

## TEWKESBURY BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT

<b>Committee:</b>	Planning
<b>Date:</b>	19 April 2022
<b>Site Location:</b>	3 Church Road Churchdown
<b>Application No:</b>	20/00843/FUL
<b>Ward:</b>	Churchdown Brookfield With Hucclecote
<b>Parish:</b>	Churchdown
<b>Proposal:</b>	Alterations and extension to existing buildings (demolition in part) to form a takeaway food shop and four one-bedroomed apartments.
<b>Report by:</b>	Dawn Lloyd
<b>Appendices:</b>	Site location Plan Proposed Ground Floor Plan Proposed First Floor Plan Proposed Elevations Proposed Cycle Storage
<b>Recommendation:</b>	Permit
<b>Reason for referral to committee</b>	Objection raised by the Parish Council

### 1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1** The site lies within the old centre of Churchdown on Church Road. The area has mixed use with retail, residential and commercial properties. The adjacent properties are an Estate Agency and Public House, with flats to the south of the site. The proposed building is currently a Chinese Restaurant with residential accommodation above. The building is a two-storey red brick former semi-detached dwelling which has undergone previous alterations and extensions.
- 1.2** The proposal is to redevelop the site for a mix use of retail and residential. The building would have a retail use at ground floor for a Chinese takeaway, the rest of the building and the proposed extension would be divided into 4 flats.

## 2.0 RELEVANT PLANNING HISTORY

Application Number	Proposal	Decision	Decision Date
09/01178/FUL	Change of use from mixed C3 & A5 use (dwelling & takeaway) use to a mixed A3 & A5 use (restaurant and takeaway).	PER	12.01.2010

## 3.0 RELEVANT POLICY

The following planning guidance and policies are relevant to the consideration of this application:

### 3.1 National guidance

National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG)

### 3.2 Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) – Adopted 11 December 2017

- Policy SD3 (Sustainable Design and Construction)
- Policy SD4 (Design Requirements)
- Policy SD10 (Residential Development)
- Policy SD11 (Housing mix and Standards)
- Policy SD14 (Health and Environmental Quality)
- Policy INF1 (Transport Network)
- Policy INF2 (Flood Risk Management)

### 3.3 Tewkesbury Borough Local Plan to 2011 – March 2006 (TBPL)

- Policy HOU9 Conversion/Subdivision
- Policy RET3 Retail Areas

### 3.4 Tewkesbury Borough Plan 2011-2031 Pre-submission Version (October 2019)

- Policy RES8 Subdivision of existing dwellings
- Policy RES12 Affordable homes
- Policy RET3 Retail centres
- Policy RET6 Hot food takeaways

- Policy RES10 Alteration and extension of existing dwellings
- Policy DES1 Housing space standards

### **3.5 Neighbourhood Plan**

Churchdown and Innsworth Neighbourhood Development Plan – 2011-2031

CHIN2: Layout and Appearance of Residential Development

CHIN3: Environmental Considerations in the Design of Residential Development

CHIN14: Pedestrian and cycle movement routes

### **3.6 Other relevant policies/legislation**

- Human Rights Act 1998
- Article 8 (Right to Respect for Private and Family Life)
- The First Protocol - Article 1 (Protection of Property)

## **4.0 CONSULTATIONS**

Full copies of all the consultation responses are available online at <https://publicaccess.tewkesbury.gov.uk/online-applications/>.

### **4.1 Churchdown Parish Council – Objection. (in summary)**

- Over development of the site
- Highway safety due to increase traffic movement in this location.

Objection maintained to the amended plans on these grounds.

### **4.2 County Highways Officer – Revised proposal:**

No objection recommend conditions for bicycle parking public and private, and construction management plan. A note for works to the highway also provided.

Justification

- There are sufficient traffic regulation orders to prevent on-site parking fronting the site.
- The site is within a sustainable location.
- The block plan with 4 allocated parking spaces in the rear garden of 10 Chapel Lane are outside the redline of the application site. These parking spaces cannot be accepted as parking provisions.
- The apartments and takeaway are not considered to result in significant parking

demand in this location above the existing restaurant use, with parking restrictions on main roads and junctions to protect from sporadic parking and an existing free car park circa 80m south providing parking if necessary.

- Further information is required to establish if the cycle storage proposed can accommodate 6 cycles and space for turning in the undercroft opposite the bin store to comply with Gloucestershire Manual for Streets.

A further site plan and details for cycle storage were submitted on the 25th March 2022. The Highway Authority have no objection to the revised plans and details submitted for the cycle storage.

#### **4.3 Environmental Health Officer – (comments in summary):**

Noise/Nuisance - No objection to the proposal subject to compliance with ventilation extraction statement' prepared by H.A Planning. Details of the odour abatement equipment to be submitted and agreed with Local Planning Authority prior to the commencement of use.

Air Quality – No objection

#### **4.4 Severn Trent Ltd – No objection subject to condition for details the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority and implemented in accordance with the approved plans prior to beneficial use.**

### **5.0 PUBLICITY AND REPRESENTATIONS**

Full copies of all the representation responses are available online at <https://publicaccess.tewkesbury.gov.uk/online-applications/>.

#### **5.1** The application has been publicised through the posting of a site notice for a period of 21 days.

#### **5.2** Three representations were received.

Two letters of objection (in summary):

- Impact of parking on Church Road from use as a takeaway should use the space proposed for the flats.
- Proposed flats are not in accordance with the character of Churchdown village.

One letter for comment (in summary)

-Neighbourhood Plan for Churchdown & Innsworth policy CHIN9 requests provision for wildlife in new developments. Recommends Swift boxes in north or east facing eaves.

-There is a tree in the grounds of the rear property should be protected. Recommends additional tree/shrub planting

## **6.0 POLICY CONTEXT**

- 6.1** Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the Local Planning Authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
- 6.2** The Development Plan currently comprises the Joint Core Strategy (JCS) (2017), saved policies of the Tewkesbury Borough Local Plan to 2011 (March 2006) (TBLP), and a number of 'made' Neighbourhood Development Plans.
- 6.3** The Tewkesbury Borough Plan (TBP) has reached an advanced stage. The Pre-Submission TBP was submitted for examination in May 2020. Examination in Public (EiP) took place over five weeks during February and March 2021. The examining Inspector's post hearings Main Modifications letter was received on 16th June 2021. In this letter the Inspector provided his current view as to what modifications are required to make the Plan 'sound'.
- 6.4** A schedule of Main Modifications to the Pre-submission TBP were approved at the meeting of the Council on 20th October 2021 and is now published for consultation as the Main Modifications Tewkesbury Borough Plan (MMTBP).
- 6.5** Those policies in the MMTBP which were not listed as requiring main modifications may now attract more weight in the consideration of applications, with those policies which are subject to main modifications attracting less weight depending on the extent of the changes required. The TBP remains an emerging plan and the weight that may be attributed to individual policies (including as with modifications as published for consultation) will still be subject to the extent to which there are unresolved objections (the less significant the unresolved objections, the greater the weight that may be given) and the degree of consistency with the NPPF (the closer the policies to those in the NPPF the greater the weight that may be given).
- 6.6** The relevant policies are set out in the appropriate sections of this report.
- 6.7** Other material policy considerations include national planning guidance contained within the National Planning Policy Framework 2021 and its associated Planning Practice Guidance (PPG), the National Design Guide (NDG) and National Model Design Code.

## **7.0 ANALYSIS**

### ***Principle of development***

- 7.1** Criterion 4 (iii) of Policy SD10 'Residential Development' of the JCS sets out that on sites that are neither allocated or previously-developed land, housing development will be permitted, except where otherwise restricted by policies within district plans, where it would represent infill within the existing built up areas of Tewkesbury Borough's towns and villages.
- 7.2** The site lies within the settlement of Churchdown which is considered to form part of the urban fringe of Gloucester and is considered a sustainable settlement with a good range of services with good access to Gloucester. The proposed site is within the old centre of the village and is identified as a retail area.

- 7.3** In terms of the Emerging TBP the application site lies within the defined residential development boundary for Churchdown as shown on the proposals map. Policy RES2 of the Emerging TBP and the main modifications (MMTBP) supports the principle of new residential development in this location subject to the application of all other policies in the local plan and in all cases development must comply with the relevant criteria set out in policy RES 5.
- 7.4** However, whilst the principle of a new dwellings in this location would comply with the strategic housing policies in the development plan, there are other material planning considerations to be taken into account.
- 7.5** The building is a restaurant/takeaway at ground floor with residential accommodation at first floor. Saved Local Plan policy HOU9 considers that the conversion of subdivision or an existing dwelling will be permitted subject to consideration of character of the building, any extensions are of high design standards, adequate provision for sound insulation, standards of amenity, privacy, parking, traffic movements and access.
- 7.6** Policy RES8 of the MMTBP considers that the sub-division of existing dwellings into two or more self-contained residential units will be permitted providing internal accommodation complies with the council's adopted housing space standards and any proposed extensions or alterations are acceptable in accordance with Policy RES10.
- 7.7** The principle of conversion/ subdivision of the existing building is acceptable subject to other policies of the development.

The A5 use at ground floor.

- 7.8** Local Plan Policy RET3 considers within retail areas (including that of Churchdown) residential or office use at upper floor level will be permitted. Proposal for new development will be expected to be consistent with the scale and function of the centre. Retail areas contribute to the viability and vitality of the centre. The change of use from A1, A2 or A3 at ground floor will be resisted in order not to devalue the retail attractiveness of the shopping area as a whole.
- 7.9** The existing building is used as restaurant (A3) with a takeaway service with accommodation above (C3a). The use at ground floor is for a takeaway (A5) which is not support by RET3.
- 7.10** Policy RET 1 of the MMTBP considers maintaining the vitality and viability of the town, borough and local centres. Local Centres must meet the requires of policy RET3 of the MMTBP.
- 7.11** Policy RET3 states that within designated retail areas of Bishop's Cleeve, Winchcombe, Brockworth, Churchdown, Innsworth, Coopers Edge and Northway, proposals for retail uses (A1-A5) at ground floor level will be supported. The full use of upper floors is strongly encouraged particularly where they are disused or underused; this will help to support a mix of uses and thus enhancing viability, while also encouraging maintenance of the whole building. Therefore, A5 use at ground floor and residential use on upper floors is considered acceptable in principle.

- 7.12** Policy RET6 of MMTBP considers that use of a premises as a Hot Food Takeaways will be acceptable provided that it does not result in more than two hot food outlets (Use Class A5) adjacent to each other; and lead to more than two hot food outlets (Use Class A5) in any continuous frontage of 10 retail units or less. The policy considers that the A5 use needs to be considered with regard to the impact on the amenity of neighbouring uses with regard to noise and odour pollution.
- 7.13** The takeaway would be sited between a public house (sui generis) and use Class E units and would be in accordance with policies RET3 and RET6 of the emerging TBP subject to impact on amenity of neighbouring uses.

### ***Other Material Considerations***

#### ***Design and Visual Amenity***

- 7.14** JCS Policy SD4 provides that new development should respond positively to, and respect the character of, the site and its surroundings, enhancing local distinctiveness, and addressing the urban structure and grain of the locality in terms of street pattern, layout, mass and form. It should be of a scale, type, density and materials appropriate to the site and its setting.
- 7.15** Criterion 6 of Policy SD10 'Residential Development' of the JCS states the residential development should seek to achieve maximum density compatible with good design, the protection of heritage assets, local amenity, the character and quality of the local environment, and the safety and convenience of the local and strategic road network. Policy CHIN2 of the Churchdown and Innsworth Neighbourhood Development plan also supports high quality design.
- 7.16** Save Local plan policy HOU9 Policy and RES8 of the MMTBP considers that the sub-division of existing dwellings will be supported where the character and integrity of the building is not adversely affected, the internal accommodation complies with the council's adopted housing space standards and any proposed extensions or alterations are acceptable in accordance with Policy RES10.
- 7.17** The character of the area is not defined by any particular architectural style and there is a mixture of buildings of different types and scale, the predominant material being brick. Part of the existing building and outbuilding on the site would be demolished and the building would be extended to the side and rear. From the streetscene the side extension would form a coach style entrance which reduces its the mass. The side extension would be similar in height and materials and would continue the linear form the development. The two-storey extension is large in scale and glimpses visible in more distant views. Amended plans have been submitted to reduce the scale of the rear extension and set it back from shared boundaries to the north and west. The proposed extensions as amended would be read against the large built form of the public house and in the context of more recent development to the south.
- 7.18** The proposal would create 4 one bedroomed apartments which would be in accordance with nationally described space standards and shared communal amenity space has been provided in accordance with policy CHIN3 (NDP).

**7.19** The proposal as amended is considered to integrate with the original building and would be appropriate to the character of the area and would therefore be in accordance with the above Policies.

### ***Residential amenity***

**7.20** JCS policies SD4 and SD14 require development to enhance comfort, convenience and enjoyment through assessment of the opportunities for light, privacy and external space. Development should have no detrimental impact on the amenity of existing or new residents or occupants.

**7.21** There is a bungalow (1 The Chase) to the north of the site, a car park to the western boundary and a public house to the east. Officers had concerns regarding the impact on the amenity space of number 1 The Chase with regard to overbearing nature and overshadowing from the extensions as originally proposed. Amended plans were submitted with the extensions set back from shared boundaries to the north and west and the rear extension would now be single storey towards the north.

**7.22** The site is at a higher ground level than the public house to the east which has first floor windows on the west elevation. The first-floor windows on the proposed extensions east elevation would overlook the roof of the public house. The proposed ground floor windows of apartments 3 and 4 on the east elevation serve kitchen/dinning spaces and the windows can be conditioned to be obscurely glazed and planting of trees is proposed on the eastern boundary which would provide some screening.

**7.23** The proposal would provide cycle and bin storage, and shared amenity spaces.

**7.24** The ground floor of the building is an existing restaurant with a takeaway service. Our Environmental Health Officer considers the proposal acceptable with regard to noise and odour, the details of the ventilation and odour equipment would be controlled by condition.

**7.25** Therefore, it is considered that proposal as amended would have an acceptable impact on the amenity of occupiers and neighbouring residents and would accord with policies SD4 and SD14 in this regard.

### ***Highway Matters***

**7.26** Policy INF1 'Transport Network' states that developers should provide safe and accessible connections to the transport network to enable travel choice for residents and commuters.

**7.27** POLICY CHIN14 of the (NDP) considers that proposals should be designed to encourage cycling and walking as an alternative to driving. The site lies within the settlement boundary of Churchdown and has good access to a range of services within walking distance and by public transport. Onsite parking cannot be satisfactorily achieved, and discussions had with regard to the provision of site parking. However, the site is considered to be in a sustainable location with free public parking within 83 metres. The proposal is not dissimilar to application 20/00016/FUL at 35 Church Road, Bishops Cleeve which was allowed at Appeal. In that case no on-site parking was proposed and the Inspector allowed the Appeal concluding that the site was in a sustainable location, close to a bus route and with unrestricted parking within easy walking distance.



- 7.28 Amended plans and details for cycle storage were submitted on the 25<sup>th</sup> March 2022 which were in accordance with the Highway Authority's recommendations for on site provision for the flats. These are considered justified given the very limited opportunity for internal storage within the small flats.

### ***Biodiversity***

- 7.29 Policy SD9 considers that harm to biodiversity of an undesignated site or asset should be avoided where possible and mitigation measures integrated into the scheme appropriate to the location.
- 7.30 There would be an increase the amount of green amenity space on the site and additional tree planting proposed. Therefore, the proposal would comply with Policy CHIN3 of the NDP and JCS policy SD9.

### ***Community Infrastructure Levy (CIL)***

- 7.31 The development is CIL liable because it creates new dwelling(s). The relevant CIL forms have been submitted.

## **8.0 CONCLUSION AND RECOMMENDATION**

It is considered that the proposal would accord with relevant policies as outlined above. Therefore, it is recommended is to **PERMIT** subject to the following conditions.

### **CONDITIONS:**

1. The works hereby permitted shall be begun before the expiration of five years from the date of this consent.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following documents:

- Location Plan received 28th April 2021

The following plans received on 18th February 2022

- Proposed Block Plan Drawing Number AE-20(900241)002
- Proposed First Floor Plan Floor Space Drawing Number AE-13(900241)001
- Proposed First Floor Plan Drawing Number AE-12(900241)001
- Proposed Ground Floor Plan Floor Space Drawing Number AE-11(900241)001
- Proposed Ground Floor Plan Drawing Number AE-10(900241)001
- Propose Roof Plan Drawing Number AE-07(900241)001
- Proposed Site Plan Drawing Number AE-08(900241) 001 received 25th March 2022
- Proposed Elevations Drawing Number AE-08(900241)001 received 25th March 2022
- Ventilation Extraction Statement by H.A. Planning Limited dated September 2020

Except where these may be modified by any other conditions attached to this permission.

Reason: To ensure that the development is carried out in accordance with the approved plans.

3. The details of the green roof shall be submitted and agreed with the Local Planning Authority prior to occupation. The proposed building shall be constructed in accordance with a sample panel showing all materials proposed to be used including facing materials, windows, doors and architectural detailing which has first been submitted to and approved in writing by the Local Planning Authority and such details shall be demonstrated by the prior construction of a sample panel. The panel shall be retained on site until the completion of the walling.

Reason: It is important to protect and maintain the character and appearance of the area in which this development is located.

4. All planting comprised in the approved details of tree planting shall be carried out in the first planting season following the occupation of any building or the completion of the development, whichever is the sooner. Any trees which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. If any trees or hedgerows fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year period.

Reason: To ensure adequate provision for trees/hedgerows, in the interests of visual amenity and the character and appearance of the area.

5. The windows the kitchen and kitchen/dining room on the east side elevation of the of the development hereby permitted, shall be constructed so that windows shall be fitted with, and retained in, obscure glazing (Pilkington Level 4 or equivalent).

Reason: To protect the privacy of adjacent properties

6. The ventilation extraction system as detailed in the Ventilation Extraction Statement by H.A. Planning shall be in accordance with DW172. Details of the proposed extraction/odour Abatement shall be submitted to and agreed with the local planning authority prior to installation and thereafter maintained.

Reason: To prevent unacceptable odour or noise pollution.

7. Prior to occupation of the development here by permitted the on-site sheltered and secured bicycle storage detailed in the plans received on the 25<sup>th</sup> March 2022 for the Proposed Site Plan Drawing Number AE-08(900241) 001 and Proposed Elevations Drawing Number AE-08(900241)001 shall be installed and retained hereafter.

Reason: To promote sustainable travel and healthy communities.

8. During the construction phase (including demolition and preparatory groundworks), no machinery shall be operated, no process shall be carried out and no deliveries shall be taken at or dispatched from the site outside the following times: Monday-Friday 8.00 am-6.00pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.

Reason: To protect the noise climate and amenity of local residents.

9. Hours of opening/deliveries/ collections, within/to/from the site shall be restricted to 0900 to 0000 (midnight) on Saturdays and 0900 to 2330 from Sunday to Friday.

Reason: To prevent unacceptable odour or noise pollution.

#### **INFORMATIVES:**

1. In accordance with the requirements of the NPPF the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing the to the Council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.
2. The level of odour abatement equipment required shall be in accordance with EMAQ guidance 'Control of Odour and Noise from Commercial Kitchen Exhaust Systems' (2018).
3. The contractors should be registered with the Considerate Constructors Scheme and comply with its code of conduct.
4. Work on the adopted highway will required to be agreed with the County Highway Authority under the Highways Act 1980. Contact the Highway Authority's Legal Agreements Development Management Team at [highwaylegalagreements@gloucestershire.gov.uk](mailto:highwaylegalagreements@gloucestershire.gov.uk) and Streetworks allowing sufficient time for the preparation and signing of the agreement. You will be required to pay fees to cut the Council's costs in undertaking the following actions:
  - Drafting the Agreement
  - A Monitoring fee
  - Approving the highways details
  - Inspecting the hallways works.

Planning permission is not permission to work in the highway. A Highway Agreement under the Highways Act 1980 must be completed, the bond secured, and the Highways Authority's technical approval and inspection fees paid before any drawings will be considered and approved post