

Case Officer: Tom Webster

Recommendation: Prior Approval
Not Required

Applicant: Mr Kirkman

Proposal: Conversion of former restaurant (Class E(b)) into a single residential dwelling (Class C3). the buildings existing layout will remain, with existing rooms repurposed for residential use

Expiry Date: 31 March 2023

1. APPLICATION SITE AND LOCALITY

- 1.1. The site is located on the south side of Bicester Road, within the built-up limits of Middleton Stoney. The site comprises a two-storey stone building under a slate roof, which accommodates an Italian Restaurant (Class E). The building includes a conservatory on the eastern elevation which is used as a dining area (see image below).
- 1.2. On-site parking is provided to the south of the building and the site is accessed from Bicester Road. The parking is accessed via a track which runs over the Gagle Brook.
- 1.3. The site is not within a Conservation Area and no listed buildings are within proximity to the site.



2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. The application seeks a determination as to whether prior approval is required for the Conversion of a former restaurant (Class E(b)) into a single residential dwelling (Class C3). It is proposed that the layout of the existing building will remain and existing rooms will be repurposed for residential use

3. RELEVANT PLANNING HISTORY

3.1. The following planning history is considered relevant to the current proposal:

15/01473/ADV -Inset signage on newly constructed walled entrance and 2 No illuminated fascia signs – *Permitted on the 22 October 2015*

15/01472/F - Construction of a walled entrance with inset signage and ground level lighting, two external dining terraces, replace mono-pitch roof with dual pitch roof over existing main entrance, bar and seating area, addition of portico and signage at main entrance, raise flat roof over main dining room, replace polycarbonate orangery roof with glazed roof, form new door opening in place of existing window through to terrace 1, form new door opening in place of existing window into bar stock room, remove double door set from west elevation and insert new window, remove window from west elevation and insert reduced width window to gents toilet - *Permitted on the 22 October 2015*

09/00276/F – Construction of new reception, toilets and wine store. General refurbishment and conversion of existing outbuildings to Staff Accommodation – *Withdrawn*.

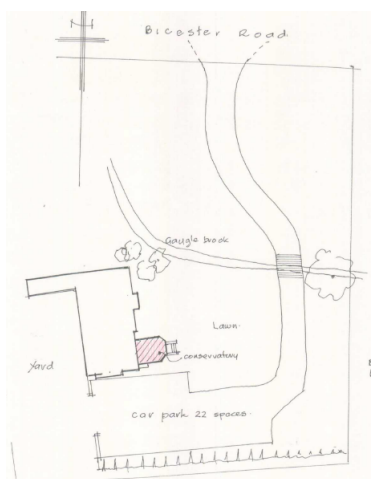
06/01023/REM – Two storey extension to provide managers flat, 10 no, bedrooms, new pitched roof and associated parking (Renewal of 03/00569/OUT) – *Not implemented*.

06/00448/OUT – Two storey extension to provide managers flat and 10 bedrooms with associated parking – *Withdrawn*.

03/00569/OUT – Renewal of 00/01544/OUT. 2 storey extension to provide managers flat and 10 bedrooms with associated parking – *Permitted – Not implemented*.

00/01544/OUT – Two storey extension to provide managers flat and 10 bedrooms with associated car parking – *Approved – Not implemented*.

91/00183/S – Conservatory – *Approved – Implemented* (see image below).



88/00977/S – Two storey extension to provide 10 double rooms and a managers flat with associated parking (outline) – *Approved – Not implemented*.

88/00284/S – Proposed new bedroom wing to provide hotel accommodation to operate in conjunction with existing restaurant – *Refused*.

86/00385/S – Extension of existing bar for restaurant – *Permitted 3 July 1986*.

84/00051/S – Change of use from domestic use to restaurant with new drive and alteration of existing access to highway – *Permitted on the 1 March 1984*
– The area of development within this application included the building, the car park and the access, but did not include the outside area where the terracing is proposed.

4. PRE-APPLICATION DISCUSSIONS

- 4.1. No pre-application discussions have taken place with regard to this proposal.

5. RESPONSE TO PUBLICITY

- 5.1. This application has been publicised by way of a Site Notice displayed near the site, expiring **10 March 2023** and by letters sent to properties adjoining the application site that the Council has been able to identify from its records. The Ward Councillors were also notified by letter. The overall final date for comments was **10 March 2023**. No comments were received.

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 AND NEIGHBOURHOOD FORUMS

- 6.2. Bicester Town Council – no comments received.

STATUTORY CONSULTEES

- 6.3. Environmental Protection: No objection
6.4. Oxfordshire County Council Highways: No objection, subject to conditions
6.5. Local Flood Risk Authority: No Objections

NON-STATUTORY CONSULTEES

- 6.6. None.

7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1. Schedule 2, Part 3, Class MA of The Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO).

8. APPRAISAL

- 8.1. The GDPO 2015 now permits, under Class MA, the "...change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.

- 8.2. Planning permission was granted to change the use of this building into a restaurant on the 1 March 1984 and it has remained in this use ever since.
- 8.3. On this basis, I am satisfied that there are no conditions restricting the use of the site that could prevent the application of GPDO rights.
- 8.4. **Minimum Floorspace sizes Article 3 (9A)** does not grant permission for, or authorise any development of, any new dwellinghouse—
- (a) where the gross internal floor area is less than 37 square metres in size; or
- (b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015. The building would meet the national minimum space standards.
- 8.5. I have assessed the application against the Class MA criteria below:

MA.1.

- 8.6. According to the application form, the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval. Moreover, having spoken to the agent, it was confirmed that boxes were stored in the property, the applicants did not move in until after this application was formally submitted; (MA.1 (a)).
- 8.7. The building which was granted permission under 84/00051/S to become a restaurant (Use Class E) has, for a continuous period of at least 2 years immediately prior to the date of this application, been in this use class; (MA.1 (b)).
- 8.8. The cumulative floorspace of the existing building changing use does not exceed 1500 square metres; (MA.1 (c))
- 8.9. The land does not form part of a SSSI, a listed building or land within its curtilage, a scheduled monument or land within its curtilage, a safety hazard area or a military explosives storage area; (MA.1. (d))
- 8.10. The building is not within an area of outstanding natural beauty, an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981, the Broads, a National Park or a World Heritage Site; (MA.1. (e))
- 8.11. The site is not occupied under an agricultural tenancy; (MA.1. (f))

MA.2.

- 8.12. Before beginning the development, the developer must apply to the Local Planning Authority for a determination as to whether prior approval is required in relation to the following matters –

Transport impacts (a)-

- 8.13. The local Highways Authority has raised no objections, subject to the following conditions:

Cycle Parking Provision

Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be

permanently retained and maintained for the parking of cycles in connection with the development.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework.

Turning Area and Car Parking

Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the turning area and 2 parking spaces within the curtilage of the site, arranged so that motor vehicles may enter, turn round and leave in a forward direction and vehicles may park off the highway, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Thereafter, and prior to the first occupation of the development, the turning area and car parking spaces shall be constructed in accordance with the approved details and shall be retained for the parking and manoeuvring of vehicles at all times thereafter.

Reason - In the interests of highway safety, to ensure the provision of off-street car parking and to comply with Government guidance contained within the National Planning Policy Framework.

Electric Vehicle Charging

Prior to the first occupation of the development, a scheme for the provision of a vehicular electric charging point to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The vehicular electric charging points shall be provided in accordance with the approved details prior to the first occupation of the unit they serve, and retained as such thereafter.

Reason - To comply with Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the adopted Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework.

Access: Full Details

Prior to the commencement of the development hereby approved, full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority.

Thereafter, the means of access shall be constructed and retained in accordance with the approved details.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework

Contamination risks (b)-

- 8.14. The Environmental Protection Team has no concerns regarding contaminated land in relation to the building.

Flooding risks (c)-

- 8.15. The Local Flood Risk Authority has raised no objections, noting that the Flood Risk Assessment concludes that the change of use is acceptable in the context of flood risk.

Impact of noise from commercial premises (d) –

- 8.16. The Environmental Protection Team has no concerns regarding noise from any commercial premises.

Impact of that change of use on the character or sustainability of the conservation Area (e) –

- 8.17. The site is located outside of any conservation area.

Provision of adequate natural light to all habitable rooms (f)-

- 8.18. The proposed floorplans show that the habitable rooms on the ground floor and first floor will be served by a great number of existing windows which I consider will provide adequate light.

Impact on intended occupiers of the development of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution or a mix of such uses (g) –

- 8.19. The site is not located in an area which is considered important for general or heavy industry, waste management, storage and distribution, or a mix of such uses.

The impact of the proposal on the local provision of a registered nursery or health centre (h)-

- 8.20. The proposal will not impact the local provision of either a registered nursery or health centre.

The fire safety impacts on the intended occupants of the building where the development meets the fire risk condition (i)

- 8.21. Section MA.3 of the legislation states that a development must meet the fire risk condition referred to in paragraph MA.2(2)(i) if the development relates to a building which will—

(a) contain two or more dwellinghouses; and (b) satisfy the height condition in paragraph (3), read with paragraph (7), of article 9A (fire statements) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

- 8.22. The development only contains one dwellinghouse and the existing building is only two storeys high, and, as such, it would not exceed the 18m height limitation. The fire safety impacts of the development upon intended occupants are therefore not relevant to this assessment.

Class MA Conditions

- 8.23. Development is permitted by **Class MA**, subject to the following conditions:

(5) Development must be completed within a period of 3 years starting with the prior approval date.

(6) Any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse.”.

9. RECOMMENDATION

That prior approval is not required.

NOTE

The applicant is reminded that such development is permitted subject to the conditions outlined within Schedule 2, Part 3, Class MA of The Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO).

Case Officer: Tom Webster

DATE: 31 March 2023

Checked By: Paul Ihringer

DATE: 31/03/23
