

Item No 04:-

16/03958/FUL (CD.4049/1/M)

**Windrush Restaurant
St Kevins
High Street
Bourton-On-The-Water
Gloucestershire
GL54 2AN**

Item No 04:-

**Change use of Bourton Newsagent (use class A1) to a hot food takeaway (use class A5)
at Windrush Restaurant
St Kevins High Street
Bourton-on-the-Water**

Full Application 16/03958/FUL (CD.4049/1/M)	
Applicant:	Mr Les De la Haye
Agent:	Evans Jones Ltd
Case Officer:	Joe Seymour
Ward Member(s):	Councillor Len Wilkins
Committee Date:	14th December 2016
RECOMMENDATION:	PERMIT

Main Issues:

- (a) Impact on the Vitality and Viability of Bourton-on-the-Water
- (b) Potential Alternative Uses
- (c) Impact on the Historic Environment
- (d) Other Matters

Reasons for Referral:

Cllr Len Wilkins has referred this planning application to be determined by the planning committee because the proposal would result in the loss of a village shop that is highly valued by the local community. Concerns have also been raised with regard to generation of litter, congestion on pavements and school children using the facility at a time when we are concerned about child obesity.

1. Site Description:

Bourton Newsagents is a shop (use A1) in the centre of the village of Bourton-on-the-Water. The shop is located within a Grade II listed building known as Windrush Restaurant which is home to a restaurant of the same name and a fish and chip shop (use A5). The site is located within the Bourton-on-the-Water Conservation Area and with the commercial centre of the village.

2. Relevant Planning History:

None.

3. Planning Policies:

NPPF National Planning Policy Framework
LPR15 Conservation Areas
LPR25 Vitality & Viability of Settlements

4. Observations of Consultees:

Technical Pollution Services Officer:

No objection.

5. View of Parish Council:

The Council would like to object to the application but is aware this is likely to be a futile exercise. However, it has the following concerns and asks that these are given appropriate weight and are addressed by Planning Officers during the consideration of this application:

- The Council is extremely concerned at the consequent loss of an important resident retail amenity and community shop which also acts as a meeting place for local residents; whilst newspapers and other stationery items can be obtained elsewhere in the village customers will now have to buy these goods from a supermarket or in the Post Office. These outlets both have much bigger trade from visitors and queues are therefore frequently extremely long; their range of stationery, cards etc. is also very limited. There are no other village outlets which offer local newspaper delivery, which will prejudice the many residents who benefit from this service, especially those who are less mobile.

- The curtilage of the newsagent extends to the paved area in front of the shop. Given the nature of the use applied for the Council is extremely concerned if a change of use results in a catering business being permitted to place tables and chairs across the full extent of the paving. The adjacent business (a take away fish and chip shop) already places seating on the area of paving in front of the shop which clutters the area and restricts movement for pedestrians, especially for those accessing the adjacent telephone kiosk and post-box. If this outdoor seating area were to be extended in any way as a result of the change of use this would further clutter the space and would lead to a large area of outdoor seating across ten of meters of shop frontages, which will further obstruct pedestrian movement and also restrict space for the large numbers of people waiting at the bus-stop located in front of the newsagent.

- The Council is equally concerned at the potential increase in litter that is likely to be generated by yet another hot food take-away business. There are already 3 litter bins placed on the paved area to take litter associated with fish and chip shop sales, and these overflow regularly, especially on the numerous busy summer days. Additional take away packaging will only exacerbate the situation and there are no means to ensure business owners keep public areas free of litter or to force customers to dispose of packaging in a reasonable and responsible manner. Given that 3 bins are often inadequate to deal with litter from the smaller adjacent fish and chip shop, how many extra bins would be required if a larger take-away business is created next door; there is surely a limit to the number of litter bins that would be visually acceptable within a small area? In any event, the latest collection of litter by UBICO is approximately 1pm; accordingly, the vast majority of trading from a take-away will take place after this last collection and any excess litter will be left strewn around for an unacceptably long period of time. An increase in littering will have a high visibility impact on the appearance of this area of the village which will be almost entirely given over to catering outlets.

- The Council would like to highlight the lack of effectiveness of Sustainable Community retail policies when commercial market forces always take precedence, and there is little or nothing that can be done to protect important community retail opportunities. The conversion of one of the few resident retail facilities left in the High St to yet another catering business further marginalises the resident retail provision, especially for residents in the south of the village who rely on accessible High St shops for convenience shopping.

After the applicant submitted a Planning Statement in support of their proposal, Bourton-on-the-Water Parish Council submitted another response:

The Council maintains its strong objection to the proposed change of use, and would make the following response to comments contained within the recently submitted Planning Statement:

In 5.10 the applicant states that similar services to that currently offered by the newsagent are available elsewhere in the village. Whilst this is true to some degree, given these sales will form only a small part of other larger businesses' trading activities the range of similar goods offered will be significantly less. Equally, the village will lose its only home delivery service of newspapers through the loss of the newsagent. Bourton has an unusually high proportion of older residents and this is an important facility for the large number of residents who are less mobile, as well as the significant number of residents in other outlying villages who also rely on this service in the absence of similar facilities within their own smaller communities.

The applicant's comments regarding the relinquishing of the existing tenant's Lease under 5.11 are noted, but this alone is insufficient reason to justify a Change of Use. The Council supports the retention of the A1 retail classification regardless of whether the current tenant relinquishes the existing Lease or not. The applicant has stated that some of the services provided by the newsagent can be found elsewhere in the village. Equally, there are already many other hot food take-away businesses located in the village, and the same argument can therefore be used to support the fact that yet another A5 business is commercially unnecessary. With a large number of catering businesses already located in Bourton the provision of another hot food take-away business will not add to the viability of the village and is surplus to visitor and resident catering requirements. This is particularly relevant given the current refurbishment of the adjacent Windrush Restaurant/Tea-Room which will re-open in 2017 to provide in excess of 120 covers.

In 5.14 the applicant seeks to downplay the importance of the existing newsagent facility and undermine the future of this type of business in a modern age; given the scale of local support shown for the retention of the newsagent this merely serves to underline the applicant's lack of understanding as to the enduring priorities and trading customs within a rural community and the wider benefit of a genuine community amenity.

In 5.16 the applicant states that the new take-away will generate additional employment; any new employment opportunities generated by the take-away itself will simply help to offset the loss of jobs once the existing newsagent ceases to trade - there will be little, if any, net gain.

The loss of a Retail outlet will detract from the village's sustainability and will further marginalise the village centre in terms of resident amenities. Whilst visitor numbers are undoubtedly high, the High St remains the geographical village centre for residents, and the location of the Bank, Post Office, Chemist and supermarket in the High Street will continue to bring residents into the High St for shopping purposes. The maintaining of an A1 classification will serve to enhance residential retail opportunities, currently in short supply.

The NPPF states in 2.23 that planning authorities should "recognise town centres as the heart of their communities and pursue policies to support their viability and vitality". Equally, in 3.28 it states that planning policies should "promote the retention and development of local services and community facilities in villages, such as local shops...".

Whilst it may be possible to extract individual sentences from a planning policy which, on their own, will appear to support one argument or another there can be no misinterpretation of the NPPF's overarching objective which is to ensure the vitality and viability of communities and to promote their sustainability. The current application makes no contribution to the viability or sustainability of the residential community and offers no catering facilities to visitors that cannot already be found within the village. The applicant has therefore failed to provide adequate justification for a change of use.

The Council's concerns regarding the further cluttering of the paved area to the front of the property and additional litter that will be generated by a hot food take-away remain unaddressed and relevant to any change of use to an A5 business. These genuine practical concerns further support the Council's opposition to any change of use away from A1 Retail.

6. Other Representations:

There has been strong opposition to the proposal from the local community. 134 individual letters of objection have been received and three petitions have been submitted with 18, 12 and 8 signatures each.

The principal reason for objection is the loss of a community facility that is valued very highly by the residents of Bourton-on-the-Water. Local residents are unhappy with the prospect of another food outlet opening which is targeted towards tourists when there is already an abundance of restaurants, cafes and other eating places within the village centre.

Concerns have also been raised with the fact that the newsagent is more than just a shop; it is a community hub where local people meet and enjoy its other benefits such as its newspaper delivery service.

Concerns have also been raised regarding litter generation.

7. Applicant's Supporting Information:

Planning Statement

8. Officer's Assessment:

(a) Impact on the Vitality and Viability of Bourton-on-the-Water

The proposal seeks planning permission to change the use of Bourton Newsagent into a hot food take-away. The site is located within a single building which is divided into three ground floor commercial units - Windrush Restaurant (A3), Bourton Newsagent (A1) and the fish and chip shop (A5) - all of which are within the ownership of the applicant. Planning permission and listed building consent were recently granted to extend and renovate Windrush Restaurant; the works are currently being carried out during the time of writing this report and are expected to be completed in the spring of 2017.

Local Plan Policy 25 focuses on ensuring the vitality and viability of settlements in the Cotswolds. In order to achieve this, a range of different services needs to be retained within the defined commercial centre, which is broadly the row of buildings on the High Street either side of the River Windrush where the majority of businesses in the village are located, including the newsagent. The commercial centre also includes parts of Victoria Street and the southern end of Moore Road. A diagram of the commercial centre as defined by Policy 25 is included in the appendix of this report with the application site denoted in red.

A large number of objectors have raised concerns that there are too many food-based premises in the village, whether they are cafes, restaurants, pubs or take-aways. There are four premises offering take-away services in the commercial centre ('China Town', 'Fresh 4 Lunch' and two fish & chip shops) and the proposal would result in a fifth hot food take-away. Policy 25 only prescribes the proportion of A2 uses (banks, professional and financial services) that are acceptable within commercial centres. It states there should be no more than two consecutive A2 uses within any given frontage of properties. For other uses, the acceptability of changes of use is a matter of judgement having regard to local context.

The commercial centre in Bourton-on-the-Water has a broad range of shops, cafes and tea rooms, hotels, pubs and other commercial uses. However, it is considered that there is no clear dominance of food-based uses as a proportion of the commercial premises in the town and the proposed take-away use would not undermine the shopping character of the Bourton-on-the-Water's commercial centre. This is because there is still a high proportion of A1 retail units within the commercial centre, some of which including Londis and the Post Office sell the same type of goods for top-up shopping that are currently available at the newsagent. Other businesses that

are outside the commercial centre but within the village of Bourton-on-the-Water such as Co-operative also sell the same type of goods as Bourton Newsagent.

Whilst it is appreciated that there is a plethora of food-based businesses in the commercial centre, the proposed food-based use would be consistent with the applicant's two other existing businesses within the same building. There would still be sufficient A1 retail units and top-up shopping facilities within the commercial centre and the rest of Bourton-on-the-Water to ensure that the vitality and viability of the village would not be unduly harmed pursuant to the guidance contained within Policy 25.

(b) Potential Alternative Uses

It has been reported by the agent that the applicant intends to end the lease of Bourton Newsagent in the near future, in which case it would cease as a business for reasons beyond the control of Cotswold District Council as a local planning authority. Officers cannot be certain as to the future intentions of the applicant with regard to the tenancy of the premises; however the fact that this set of circumstances is possible needs to be considered. In terms of fall-back positions, an A1 retail premises can be changed to a variety of other commercial uses without the need for planning permission. It is acknowledged an A5 use is not one of the changes that can be made under permitted development (hence the need for this planning application). However, the flexibility afforded to the applicant by the Use Classes Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) Order 2015 in terms of the alternative uses into which the premises can be changed without the need for planning permission is a material consideration.

The application site has the benefit of planning permission to be used for A1 retail purposes. This does not restrict the applicant into using the premises as a newsagent. The A1 use class encompasses a wide range of different retail uses including hairdressers, funeral directors, travel agencies, dry cleaners and internet cafés to name a few.

Also, the introduction of the Town and Country Planning (General Permitted Development) Order 2015 ("GPDO") shows the government's intention to allow even greater flexibility for the uses of land and building to change as market forces dictate. For example, Part 3 Class C of the GPDO confirms that a change of use of a building from a use falling within Class A1 to a use falling within Class A3 (restaurants and cafes) is permissible, subject to prior approval from the local planning authority. In this particular case prior approval could not be granted but only by the virtue of the building being listed. The following section of this report explains, no physical alterations to the listed building are proposed so notwithstanding any heritage issues, the principle of an A1 to A3 change is acceptable in GPDO terms. Part 3, Class G of GPDO also allows for the change from A1 to a mixed use of A2 (financial and professional services) and up to 2 flats.

(c) Impact on the Historic Environment

Bourton Newsagent is located within a Grade II listed building and it also lies within the Bourton-on-the-Water Conservation Area. No physical alterations to the interior or exterior of the building have been proposed, the planning application only proposes to change the use of the planning unit. Therefore, no objections are raised with regard to the impact the proposal would have on the historic fabric/ setting of the listed building or the character and appearance of the Conservation Area pursuant to Local Plan Policy 15 and NPPF Section 12.

(d) Other Matters

Village shops can be considered community facilities with regard to Local Plan Policy 32. This policy does not support the loss of community facilities, unless it can be demonstrated that alternative(s) are available elsewhere. Preceding paragraphs highlight the alternative retail provision within Bourton-on-the-Water and the fall-back position available to the applicant in terms alternative uses for which the premises can be used without the need for planning permission. In this context, the proposal does not represent the total loss of a shop as a community facility when

assessed against Policy 32 because the village benefits from other shops which perform a similar role.

Residents have lamented the potential loss of a shop that provides a newspaper delivery service. This in itself is not sufficient or adequate justification to withhold planning permission for an alternative use. As a result of declining print newspaper and magazine sales, the purchase of a daily newspaper or weekly periodical is not sufficient to keep any business afloat. Furthermore, it is not the purpose of planning to seek to interfere with a property owner's ability to utilise their property for an alternative viable use. It is noteworthy to remind the reader at this point the alternative A1 and other uses for which this site could be used without the benefit of planning permission. Therefore, the Council does not have any long-term control with regard to sustaining a newspaper delivery service.

The Council acknowledges that post offices and shops within a smaller village, where perhaps they are the last remaining retail outlet, are worthy of protection, the same protection cannot be applied to principal or key retail centres.

Concerns have also been raised with regard to the generation of litter that would result from the proposed change of use. It is considered that the amount of litter would be no greater as a hot food take-away compared to its current use as a newsagent. The newsagent does not sell hot food but it sells cold food and drinks such as chocolate bars, crisps, sweets, etc. all of which are packaged and require the consumer to dispose of their rubbish responsibly in exactly the same way as the packaging of hot food needs to be disposed. Refuse bins are provided along the High Street include three outside the premises and it is the responsibility of individuals to dispose of rubbish responsibly and it is not an issue that can be controlled by the local planning authority, whether the rubbish is generated from the sale of hot food or cold food.

9. Conclusion:

The proposed change of use of the site from an A1 retail unit to an A5 hot food take-away would not demonstrably harm the vitality and viability of Bourton-on-the-Water as a principal settlement and key retail centre in the Cotswolds. Alternative A1 retail units are available within the village's commercial centre, which include top-up shopping facilities similar to those provided by Bourton Newsagent. The Use Classes Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) Order 2015 allow the applicant a significant amount of flexibility with regard to being able to change the use of the site away from its current use as a newsagent into other retail uses in addition to other non-retail based uses. The proposal is consequently considered to be compliant with the guidance outlined within Local Plan Policies 25 and 32 with regard to retaining the vitality and viability of a principal settlement. The proposal is also in accordance with Local Plan Policy 15 and the guidance set out in the National Planning Policy Framework with regard to preserving the historic environment and ensuring the vitality of town centres.

10. Proposed conditions:

The development shall be started by 3 years from the date of this decision notice.

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

The development hereby approved shall be implemented in accordance with the following drawing numbers: 1369_300, 1369_301 and 1369_302.

Reason: For purposes of clarity and for the avoidance of doubt, in accordance with paragraphs 203 and 206 of the National Planning Policy Framework.



Windrush Restaurant High Street Bourton on the Water

Scale: 1:1250

Organisation: Cotswold District Council

Department:

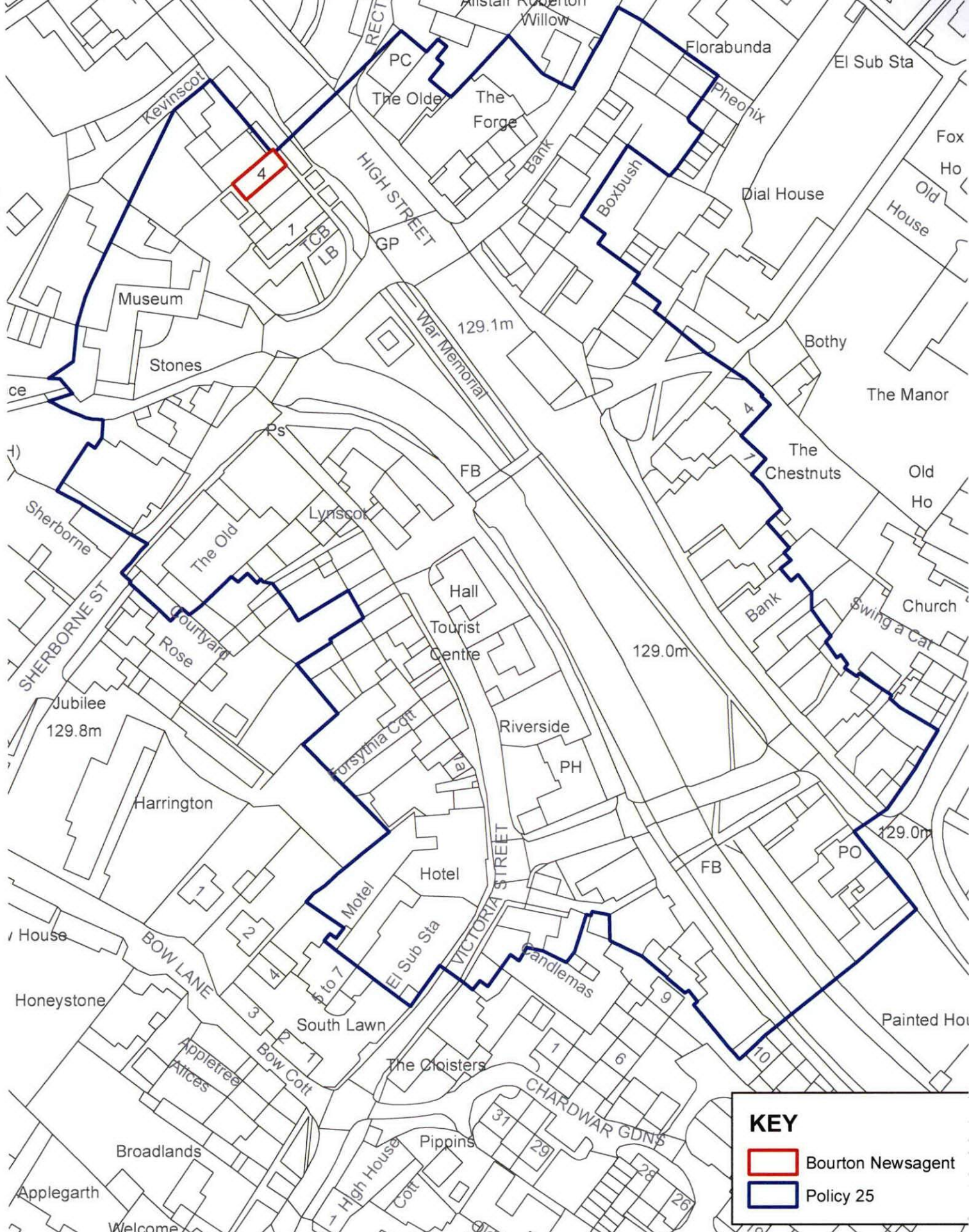
Date: 01/12/2016



COTSWOLD
DISTRICT COUNCIL

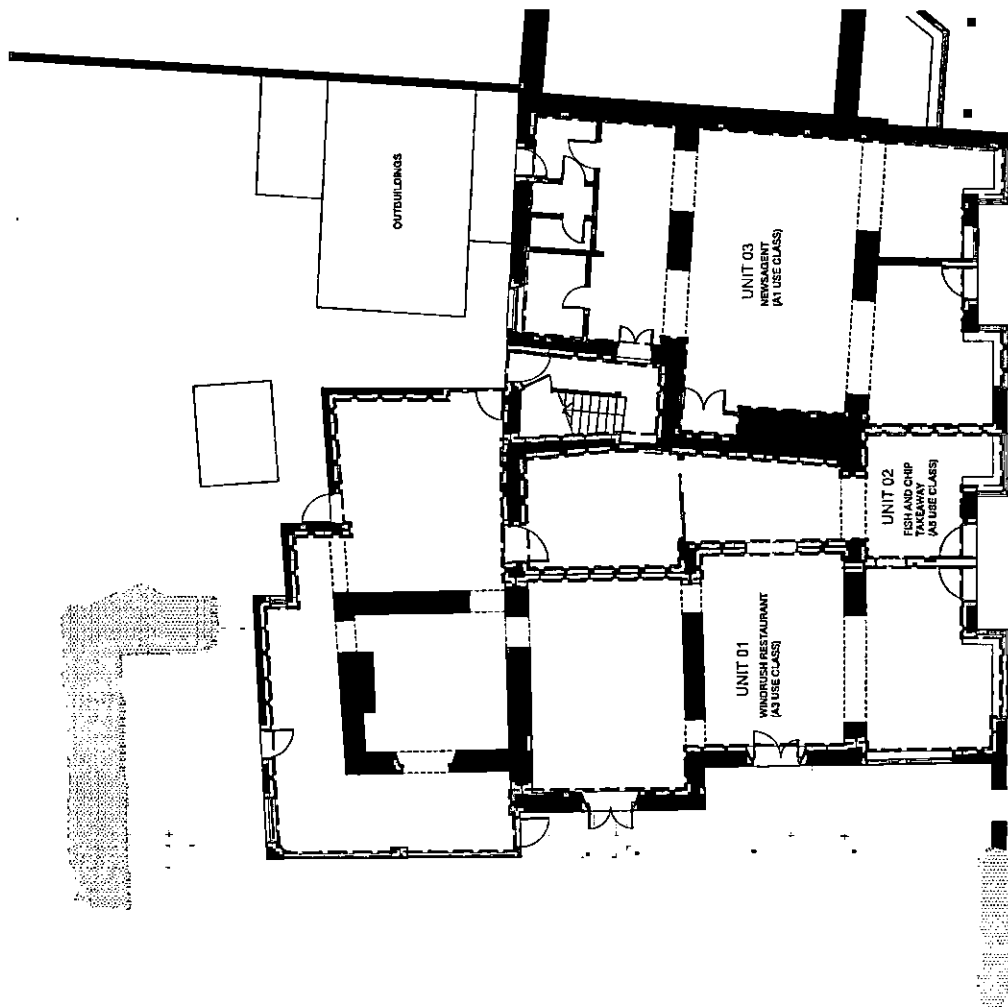


BOURTON-ON-THE-WATER

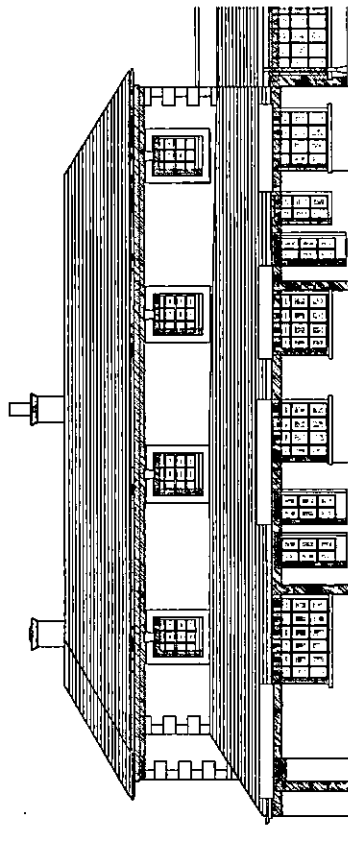


KEY

- Bourton Newsagent
- Policy 25

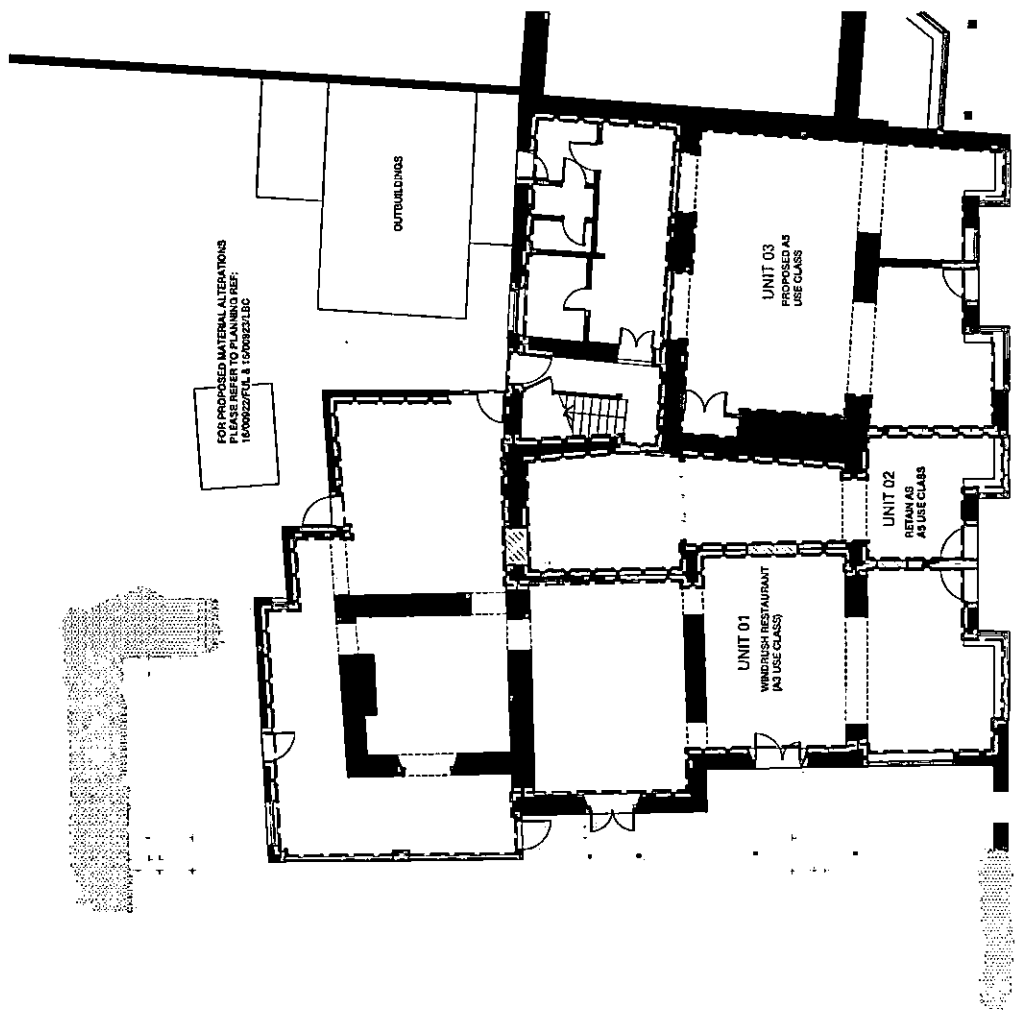


EXISTING GROUND FLOOR PLAN Scale 1:100

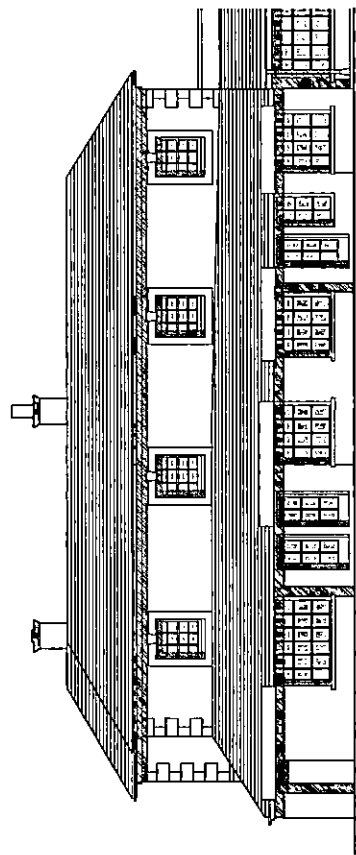


EXISTING NORTH-EAST ELEVATION Scale 1:100

<p>Project Name: WINDRUSH RESTAURANT, ST KEVINS HIGH STREET, BOURTON-ON-THE-WATER, GLOUCESTERSHIRE, GL54 2AN REF: 16/00257/PA & 16/00257/02</p>		<p>Contact: EdgeDesignWorkshop Ltd. Number 07 Royal Mail Plaza Chesham, Oxon. GL50 3DN 01494 811522 ESB 111 mail@edgedesignworkshop.com www.edgedesignworkshop.com</p>		<p>Planning: 16/00257/PA & 16/00257/02</p>	
<p>Drawn by: [Name]</p>		<p>Date: 11/06/2016</p>		<p>Scale: 1:100</p>	
<p>Client Name: [Name]</p>		<p>Project No: 16/00257/PA & 16/00257/02</p>		<p>Sheet No: 02/03</p>	
<p>Drawings to be read in conjunction with Planning</p>		<p>Proposed Partial Change of Use Application to Ground Floor</p>		<p>Existing Floor Plan and Elevation</p>	
<p>Project Name: WINDRUSH RESTAURANT, ST KEVINS HIGH STREET, BOURTON-ON-THE-WATER, GLOUCESTERSHIRE, GL54 2AN</p>		<p>Project No: 16/00257/PA & 16/00257/02</p>		<p>Sheet No: 02/03</p>	
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PROPOSED GROUND FLOOR PLAN Scale 1:100



PROPOSED NORTH-EAST ELEVATION (NO EXTERIOR CHANGES) Scale 1:100

<p>Client Name EdgeDesignWorkshop Ltd. REF: 1600625/16 & 1600625/16C</p>	<p>Client EdgeDesignWorkshop Ltd. Number 07 Royal Way Place Chislehampton, Glos. GL53 5DA 01453 671242 01628 1111 www.edgedesignworkshop.com www.edgedesignworkshop.com</p>	<p>Project WINDRUSH RESTAURANT, ST KEVINS HIGH STREET, BOURTON-ON-TRE-WATER, GLOUCESTERSHIRE, GL54 2AN PROPOSED PARTIAL CHANGE OF USE APPLICATION TO GROUND FLOOR PROPOSED FLOOR PLAN AND ELEVATION</p>	<p>Drawn By Date 18/05/2018</p>	<p>Scale 1:100 @ A2</p>	<p>Drawn No. 658</p>	<p>Check No. 250</p>	<p>Rev No.</p>
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