

Application No: 10/01340/F	Ward: Fringford	Date Valid: 31.08.2010
Applicant:	Mr Iain Hodgson c/o agent JPPC, Bagley Croft, Hinksey Hill, Oxford	
Site Address:	Whitmore Arms, Main Street, Hethe, Bicester OX27 8ES	

Proposal: Change of use of premises from Class A4 (public house) to Class C3 (residential)

1. Site Description and Proposal

- 1.1 The Whitmore Arms public house is located in the centre of Hethe, north of Main Street. The village is compact and largely linear in form with most properties facing onto Main Street and Hardwick Road. The Whitmore Arms is Grade II listed as are the properties either side and facing. It is also within the Conservation Area though the site boundary extends beyond the Conservation Area boundary to the west where the pub garden meets the boundary with the village hall to the rear. Aside from the village hall, the character of the area is almost wholly residential with the pub being the only commercial property.
- 1.2 The Whitmore Arms is a 2 storey detached building which is stone built with brick end stacks and a steeply pitched slate roof. Entrances to the building are at the sides and there is a C19th porch on the east side though it is advised that this is not used as the principle entrance. Entrance is generally on the west side, adjacent to the car park, via the rear flat roofed extension that houses the toilet facilities. Also to the rear are other stone built additions including the malthouse, used for storage and the mono-pitched pool room.
- 1.3 To the front of the premises is a tarmac forecourt and there is a gated access to the pub car park to the west of the building. Off street parking is available for around 10 spaces and the remainder of the site forms the beer garden which extends to approximately 0.4 hectares of grassed area.
- 1.4 The inside of the pub comprises a ground floor which is given over to the commercial use of the building and the main bar area forms the trading space. One internal door leads onto the flat roof rear extension (the most used entrance and the toilet facilities). Another door leads onto the kitchens and access to the outside and the poolroom. There is also a cellar. Access to the first floor is via the kitchen which leads to residential accommodation in the form of a lounge room, 2 bedrooms, a box room (used as an office) and a bathroom. This accommodation is currently not used.
- 1.5 The Whitmore Arms remains licensed and still trades as a public house serving food and drink. This application seeks to change to the use of the premises from Class A4 use (public house) to Class C3 use (residential). No internal or external alterations are proposed. The application is supported by evidence relating to the commercial viability of the public house, a structural report and statement regarding the marketing exercise. Of particular interest are the conclusions that can be drawn from the viability assessment by Thomas E Teague, as follows:

- 1.5.1 The turnover figures over the last 10 years or so show an initial increase and then over the last 2 years an 'alarming' drop is recorded. This is attributed to a number of factors including supermarket competition, the smoking ban, high leasehold rents coupled with lack of discounts, two consecutive poor summers and the economic downturn. Beer level sales equate to what they were in the 1930s. The most successful pubs are generally food-led and for the Whitmore Arms to increase its turnover would require this change in focus in order to attract a wider customer base than just the village.
- 1.5.2 For the Whitmore Arms to provide a food offer at this level would require a superior kitchen, improved parking and better toilet facilities. The actual pub trade area is quite small for the number of covers that would be required as only up to 25 covers could now be achieved. Therefore an extension would be needed or it would be possible to utilise the malthouse but these options would require some considerable investment (£60,000). This is unlikely to happen because the working expenses of the Whitmore Arms shows that it is being 'run on a shoestring'. Wage bills have been cut as has the repairs programme. There is insufficient profit to pay the mortgage (which is now interest only), earn an income and invest in the business. The business has been de-registered for VAT purposes. These factors would strongly suggest that the Whitmore Arms would not be likely to attract a serious bidder at this time.
- 1.5.3 There may be other ways of attracting more custom other than introducing a food based establishment though these usually necessitate the pub having a better than average sales proposition. Factors such as ambience, character, exceptional setting or the quality of the landlord may be important. The pub is already real ale led and it features on the pub-walk website. Hethe is a Conservation Area and the pub is listed so this offers some historic aspect but it is not on a main route. Diversification into other village services such as a post office is largely only achieved in larger villages.
- 1.5.4 In examining the development potential of the pub, the site is quite sizable with plenty of open land and there are underused outbuildings. Unfortunately, these would require some considerable upgrade and investment to bring them into use. The advice is that in the current economic climate it would be an extremely high risk strategy to take this option up. It is further advised that the upper floors do not lend themselves to private let as it is quite small and that to extend the car park would lead to conflict issues with the garden/play space.
- 1.5.5 At the heart of the concept of viability is Fair Maintainable Trade (FMT) which is the amount of trade that a reasonable competent operator could achieve given the facilities on the site and its location. Paragraphs 22.2 onwards of the viability assessment are particularly noted. Until relatively recently the level of trade was reasonable (£80,000 turnover) given the circumstances of facilities and location but really should have been (£100,000) so the pub has been undertrading. Margins of 58% profit should be achieved and an income of £23,000 is a fair net profit norm. However, in the current market and given the circumstances at this pub with increasing overheads and underinvestment, the owner could only expect earnings of £10,000.
- 1.5.6 The viability report touches on the difference the proprietor of the pub can make to the success or otherwise of a pub. The applicant in this case has owned and operated the pub for more than 10 years now and can be considered as an experienced publican. Also, in this case it would be likely to take more than just a change in personalities as capital investment would be essential here to move it

away from predominantly wet sales which would be required due to the collapse of beer sales.

2. Application Publicity

- 2.1 The application has been advertised by way of site notice, neighbour letter and press notice. The final date for comment is 8 October 2010.
- 2.2 At the time of writing, 29 letters of objection had been received from local residents principally raising concerns with regard to:
- Social impact – This is the only commercial premises in the village. All others have closed and moved over to high cost residential housing. This has forced many established families out of the village as affordable housing is less available. The village pub still provides a centre of social activity for many people in the village, some of whom are too elderly to travel elsewhere or have no means to travelling given the lack of frequent public transport. The only other place is the village hall but that has little atmosphere is tends only to be used for specific bookings. The village needs a central hub which is best served by the pub as it is a really important part of British society. Facilities need to stay in the village as it fulfils the current coalition government’s ‘Big Community’ strategy by supporting the local environment. To accept the submission would also contravene the North Oxfordshire Rural Strategy 2009 which outlines the needs to protect and support tourism and local jobs.
 - Historical – The Whitmore Arms and its predecessors have existed in this ancient village for hundreds of years. There is no reason why, with the appropriate management and investment, that it should not continue to do so.
 - Commercial – Policy S29 of the Cherwell Local Plan refers to not being able to resist the loss of pub facilities if they are proven to no longer be commercially viable. Whilst the Whitmore Arms is undoubtedly struggling to do business, its long term future could be assured with effective management and investment. There are many rural pubs in the Cherwell District that are marketing themselves successfully. The fact that the current owner may not be able to bring that management and investment to the premises, is not of itself a reason to permit this change of use. The pub could offer other activities, facilities and services including post, teas and coffees. It could be more family friendly. The current owner is sending business elsewhere and the pub is badly managed.
- 2.3 One letter has been received from a local resident who claims that The Butchers Arms is accessible as it is just half a mile by footway and offers food and drink. The campaign against the application is unrealistic in todays world. There is no social activity in the village, never mind the pub. The quality of the landlord has a bearing on the success of a pub.

3. Consultations

- 3.1 Hethe Parish Council – Comments awaited
- 3.2 Oxfordshire County Council (Highways) - **No objection.**
- 3.3 The Council’s Conservation Officer – **No objection**
The application does not propose any alterations to the fabric of the building, and is

therefore an 'in principle' application. It is understood that should the change of use be implemented, a further application will be necessary in order to change the building physically from a pub to a dwelling.

The pub is a late 17th/early 18th century building with 20th century modifications to the interior and rear. It is constructed on coursed limestone with a steeply pitched slate roof (indicating a former thatched roof). There are numerous blocked up windows/doors on the front elevation, possibly suggesting that this building was formerly used as a dwelling, although a structural survey would need to be undertaken to provide dates for each element of the building. The listing description states that the building was named after Thomas Whitmore who lived at Hethe House from 1808-1811. Before this it was known as the 'Maltster's Arms', possibly in reference to the malthouse which still stands at the rear of the building.

The early 19th century parish registers record an innkeeper in the village, and it may be safe to assume that this was within the Whitmore Arms. There is no written evidence to suggest that the building was or was not used as a public house before this time, as it was common practice in rural locations for people to brew their own ale and sell the surplus. Due to the malthouse, it may be that the Whitmore Arms started off life in this fashion before becoming a proper public house. Therefore, it can be summarised that the building has been used as a brewhouse and public house since the late 18th or early 19th century.

The building appears to be structurally sound despite its numerous alterations over the past centuries. The general layout includes a bathroom, 3 bedrooms, a study and two attics, together with the large open bar and kitchen on the ground floor. The pub retains several attractive historic features, such as the large fireplace in the main bar, and the quirky entrance to the attic from the first floor. It also has some less sympathetic alterations, including the flat-roofed toilet block to the rear, and the narrow fireplace in the main bar which does not draw efficiently. Upstairs, all the original floors have been removed and boarding placed over the joists. This is regrettable, but offers the opportunity to start with a 'clean slate' upstairs. The kitchen to the rear is not original, but is still historic, possibly being late 18th/early 19th century with a large fireplace (blocked).

There are arguments for and against the change of use from pub to dwelling:

For:

the building is preserved as it is used, rather than left to fall into disrepair as the landlord cannot afford to maintain it;
any application for alterations would need to include the removal of the 20th century toilet block and repairs to the outside walls

Against:

the village loses an historic part of its character and a rural amenity – the nearest public houses are at Fringford and Stoke Lyne

Simply because permission is granted does not mean that it needs to be implemented immediately. The villagers have the opportunity to show their support for the pub, or there is time for another landlord to try their hand at keeping the pub open.

3.4 Campaign for Real Ale (CAMRA) – **Object.** At the time of finalising this report, comments were received and in brief, the conclusions that are reached are as follows:

1. The pub remains viable and is a valuable community asset which should not be lost.

2. The submitted viability report by Thomas E Teague fails to answer the critical question about the pubs potential if it had a management dedicated to it.
3. With no supporting valuation for the business at that time the offers for sale may have been carried out at inflated valuations for the purposes of this application.
4. It's historic and traditional context is its unique selling point and would attract distant trade. Aside from its historic features, it benefits from having lots of space for other activities such as Aunt Sally, pub garden, parking and an adjacent football pitch. Success of pubs does not always have to be food led sales – many village pubs are successful yet are 'wet-led'.
5. The average population to pub ratio is in excess of 1000:1 in a 5 mile radius and this is well above the national average.
6. That the pub is not making sufficient profit to invest is spurious as most investment is speculative. Restoration of the pub to its former glory would doubtless assist with regaining the lost and generating new trade.
7. Parking provision is commensurate to its size and there is space for more if required. 6 spaces are available to front of the pub as well as the 10 to the rear.
8. There is lots of potential for multiple use. Football teams are regular users, there is scope for a children's play area, accommodation, a shop or micro-brewery.
9. The owner of the pub is crucial to its success and little is being done to improve the situation. All the evidence points to a neglect by the owner of the fabric of the building and grounds and of the customer base by alienating regular users through disagreement and inhospitable conditions. It can hardly be a coincidence that trade declined the moment the business was first offered for sale.
10. The market is dominated by multinational brewers whose sales are indeed falling but the market suited to the Whitmore Arms for cask real ales from small and regional brewers remains buoyant.
11. The toilet facilities are in a decent state of repair and the kitchen does not require as much investment as the Teague report suggests. Overall a figure of £60,000 investment is unjustified and should not justify the claim of non-viability.
12. The asking price is still too high. We are aware of at least one experienced local landlord who would be interested in the pub.

4. Relevant Planning Policies

- 4.1 Central Government Guidance in the form of:
 Planning Policy Statement 1: Delivering Sustainable Development
 Planning Policy Statement 5: Planning for the Historic Environment
 Planning Policy Statement 7: Sustainable Development in Rural Areas
 Planning Policy Guidance 13: Transport
- 4.2 Adopted Cherwell Local Plan 1996 Saved Policies: S29 – Local Shops
- 4.3 Non-Statutory Cherwell Local Plan 2011 Policies: S26 – Local Shops
- 4.4 Local Development Framework (LDF) - Draft Core Strategy (February 2010). Whilst at this time little weight can be given to this document, in terms of it being a material consideration, it should be noted that the Council's 'Vision for Villages and Rural Areas' is that local services should be protected, maintained and improved wherever possible. The Council's vision of seeking to sustain and support villages is so that they can remain a vibrant focus for rural life. There is a Community Objective (LO22) to meet the needs of rural communities for services. Hethe is not

identified as an area of growth.

- 4.5 Cherwell Rural Strategy 2009 – 2014. The Sustainable Community Strategy (SCS) is primarily a communities plan. The Rural Strategy is one of a series of medium term plans which implement the themes and priorities of the SCS. The Local Development Framework (LDF) is a spatial plan identifying key issues on the Rural Strategy which include the need to ensure convenient access to services and facilities. One key objective is to retain and improve rural services e.g. pub.

5. Appraisal

- 5.1 The main issues for consideration are:

- Policy Context
- Viability Assessment
- Marketing Exercise
- Impact on the village community
- Effect on the heritage assets

5.2 Policy Context

Government Guidance in the form of PPG's and PPS's are material planning considerations. PPS1 highlights the point that sustainable development is the core principle underpinning planning. A main factor in this is to address accessibility (both in terms of location and physical access). This will in turn reduce the need to travel and encourage accessible public transport provision.

- 5.3 One of the key Government objectives, outlined in PPS7, is to raise the quality of life and the environment in rural areas through the promotion of thriving, inclusive and sustainable rural communities ensuring people have decent places to live by improving the quality and sustainability of local environments and neighbourhoods. It seeks to promote more sustainable patterns of development by providing appropriate leisure opportunities to enable urban and rural dwellers to enjoy the wider countryside. Community services and facilities should be supported particularly where they would benefit those rural residents who would find it difficult to use more distant service centres.

- 5.4 Emerging policies of this Council, through the LDF retain this theme and the adopted Cherwell Local Plan policy S29 remains relevant and is the principle policy consideration. 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, however, notes that this Council recognises 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. It is further noted from The non-statutory Cherwell Local Plan that consideration should be given as to whether the business is financially viable following genuine attempts to market the business for a reasonable length of time and at a realistic price and that there is no prospect of provision of the service continuing.

5.5 Viability Assessment

Assessment of viability is generally undertaken under 5 tests including how the business is trading at present, its trade potential, competition, sale and advice.

- 5.6 The pub became a freehouse in 1996 and was bought by a publican who then traded for 2 years and 9 months before selling on to the applicant. The applicant has now owned the pub for over 10 years and it continues to trade as a pub

predominantly wet-led with an emphasis on real ales.

- 5.7 With regard to how the business is trading at present, it is accepted that if the trend of recent years is to continue then the pub would not be generate sufficient income to keep the pub open in the longer term. Insufficient profits are being obtained to have a reasonable standard of living and to invest in the business. However, this does not mean that the pub is unviable and it is noted that the timing of the downward trend and the decision to sell coincide.
- 5.8 Turning to the trade potential, it is considered that all the indicators would lead to the conclusion that it does have a sound future. Success of the pub business does not have to rely on the captive audience of the villagers and does not have to be food led if there are other features to offer. The Whitmore Arms does have a unique offer sufficient to attract custom. It is a listed building with historic features and in a historic setting of the Conservation Area. It is in the countryside and accessible to walkers on public footpath routes through Hethe. It is close to the football pitches and is easily accessible to players. It has presence on the main road with off street parking. It has lots outside space for other activities including for families and sufficient space inside for accommodation for any future operator.
- 5.9 Evidence from this and other cases would strongly suggest that it is the landlord who can be key to the success or otherwise of a pub. The Teague report reveals that where there were once strong links to, for example, other village clubs as a means of income, these are no longer in place. Whether or not this is a deliberate act on the part of the landlord cannot be proven so must be discounted. However, what is significantly revealed by this is that these areas of possible income are out there and do exist so can be exploited.
- 5.10 It is noted that the pub does need some capital investment and that in the current economic conditions support from banks for lending is difficult. The Teague report states that lending sources are increasingly shunning pubs that have low turnovers. However, the unique selling points of the pub together with the figures revealing that it did, not so long ago, have a healthy turnover, would suggest that the position can be recovered to the benefit of the listed building.
- 5.11 Although the pub is isolated and in a small village this does not mean it can't be viable, it just makes it harder and requires a 'unique selling proposition'. It is considered that the Whitmore Arms already possesses sufficient of these and that they should be exploited. The pub was successful not so long ago and the business is not threatened by other competition. It is considered that the evidence presented by the applicant regarding the viability of the business is insufficient to suggest that this position cannot be recovered and that viability can't be achieved in the longer term.
- 5.12 Marketing Exercise
The pub was first marketed at £475,000 by a reputable national agent in November 2007 and they continuously marketed the premises until November 2008. Full descriptions were sent out to 164 potential purchasers resulting in 9 viewings but none resulted in finding a suitable purchaser for the business. In December 2009, having been advised that the price was too high, the property was remarketed at a £80,000 discount from the original asking price (approximately 17% discount). The pub was advertised on business websites, private and specialist websites. One viewing was made and they were only interested in using the premises as a private residence.

- 5.13 The agents sales particulars promoting the pub are considered sound but further examination of the actual price needs to be undertaken. It would seem that a valuation of the pub first began by a structural survey. Before purchasing the pub the applicant undertook a structural survey which offered a valuation for residential use of the whole property only. This is not considered to be a sound starting basis for a marketing exercise for a pub because it should be about the business and not about the buildings and the principle component in the valuation should be historic turnover and turnover potential.
- 5.14 The original asking price was reportedly based broadly on the selling price of the Sow and Pigs in Poundon which was a similar type of pub but nothing is known about the viability or otherwise of that pub and this is essential information. The Teague report advises that potential buyers are concerned only with actual trade and actual profit and "if a pub cannot be shown to be profitable it will fail to sell". It is, therefore, considered that the original asking price is not based on a sound judgment. The current asking price is also, therefore, distorted particularly as it is stated that it reflects turnover, but that too is not considered to be a fair reflection on the pubs past success not so long ago.
- 5.15 The submission argues that dropping the asking price further would not reflect its true market value but on the basis that the pub 'is only worth what someone is prepared to pay for it' then this conclusion is not accepted. If it cannot be properly argued that the loss of the pub would not harm the interests of acknowledged importance (i.e the community, the Conservation Area etc) then its loss should be resisted. This would further assist in stabilising the market for a confident sale of the pub if it is no longer of any interest to the current owner.
- 5.16 Impact on the village community
The Whitmore Arms is the only pub in the village. In its current state it is described by the Teague report as 'adequate', the kitchen is 'fit for purpose', the bar is 'attractive and welcoming'. There is a pub in Fringford (The Butcher's Arms) which is approximately one mile away but the route along an unlit road and/or the public footpath across the fields makes the journey by foot or bicycle a little arduous, though possible. When considering the accessibility of alternative pubs it has been found that as a general guide there is an 800m threshold when considering how far people are prepared to walk.
- 5.17 The only other publicly available venue for villagers to meet socially would be the village hall. This facility is less central to the village than the pub but remains accessible and there would appear to be potential here to provide extended facilities if required by the villagers. However, these would always be organised events and a village hall cannot replace a venue that would allow more spontaneous gatherings.
- 5.18 Residents of Hethe have to leave the village for all their day to day needs. Education and health services are provided elsewhere and none of this is unusual in small communities of around 300 population. It would seem apparent that residents are also going elsewhere for entertainment including eating and drinking out and the pub is not supported by local people for whatever reason.
- 5.19 In policy terms a pub could be described as an essential service and its loss as an important community facility is now widely recognised as being an important material consideration. The social needs of the village could be met elsewhere with there being a pub nearby (one mile to the Butcher's Arms) and with use of the village hall, but essentially the Butcher's Arm is in Fringford, not Hethe and the

village hall is not a public house. It is considered that The Whitmore Arms being established, central and on the main road is a superior facility as the hub of the village and should be retained for the social needs of the villagers. The Teague report states 'There is no substitute for having a fully licensed premises available'.

5.20 Effect on the heritage assets

The property is grade II listed and it lies within the Conservation Area. These are aspects about the pub which are considered key to providing a unique pub offer so as to better promote the pub and increase its attractiveness to a wider customer base. The pub has been part of the village since the 18th century and its loss would reverse its historic importance as a social venue. Although it is argued that capital investment is required to bring the pub back to its former glory, it is essentially sound and work on it, whilst preferred is not essential to save it.

5.21 The application as presented reveals no internal or external works and any required would need listed building consent. The history of the pub is that it was most likely originally a domestic dwelling so few structural alterations are likely to be necessary. Selling the premises to a private buyer for residential use would present an opportunity to perhaps remove insensitive works and repair the structurally unsound malthouse and the need for various works would be reflected in the selling price. However, this can also be achieved by keeping it as a pub, though it is recognised that such improvements may not be financially feasible immediately.

5.22 It concluded that the effect on the listed building is unlikely to be harmful in part because of its likely historic beginnings as a residence. Conversion to a dwelling would not require intrusive works. However, with regard to the effect on the heritage asset of the Conservation Area which was established in March 1988, it is considered that this proposed development would undermine the pub's historic importance as a social venue and meeting place and it should be continued to be appropriately protected.

5.23 Conclusions

Government policy is clear in supporting the need to create sustainable communities and this policy would be undermined by the loss of this village facility. The adopted local plan seeks to retain services which serve the basic needs of the local community though it is recognised that this may not always be possible if it is proven not to be financially viable to do so in the longer term.

5.24 The findings of the Teague report, which has detailed the existing situation and what would be required for the pub to succeed as a viable and attractive business to any prospective purchaser, are not wholly accepted. The view is taken that if the business were to be run in an alternative way it could be viable. The pub has been marketed by a reputable agent over a 3 year period with no interest for its existing use though it is considered likely that the valuation may be too high.

5.25 Any alterations that would be required for its conversion to a house are anticipated not to be extensive given its likely beginnings as a domestic property in its past but the effect on the heritage asset of the Conservation Area is unacceptable as it would undermine its historic importance as a social venue and meeting place.

6. Recommendation

Refusal, on the following grounds:

- 1. 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.**
- 2. The pub is grade II listed and forms part of the established Hethe Conservation Area and its loss would seriously undermine its historic importance as a social venue and meeting place thereby harming the heritage asset of the Conservation Area contrary to central government advice contained in PPS5: Planning for the Historic Environment.**
- 3. The proposal represents an unsustainable development as it would fail to improve the viability, accessibility or community value of an existing service and facility which is contrary to central government advice contained in PPS1 - Delivering Sustainable Development and PPS7 – Sustainable Development in Rural Areas.**

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