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| Application No: 11/01664/F | Ward: Otmoor | Date Valid: 17/11/2011 |
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| Applicant: | B A Property Management Ltd |
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| Site Address: | The Otmoor Lodge Hotel, Horton Hill, Horton Cum Studley, Oxon, OX33 1AY |
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Proposal: Removal of Condition 5 of application 06/01927/OUT

1. Site Description and Proposal

1.1 This application relates to the Otmoor Lodge Hotel and surrounding land. The site has a complex site history (see below). The purpose of this application is to seek the removal of a condition applied to as outline planning permission granted in December 2006 which stated:-

“5. That the hotel extension and the dwellings shall be built concurrently and that the houses shall not be occupied until the hotel extension is complete and ready for first use.

Reason: To avoid only the houses being built, which are only approved on the basis that they will fund the construction of the hotel extension and thereby help retain this village facility in accordance with Policy S29 of the adopted Cherwell Local Plan”.

1.2 The application is accompanied by a statement from the applicant’s agent which states:

**“STATEMENT RELATING TO PLANNING APPLICATION FOR REMOVAL OF
CONDITION 5 OF APPLICATION NO. 06/01927/OUT**

Planning permission granted for extension to hotel to form 20 bedrooms and ancillary facilities, shop and 4 No. dwellings under Application No. 06/01927/OUT on 22 December 2006 and the Reserved Matters Application relating to the Outline Permission approved under Application No. 09/01697/REM, dated 10 February 2010.

The applicant has made determined efforts to proceed with the development by selling the housing plots but the restriction of Condition 5 on the Planning Permission has made it extremely difficult to interest potential contractors and developers. Consequently, because finance has not been available to invest in the business it has resulted in the closure of the public house and hotel.

There are two principle reasons why developers/contractors cannot be persuaded to purchase the building plots. Firstly, it is difficult enough to raise finance for housing development but when the lenders are informed that Planning Permission prevents the developer from selling the houses until the

hotel rooms are completed and ready for use, they are not prepared to release any funding. Secondly, this condition (Condition 5) to the hotel and extension and houses being built concurrently is of great concern to contractors/developers because the completion and sale of the houses is dependent on the completion of the hotel bedrooms and therefore the timing, progress and sales are beyond the developer's control.

The current difficult economic conditions in the economy, particularly in the tourist and construction industries are unlikely to improve in the foreseeable future and to overcome the problems associated with selling the building plots, the applicant requests the removal of Condition 5 on Planning Permission No. 06/01927/OUT so that he can then sell the building plots for houses 1 and 2 and invest the funds raised into the construction of the shop and the refurbishment of the bar and kitchen, which would allow the business to be reopened.

Once this is achieved he would request that the remaining two plots are released to allow him to raise the finance to keep the shop and public house open for a period of five years. If this proves viable and he is supported by the village, he will commit to keeping the facilities open for a further five years.

My client is aware that he will be subjected to an amended Section 106 Agreement, referred to in Condition 6 of the same Planning Permission to which this application refers.”

1.3 The recent planning history of this site can be summarised as:-

- 04/02395/OUT Hotel extension to form 19 bedrooms and 4 houses resolved to be approved in 2005 subject to departure procedures/Section 106 Agreement (contrary to recommendation)
- 06/00537/F Proposal for 23 bedroom extension to hotel and 4 detached houses approved in June 2006. Conditioned to require Section 106 Agreement and concurrent development of extension and houses.
- 06/01927/OUT Outline planning permission granted December 2006 conditioned to require Section 106 Agreement (subsequently completed) and requiring concurrent development (Condition no.5 – see para 1.1 above). The Council is currently in receipt of an application (11/01663/OUT) for the renewal of that consent.
- 07/02478/F Approved revised layout for 4 houses (May 2008). Permission conditioned (No. 7) that hotel extension and these houses be built concurrently. This condition remains live as pre-commencement conditions cleared and start on site made. A subsequent application (09/011778/F) to vary Condition 7 was refused on the grounds that:-

“The amended phasing of the provision of the hotel

accommodation introduces uncertainty into the construction of the majority of the proposed hotel extension undermining the reasons for the original grant of planning permission for the houses (contrary to normal Green Belt policy), which decision was taken to ensure the future long-term viability of the hotel/pub/restaurant business. The houses would therefore represent inappropriate development that is contrary to Policy CO4 of the South East Plan and Policy GB1 of the adopted Cherwell Local Plan; the previously expressed very special circumstances are diminished to the extent that they are considered to no longer outweigh the normal strong presumption against such inappropriate development.”

- 09/01687/REM Reserved matters details pursuant to 06/01927/OUT approved in February 2010. This permission has recently been kept alive by the making of a start on site to implement the permission.
- 10/01021/F Proposal to vary Condition 7 attached to 07/02478/F to permit the housing to be constructed in two phases. Approved by Planning Committee 7 October 2010 subject to legal agreement – agreement yet to be completed and therefore decision still pending.
- 10/01318/F Alternative planning permission for 3 of the 4 houses approved subject to above agreement – decision pending as legal agreement not complete.
- 11/00402/F Proposal to vary the time limit on the undertaking of 07/02478/F – decision pending as legal agreement re: 10/01021/F not completed yet.

2. Application Publicity

- 2.1 The application has been advertised by a site notice. The final date for comment was 22 December 2011.
- 2.2 Thirteen letters of representation have been received which raise the following comments/objections (see public access for full content).
 - The linkage between the houses and the shop provision must not be dropped or weakened. Requirement for shop to be up and running in advance of building the houses is an absolute necessity.
 - Original permission was granted against the presumption against development in the Green Belt strictly on the basis that it was a price worth paying for the provision of a vital village amenity (shop).
 - Pub now closed – backward step in sustainability. Sceptical of the applicant meeting any obligation to provide the shop, and of Council’s enforcement

powers.

- The linkage to the applicant's rationale to return the Otmoor Lodge to profitability would be broken. Houses only originally approved as enabling development.
- Planning approval granted on the grounds that it would assist in retention of village facilities. The village has now survived for 7 years without shop/PO. Highly unlikely that new shop/PO would be viable – leading to early closure.
- Application offers no more than refurbishment of bar and kitchen
- Draws attention to refusal and subsequent appeal for houses in 1995.
- Housing of this type/scale is contrary to Green Belt policy.
- A change in financial circumstances does not constitute grounds for amending a planning approval.
- These houses are accessed by the road/footpath giving access from village to the village hall – dangerous.
- Precedent for development in the Green Belt.
- If no legal link to hotel construction would not aid profitability of hotel, pub or village shop.
- Draws attention to the reason for Condition 5 in 2006.
- Encourages CDC to withdraw previous consents.
- The provision of the shop was the misguided reason for permitting development on Green Belt land. The applicant has found it uneconomical to provide a shop so the surrender of Green Belt land has provided no benefit for the village. It would be better to let this application expire than to remove this condition.
- Concerned that removal of this condition would just allow the housing land to be sold with no re-investment in the pub or shop.
- Multiple applications and permission but no action. Blighted adjacent properties and no end in sight.
- Disgraceful and irresponsible attempt to exclude the previous obligations.

3. Consultations

3.1 Horton-cum-Studley Parish Council comment as follows:

“11/01664/F Removal of condition 5 of application 06/01927/OUT

The Parish Council is dismayed that the proposed development has remained unresolved for 5 years, with each planning approval being met with a new application seeking to improve the position of the developer by applying to build larger houses in more intrusive positions; at the same time seeking the removal of essential safeguards on the conditions of the original approval.

The rationale for this development was to return the Otmoor Lodge to profitability by expanding its accommodation by 23 bedrooms. The houses were required only to provide funding for this expansion.

The project was approved on the basis that retention of village facilities would outweigh the strong presumption against inappropriate development in the Green Belt.

The chequered planning history of this site led to Cherwell District Council imposing the sensible condition that development of the houses and hotel extension should proceed in tandem, to prevent the houses being sold before the hotel bedrooms were built.

This application does not include any expansion of the Otmoor Lodge, only a superficial refurbishment of the bar and kitchen. However, the requirement to build all 4 houses is still included and it is requested that 2 of these are built before any improvements are undertaken on the hotel.

In strict planning terms, a change in financial circumstances does not constitute grounds for amending a planning approval.

*The Parish Council **objects** to the proposal to condition 5 of 06/01927/OUT, on the grounds that this would remove an essential control on the phasing of this project and would invalidate the claimed rationale for the entire development.*

The Parish Council would favour the reinstatement of a pub, shop and PO but only if they will remain open on an ongoing basis as a village facility. It does not consider that it is necessary to build 4 large houses on Green Belt land to achieve this end."

- 3.2 Oxfordshire County Council (as local highway authority) raise no objections.
- 3.3 Oxfordshire County Council Planning Archaeologist raises no objections.

4. Relevant Planning Policies

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| South East Plan 2009 - | Policies | CO4, BE1, H4 and H5 |
| Adopted Cherwell Local Plan 1996 | Saved Policies | GB1, C28 and C30 |
| Non-Statutory Cherwell Local Plan 2011 | Policies | GB1 and D3 |

5. Appraisal

- 5.1 It can be seen from the history of planning applications on this site that since 2005 this Council has embarked on a sequence of decisions which were based on the acceptance that enabling development in the form of four houses, was needed to be able to ensure the long-term viability of this public house/restaurant/hotel facility. Furthermore the officers successfully negotiated the provision of a shop (to replace that which had been recently closed) as a further benefit. That was a closely balanced and significant decision as it allowed development in a Green Belt village which was contrary to the policies then (and now) existing which have a presumption against inappropriate development.
- 5.2 It is unfortunate that by the time the applicant had achieved a form of reserved matters approval that all were satisfied with the economic downturn of 2008/9 had occurred, and the availability of finance for this form of development was severely curtailed. Your officers are aware of the persistent activity of the applicant with prospective development partners, but this to date has been to no avail. In the meantime the applicant has also taken the economic decision to close the premises to avoid on-going losses. It is therefore understandable that the applicant should look at another way of bringing the development forward.
- 5.3 As I am sure is clear, the thrust of this application is to remove the condition which was first applied in 2006, and has been a persistent feature of subsequent applications to revise the scheme. By the removal of this condition the applicant seeks to ensure that this development, (which otherwise would be considered unacceptable) can be undertaken independently. It can therefore no longer be considered to be enabling development, in the common understanding of the phrase. Apparently the applicants only offer in enabling terms is now that the funds so raised would be applied to ensure that the existing business could re-open with a refurbished bar and kitchen, and with a shop to be opened within the building (current application 11/01720/F seeks permission for this to be provided within the building rather than in own extension to the front as previously approved (09/00936/F)).
- 5.4 In October 2010 in dealing with the proposal (10/01021/F) to amend condition of the permission for the 4 houses approved in 2008 (07/02478/F) the Council indicated that it was prepared to restructure the phasing proposals of the development to reflect the economic situation. However this was still based on the full, but phased, provision of hotel bedrooms as a function of allowing residential development. This remained true to the applicant's original contention that the best method of ensuring long-term viability for this business was the formation of additional hotel

accommodation.

- 5.5 This application requires a difficult assessment of whether the allowing of 4 houses in a Green Belt situation, and contrary to the normal presumption against such development, is outweighed by the benefit to the community of the provision of a shop and the re-opening of the pub/restaurant business. The offered guarantee of future trading is relatively short (albeit that it is understood why the applicant does not feel able to offer anything further). On balance I consider that this benefit is insufficient to warrant the relaxation of this condition. Allowing it would run counter to the previously accepted position. It may result in the construction of 4 houses (contrary to normal policy) in return for only an undertaking of 5 years of shop/pub trading. This is an unsatisfactory position in my view.
- 5.6 Notwithstanding the above comments Members should be aware that the HPPDM is contemplating the approval of the renewal of the previous outline permission (application No. 11/01663/OUT) under delegated powers on the same basis as previously (as amended by the 2010 decision of the Committee re: phasing)., so that the applicant can continue if he wishes, to try to find funding for the previously envisaged arrangements

6. Recommendation

Refusal

On the grounds that:

The removal of the linkage between the construction of the houses and the guarantee of the subsequent construction of the hotel extensions takes away the fundamental reason why the Local Planning Authority had favourably considered this development in the Green Belt contrary to its usual policies, which was based on the concept of these houses being enabling development which would promote the long-term viability of this village facility. The Council does not consider that the now offered arrangements are sufficient to outweigh the presumption against such housing development in the Green Belt and that therefore the houses would be contrary to Policy GB1 of the adopted Cherwell Local Plan and that the previously expressed very special circumstances would be diminished to the extent that they would no longer outweigh the presumption against such inappropriate development.

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