of the proposed building to the Grade II listed public house, it is considered that the proposal would undoubtedly cause harm to the significance and setting of this Grade II listed building. Whilst the harm to the significance and the setting of the Grade II listed building, as a result of the previous proposal, was not considered to be substantial, it was considered to be in the less than substantial harm category. The proposed building is different to the approved accommodation building in terms of its scale (being slightly larger) and appearance (i.e. positioning and design of openings). That said, the overall layout and footprint of the building would be very similar to the approved building and like the approved building, it would mimic the style and appearance of a traditional agricultural building due to its simple form and the simplicity of the elevations, as well as the sensitive positioning of openings on the building.
- 8.18 It is therefore considered that the harm to the significance and setting of this Grade II listed public house would not be materially different to the harm identified in the previous application for the approved accommodation building, this being less than substantial harm, but serious harm. This harm caused to the significance and the setting of the Grade II listed building needs to be weighed against the public benefits of the proposal.
- 8.19 As concluded above, it was considered that the refurbishment of the listed building was required in order to ensure that the business remained viable and prevented the loss of the valued community facility of the public house, but the refurbishment alone would result in a significant annual deficit. Thus, the accommodation building is being proposed in order to contribute in covering the costs of refurbishing and maintaining the Public House, as well as providing additional revenue for the business. As discussed above, the Council's viability advisor was in agreement with the financial justification statement submitted with the previous application that such a guest accommodation building would be the most viable option put forward by the applicants. Furthermore, in the previous application for the proposed accommodation building, the Conservation Officer concluded, after viewing the viability advisor's report that the proposed accommodation building would enable the refurbishment of the listed building itself and the long term viability of the business and therefore had no objections to the proposal.
- 8.20 For the reasons above, it is considered that the less than substantial harm caused to the significance and setting of the Grade II listed public house would be outweighed by the public benefits of ensuring the long term viability of this community facility, therefore the proposal is considered to be in accordance with Policy ESD15 of the Cherwell Local Plan Part 1 and Government guidance contained within the NPPF.

#### Visual Impact and Local Character

- 8.21 Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.

- 8.22 Policy ESD15 of the Cherwell Local Plan Part 1 states that new development should complement and enhance the character of its context through sensitive siting, layout and high quality design. Furthermore, new development should be designed to improve the quality and appearance of an area and contribute positively to an area's character and identity by creating or reinforcing local distinctiveness. Reference to Policy C27 of the Cherwell Local Plan 1996 has been made by Wendlebury Parish Council, but this is not a saved policy. However, Policy ESD15 of the Cherwell Local Plan Part 1, like Policy C27, stresses that development should respect traditional settlement patterns.
- 8.23 Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context.
- 8.24 The supporting notes for saved Policy T2 of the Cherwell Local Plan 1996 state that proposals for tourism development should be compatible with the size and character of the settlement and that large establishments will generally be unacceptable in the smaller villages.
- 8.25 The proposed building would be sited behind the public house which fronts Main Street and this would partly screen views from this highway, but gaps to both sides of this public house would allow for views of this proposed structure.
- 8.26 The proposed building would be relatively large in terms of its height and footprint and would be slightly higher than the existing public house. That said the proposed building would be designed so as to mimic the appearance of an agricultural barn and this is due to the positioning of openings (i.e. mainly at ground floor level), the simplicity of the elevations, the materials chosen and the use of glazing to mimic a former barn door opening. Furthermore, barns are often large structures due to the functions they perform. Officers consider, by reason of its barn like appearance, that this building would therefore not appear out of place in this edge of village location, and that it would not fail to respect the traditional settlement pattern of Wendlebury, especially as it is considered to fall within the built up limits of this settlement.
- 8.27 A third party has raised concerns in relation to a tree protected by a Tree Preservation Order on a neighbouring site (to the south of the proposed siting of the building). The Arboricultural Officer has not commented on the application within the consultation period. That said, the Arboricultural Officer commented on the previous application at the site for an accommodation building, stating that they had no objections to the proposal after visiting the site. Given that the building is on a similar footprint to the approved accommodation building, it is considered that the proposed development would not damage this protected tree.
- 8.28 Given the above, it is considered that the proposed building would not cause detrimental harm to the visual amenities of the locality, in accordance with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policies C28 and T2 of the Cherwell Local Plan 1996 and Government guidance contained within the NPPF.

#### Highways Safety

- 8.29 Comments have not been received from the Local Highways Authority within the consultation period. However, the Local Highways Authority did comment on the previous application at the site for an accommodation building and they raised no objections. The Local Highways Authority considered the amount of on-site parking provided to be sufficient. Concerns have been raised by third parties that the parking available on site would not be sufficient given lack of space in the on-site car park at the moment, but given that an accommodation building for 13 guest rooms has previously been approved on site and that this permission is extant, officers consider that it would not be reasonable to refuse the application on these grounds. It

is therefore considered that adequate parking would be retained to serve the public house and the accommodation building, and the proposed building would not cause detrimental harm to the safe and efficient operation of the highway network.

### Residential Amenities

- 8.30 Policy ESD15 of the Cherwell Local Plan Part 1 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. Paragraph 17 of the NPPF notes that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Saved Policy C30 of the Cherwell Local Plan 1996 states that design control will be exercised so that new housing development or any proposal for the extension or conversion of any existing dwelling provides standards of amenity and privacy acceptable to the Local Planning Authority.
- 8.31 Bridge House is the next door neighbouring property situated to the south of the site. No first floor windows are proposed in the walls of the southern and western elevation of the proposed building. The roof lights on the southern elevation would be over 1.7 metres from first floor level to prevent clear views of this neighbouring property from these openings. The first floor windows in the east (rear) elevation of the proposed building would not gain clear views of the rear of Bridge House given that the rear wall is sited beyond the rear boundary of Bridge House. The proposed windows at single storey level on the west elevation would not gain significantly different views from what can already be achieved from within the site to date.
- 8.32 Bridge House has two windows on the rear (east) elevation, one at ground floor level and the other at first floor level. An access track separates the site from this neighbouring property and given the distance between the proposed siting of the building and these windows, and the orientation of the site it is considered that the proposal would not significantly reduce the amount of light these rear windows receive. On the side (north) elevation of the dwelling there are 3 windows, two of these are at ground floor level and one at first floor level. The proposed guest accommodation block would be sited to the rear of the site and not directly adjacent to these side facing windows. Given the orientation of the site, the siting of the proposed building and the distance between these windows and the proposed accommodation block, it is considered that the proposal would not unduly affect Bridge House in terms of loss of light or the creation of an overbearing effect.
- 8.33 In relation to the neighbouring properties to the north of the site, a new dwelling is being developed on land adjacent to the north boundary of the site. However, given that the northern boundary of the site is situated over 25 metres away from the most northerly part of the proposed accommodation block, the proposed development would exceed the minimum recommended separation distance as set out in the Cherwell District Council householder extension and alteration guidance, and it is therefore considered that the proposed building would not cause undue harm to the neighbouring properties to the north of the site in terms of loss of light, overlooking or loss of privacy, or the creation of an overbearing effect.
- 8.34 It is considered that the proposed building would be sited so as to prevent undue harm to any other neighbouring properties in terms of loss of light, overlooking or loss of privacy, or the creation of an overbearing effect.
- 8.35 Concerns have been raised by third parties in relation to opening hours of the public house and the nuisance from operating at unsociable hours. The opening hours of the current public house are unknown, but restricting the hours of opening of the public house for an accommodation building to the rear of the public house is not considered to be reasonable or directly related to the development itself, therefore this has not be conditioned. In relation to noise emanating from the site as a result of the proposed guest accommodation building, it is

considered that the noise would not be significantly different to levels already experienced from this public house. Furthermore, the approved accommodation building which is still capable of being implemented is not subject to noise restrictions.

- 8.36 Concerns have been raised from third parties in relation to the light pollution from the site from external lights fitted to the building at the moment. Whilst this matter is not relevant to the determination of this application, the applicant has applied for retrospective planning permission and listed building consent for this alteration. Concerns have been raised in relation to light pollution as a result of the new building causing a nuisance to nearby neighbours and a condition will be attached requesting further details of external light fittings.

#### Flooding Risk and Drainage

- 8.37 Whilst concerns have been raised in relation to the flooding risk by third parties, the Environment Agency has raised no objections to the proposal noting that the development would occur in Flood Zone 1 and therefore the Environment Agency do not require consultation. Furthermore, the Environment Agency noted that their response to the previous application for a guest accommodation building was still relevant. Land within Flood Zone 1 is land which has a less than 1 in 1,000 annual probability of river flooding.
- 8.38 In relation to the previous application at the site, the Environment Agency acknowledged that the proposed building would be outside Flood Zone 1 therefore there would be no increase in vulnerability on site as a result of the proposal. However, the access route lies within Flood Zone 3 (land with a 1 in 100 or greater annual probability of river flooding). Thus, the Environment Agency requested an assessment of access and egress for the proposal. An emergency flood plan was provided later during this planning application. This also noted that because the proposed building would not be within Flood Zone 3 and would be on higher ground than the access to the site, the accommodation block would provide a safe haven should such a flood occur. The Cherwell District Council Emergency Planner was satisfied with the strategy, therefore the Environment Agency held no objections to the proposal, subject to the development being carried out in strict accordance with the submitted Flood Risk Assessment.
- 8.39 The proposed accommodation building would be built on a relatively similar footprint to the approved accommodation building and it is the case the proposed building would be in Flood Zone 1. It is therefore considered that the proposed accommodation building would not increase the surface flooding risk to neighbouring properties. Furthermore, if the emergency planning measures within the previous Flood Risk Assessment are to be employed, officers are of the opinion that the overall safety of the development would be sufficient from a flooding perspective.
- 8.40 Concerns have been raised by third parties in relation to foul water treatment matters. After initial investigation, Thames Water has identified an inability of the existing waste water infrastructure to accommodate the needs of the proposed development. To prevent sewage flooding, and to ensure sufficient capacity is made available to cope with the proposed development, Thames Water has recommended a condition stating that development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the Local Planning Authority and that no discharge of foul or surface water from the site shall be accepted until the drainage works referred to in the strategy have been completed. For the reasons above, it is considered necessary to attach this condition. A similar condition was attached to the previous permission at the site for the guest accommodation building.

#### Archaeological Impact

- 8.41 The Planning Archaeologist has no objections to the proposal and notes that it would not have an invasive impact upon any known archaeological sites or features. As such there are no archaeological constraints to this scheme.

#### Ecological Impact

- 8.42 Section 40 of the Natural Environment and Rural Communities Act 2006 (as amended) places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making. Paragraph 99 of Circular 06/2005: Biodiversity and Geological Conservation states that: *It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.*
- 8.43 Paragraph 109 of the NPPF states that: *The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity where possible.* This requirement is echoed by Policy ESD10 of the CLP 2031 Part 1.
- 8.44 Comments have not been received from the Council's Ecology Officer within the consultation period, however comments were received from the Ecology Officer in relation to the previous application for an accommodation building last year. The Ecology Officer raised no objections to the proposal and officers are of the opinion that there have been no changes in circumstances on the site so as to disagree with this assessment. It is therefore considered that the proposal is unlikely to harm any protected species.

#### Sustainability and Energy Efficiency

- 8.45 Policy ESD1 of the Cherwell Local Plan Part 1 states measures should be taken to mitigate the impact of development within the District on climate change, and Policy ESD2 of the Cherwell Local Plan Part 1 seeks to achieve carbon emission reductions. Policy ESD3 of the Cherwell Local Plan Part 1 encourages sustainable construction and states that all non-residential development will be expected to meet at least BREEAM 'Very Good' with immediate effect.
- 8.46 A Sustainability and Environmental Statement has been submitted within the Design and Access Statement by the applicant's agent, which notes that the building has been designed to maximise the use of natural daylight, utilise natural ventilation to reduce energy consumption, use an efficient heating system, include energy saving glass and use locally sourced materials. Given the scale of the proposed building it is considered that the level of detail provided is sufficient for the proposal to comply with Policies 1-3 of the Cherwell Local Plan Part 1.

#### Other Matters

- 8.47 Concerns have been raised in relation to various breaches of planning control at this site, including a raised bank, but this planning application specifically relates to a proposed detached accommodation and such planning breaches are not relevant to the determination of this planning application.

8.48 A third party has noted that a new pedestrian access is displayed on the site location plan to the south of the site, but that this is not specified on the application form. However, such an access is not clearly displayed on the site layout plan and is not considered to form part of the current application. In any event the removal of fencing to achieve this access would not itself require planning permission, nor would such a pedestrian access cause significant highway safety concerns.

## 9. CONCLUSION

9.1 The development is considered to be acceptable, especially having regard to the recent planning history of the site. It is considered that the public benefits of development, this being the long term viability of an important community facility, outweighs the less than substantial harm to the Grade II listed building. The proposal would also not have a detrimental impact upon neighbour amenity, highway safety, flooding risk or any protected species. The proposal is therefore in accordance with the Policies outlined in Section 7 of this report.

## 9. RECOMMENDATION

That permission is **granted**, subject to the following conditions:

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and documents:

- Application Form submitted with the application;
- Design and Access Statement by Oxford Architects dated June 2016 submitted with the application;
- Drawing Numbers: 010 Revision P1; and 022 Revision P1 submitted with the application; and
- Drawing Numbers; 020 Revision P2; 021 Revision P2; 025 Revision P2; and 026 Revision P2 received from the applicant's agent by e-mail on 11<sup>th</sup> November 2016.

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government guidance contained within the National Planning Policy Framework.

3. The development hereby approved shall only proceed and be occupied in accordance with the recommendations contained in Sections 7 (Flood Warning and Dry Route of Escape) and 8 (Emergency Planning) of the Flood Risk Assessment prepared by Infrastruct CS Ltd dated October 2014 received from the applicant's agent by e-mail on 25<sup>th</sup> March 2015.

Reason – To protect the development and its occupants from the increased risk of flooding

and in order to comply with Policy ESD6 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

4. Prior to the commencement of the development hereby approved, full details of a drainage strategy for the entire site, detailing all on and/or off site drainage works required in relation to the development, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the drainage works shall be carried out and completed in accordance with the approved strategy, until which time no discharge of foul or surface water from the site shall be accepted into the public system.

Reason – To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community in accordance with Policies ESD6 and ESD7 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

5. Prior to the commencement of the development hereby approved, a stone sample panel (minimum 1m<sup>2</sup> in size) shall be constructed on site in natural stone to match the stonework on the existing building (The Lion), which shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the development shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the materials used on the nearby Grade II listed building, to preserve the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policy and C28 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

6. Prior to the commencement of the development hereby approved, samples of the slate to be used in the construction of the roof of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the materials used on the nearby Grade II listed building, to preserve the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policy and C28 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of the development, full details of the doors and windows hereby approved, at a scale of 1:20 including a cross section, cill, lintel and recess detail and colour/finish, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the doors and windows and their surrounds shall be installed within the building in accordance with the approved details.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the materials used on the nearby Grade II listed building, to preserve the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local

Plan Part 1, saved Policy and C28 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

8. Full details of any external lighting to be fixed on the buildings hereby approved and on the ground shall be submitted to and approved in writing by the Local Planning Authority prior to their installation. Thereafter the external lighting shall only be installed in accordance with the approved details.

Reason - In order to safeguard the amenities of the area and to minimise the risk of a nuisance arising from excessive lighting in accordance with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. Prior to the commencement of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

- a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
- b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
- c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps.

Thereafter, the development shall be carried out in accordance with the approved landscaping scheme.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with saved Policy ESD15 of the Cherwell Local Plan Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with saved Policy ESD15 of the Cherwell Local Plan Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. The rain water goods to be used shall be constructed from cast iron or profiled aluminium and shall be painted or finished black, unless alternative details are submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the materials used on the nearby Grade II listed building, to preserve the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policy and C28 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

### **PLANNING NOTES**

1. In relation to condition 3, Thames Water has noted that the receiving foul sewer may not have sufficient spare capacity to accommodate the predicted net foul flow increase from the proposed development. Thames Water has therefore requested that an impact study be undertaken, before the submission of a drainage strategy, to ascertain with a greater degree of certainty whether the proposed development will lead to overloading of existing infrastructure, and, if required, recommend network upgrades.
2. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.
3. With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0800 009 3921. This is to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.
4. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.