

Site Address: Otmoor Lodge, Horton Hill, Horton cum Studley

14/00430/F

Ward: Otmoor

District Councillor(s): Cllr Hallchurch

Case Officer: Tracey Morrissey

Recommendation: Approval

Applicant: B A Property Management Ltd

Application Description: Change of use of existing building to four dwellings (retrospective)

Committee Referral: Previous schemes on this site determined by Committee

Committee Date: 18.12.14

1. Site Description and Proposed Development

- 1.1 This existing hotel site lies within the Oxford Green Belt and has considerable history as detailed later, which essentially granted outline consent in 2006 for a 20 bed hotel extension, the provision of a shop/Post Office and 4 dwellings. Subsequent applications followed this consent, however the permission lapsed on 22nd December 2009 as not all follow-on Reserved Matters were submitted in time and also the applicant failed to complete a Legal Agreement that sought to ensure the provision of a shop within the hotel building. The Council maintains that there is no valid planning consent relating to the site a matter which the applicant contests.
- 1.2 This current application follows the retrospective independent occupation of a block of 4 no. units to the rear of the site that were constructed originally as ancillary/overnight accommodation in connection with the pub/hotel business, then known as the Kings Arms under planning consent 97/01542/F, then revised by 98/01604/F when it became The Otmoor Lodge. The permission was restrictive and included a condition no. 6 which read as follows:
- 6 The letting bedrooms in the accommodation block hereby permitted shall be occupied solely in conjunction with and ancillary to The Otmoor Lodge Hotel (formerly The Kings Arms Hotel/Public House) and shall not be sold, leased or occupied as a separate unit or units of accommodation.
- Reason - In order to safeguard the amenities of the Green Belt.
- 1.3 The application seeks to regularise the unauthorised use of the 4 units by formally changing their use along with the provision of associated amenity space and a defined parking area for the dwellings. The proposals do not involve any extension to the buildings. The site backs onto open land which is separated by a 1.8m high fence, this fence encloses the small gardens associated with the dwellings. The parking area forms part of the larger car park for the hotel and seeks to use an existing entrance.
- 1.4 In terms of site constraints, the site is within the Green Belt and an AHLV. There are legally protected species and in close proximity and is within a BAP habitat, there are no other notable site constraints.

2. Application Publicity

- 2.1 The application has been advertised by way of a site notice and neighbour letters. The final date for comment on this application was 8th May 2014. No comments have been received.

3. Consultations

3.1 Horton Cum Studley Parish Council wishes to object to this application on the following grounds and raises the following comments:

- 1) The planning history of this site is relevant:
- 2) Despite strong opposition from the Parish Council and local residents, the original permission granted in 1997, was for 4 overnight accommodation units, single storey, to be situated behind the Otmoor Lodge pub.
- 3) In actuality, 8 units were built on 2 storeys in a location further away from the pub within the boundary of the Green Belt.
- 4) Retrospective planning was then sought and granted in 1998, again despite strong local opposition. This approval was conditional on a 106 agreement being signed whereby the landowner undertook not to undertake any further development of the site.
- 5) Subsequently the landowner successfully attained revocation of this agreement and there have been a series of planning applications in recent years (all now lapsed).
- 6) In July 2012 an application to convert the 8 overnight accommodation units into 2 houses (as part of a larger application for developing the entire site) was rejected.
- 7) On point 3 of the agent's planning application it states that the work to convert the building into 4 units was started on 1 January 2014 whereas this work was actually undertaken more than 2 years ago and since then these 4 units have been rented out continuously. Cherwell District Council Planning Department is fully aware of this as the Parish Council on several occasions as well as a number of individual residents have brought this to its attention.
- 8) Allowing this application sets a precedent for allowing residential accommodation in the Green Belt and is undoubtedly a pre cursor to an application to change the use of the Otmoor Lodge to residential.
- 9) The Parish Council would also like to raise the issue of access to the site as there have been a number of near misses with cars turning from the Lodge Car Park and nearly hitting cars leaving The Green, as this a blind exit. The owner must either improve the visibility by erecting a mirror or re-route the exit through his other property, the New House on Horton Hill.
- 10) Whilst there is ample parking and room for a turning circle, there have been numerous occasions when visitors have parked on The Green, or used it as turn circle. The Lodge Cottages should be properly signed to stop this happening in the future.
- 11) The route is also the only pedestrian access to the village playground and is used on daily basis by parents and children on their bicycles and scooters which makes this a significant safety hazard.
- 12) The Parish Council was extremely disappointed that the Otmoor Lodge was rejected as a village asset since the entire rationale for planning over the last few years for this site has been the retention of the village pub.

13) The Parish Council notes that as there are currently 3 separate applications related to this site it is important from a planning perspective that these are looked at together and not in an individual piecemeal fashion.

14) The Parish Council requests that these applications should go to Committee.

In conclusion, it is very disappointing that this bedroom block which was built outside the terms of its original planning approval and has been continuously occupied for at least 2 years is now the subject of another retrospective planning application, which if granted, will set a precedent for the establishment of residential accommodation in the Green Belt which is contrary to Cherwell and local Parish policy.

Cherwell District Council Consultees

3.1 **Strategic Housing Officer** - I have no objections to this planning application for 4 residential units on the proposed land. Because the development is proposing 4 units there is a 35% affordable housing requirement equating to the provision of 1 unit.

However there has not been a Housing Needs Survey carried out in the Parish since 2006, therefore there is no identifiable local housing need in the parish. For this reason together with the fact that having one unit would present housing management challenges for an RP, I would request that an in lieu sum be agreed between the Council and the land owner/developer in order to re-provide affordable housing elsewhere in the district. The details of this should be agreed between the applicant, strategic housing and the planning officer.

Oxfordshire County Council Consultees

3.2 **Highways** – No objection subject to 6 parking spaces

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

GB1: Green Belts

H5: Affordable housing

H21: Conversion of buildings within settlements

C7: Landscape Conservation

C13: Areas of high Landscape Value

C28: Layout, design and external appearance of new development

C30: Design control and context compatibility

S29 Loss of existing village facilities

Other Material Policy and Guidance

National Planning Policy Framework

Planning Practice Guidance

Submission Cherwell Local Plan – January 2014 (SLP)

Submission Local Plan (January 2014) (SLP) has been through public consultation and was submitted to the Secretary of State for examination in January 2014, with the examination beginning in June 2014. The Examination was suspended by the Inspector to allow further work to be undertaken by the Council to propose modifications to the plan in light of the higher level of housing need identified through the Oxfordshire Strategic Housing Market Assessment (SHMA), which is an objective

assessment of need. Proposed modifications (August 2014) to meet the Objectively Assessed Need were subject to public consultation, from 22nd August to 3rd October 2014. Although this plan does not have Development Plan status, it can be considered as a material planning consideration. The examination reconvenes on 9th December 2014.

The plan sets out the Council's strategy for the District to 2031. The policies listed below are considered to be material to this case and are not replicated by saved Development Plan Policies:

BSC2: The effective and efficient use of land
BSC3: Affordable housing
ESD13: Local landscape protection and enhancement
ESD14: Oxford Green Belt
ESD16: Character of the Built Environment

Non-Statutory Cherwell Local Plan 2011

In December 2004 the Council resolved that all work to proceed towards the statutory adoption of a draft Cherwell Local Plan 2011 be discontinued. However, on 13 December 2004 the Council approved the Non-Statutory Cherwell Local Plan 2011 as interim planning policy for development control purposes. Therefore this plan does not have Development Plan status, but it can be considered as a material planning consideration. The policies listed below are considered to be material to this case and are not replicated by saved Development Plan policy:

GB1: Development in the Green Belt
GB1a: Residential development in the Green Belt
GB4: Reuse of buildings in the Green Belt
H22: Conversion of rural buildings
TR5: Road Safety
TR11: Parking
D1: Urban design objectives
D3: Local distinctiveness
D5: Design of the public realm

5. Appraisal

5.1 The key issues for consideration in this application are:

- History
- Policy context and principle of development
- Impact on viability of the existing enterprise
- Access arrangements and highway safety

History

5.2 This site is subject to considerable complex history which is appended to this report and this relates to the whole site. The buildings subject to this current application were granted consent under a revised application 98/01604/F following approvals under 97/01542/F and originally for 8 guest rooms under 97/00006/REM and CHS 171/94.

5.3 The block of four self-contained en-suite bedroom/living room/kitchen units were used ancillary to the hotel business which ceased trading in 2010. The use of the building was conditional as detailed in paragraph 1.2 above, however the units are now being used independently of the hotel business and are rented to private tenants. Consequently there is a breach of the restrictive condition no. 7 and the applicant now seeks to regularise the unauthorised use through the change of use of the units to four separate dwellings. There is a question over the date when the units were first used in breach of this condition. The applicant has stated 01.01.14 on the application forms,

then advised that they were first occupied for residential purposes in 2004, Council Tax records however indicate that the '4 lodge cottages' were set up for Council Tax purposes in April 2012. For the purposes of the consideration of this application, it is considered that the unauthorised use occurred in 2012.

Policy context and principle of development

- 5.4 The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having 3 dimensions: economic, social and environmental. Also at the heart of the NPPF is a presumption in favour of sustainable development and in the context of this application would include building a strong and competitive community, requiring good design, delivering a wide choice of high quality homes, protecting Green Belt land and conserving and enhancing the natural environment.
- 5.5 The Oxford Green Belt washes over the village, as does the Area of High Landscape Value. The application site comprises a block of existing hotel buildings and part of the hotel car park, the remaining land is outlined blue and comprises the main hotel building, remainder of the car park and an adjoining field. Existing local plan policies GB1 (Adopted Cherwell Local Plan) and GB1 & GB1a (Non-Stat Cherwell Local Plan) aim to protect the open character of greenbelts; GB1a restricts residential development within them to either conversions or infilling within the built up limits; otherwise permission will only be permitted in very exceptional circumstances.
- 5.6 NPPF Paragraph 79 of the NPPF sets out the Governments approach to Green Belts and their importance and aim to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and their permanence.
- 5.7 Paragraph 80 identifies that the Green Belt serves five purposes, the third purpose of including land in the Green Belt is to assist in the safeguarding of the countryside from encroachment.
- 5.8 Further at Paragraph 87, "inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances".
- 5.9 NPPF paragraph 89 also considers the construction of new buildings as inappropriate in the Green Belt, but then sets out the exceptions. Therefore in order to consider this application further having regard to the NPPF, the main policy issues are:
- the effect of the proposed development on the Green Belt and the purposes of including land within it;
 - the effect of the development on the character and appearance of the area;
 - the presumption in favour of sustainable development contained in the NPPF;
 - whether the case for partial or complete redevelopment of a previously developed site in the Green Belt is accepted;
 - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.
- 5.10 The Framework further considers that certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. One of these includes

the re-use of buildings provided that the buildings are of permanent and substantial construction.

- 5.11 Whilst the comments made by the Parish Council are duly noted in respect to the occupation of the buildings, which is not in accordance with the restrictive occupancy condition and against the original premise of the 1997 consent, there is no dispute that the building block that contains the 4 dwellings was constructed more than 10 years ago and therefore it exists as a building in the Green Belt. However the unauthorised use occurred in 2012 and is not immune from enforcement action. It is considered however that it is not expedient to take enforcement action in this instance, hence the application to regularise the use.
- 5.12 The proposal, although it will result in 4 dwellings, essentially involves the retrospective change of use from ancillary hotel accommodation use to a residential use along with associated amenity areas and parking spaces. There are no extensions proposed to provide residential accommodation. The units and their associated 'gardens' and parking areas have been used for several years. In simple terms the actual change of use of the buildings would not therefore have an impact on the openness of the Green Belt. Policy H21 of the ACLP allows conversion of suitable buildings to dwellings within the settlement and GB1 seeks to ensure the openness of the Green Belt is not harmed by inappropriate development. Policy GB4 of the NSCLP echoes ACLP GB1 and permits proposal for the re-use of a building or buildings providing that it would not have a materially greater impact than the present use on the openness of the Green Belt and the purposes of including land in it.
- 5.13 Given the fact that these buildings are still in use, are already domestic in scale and design and do not require any extension it is considered that the above policies are complied with. Combined the elements of the proposal have a limited impact on the openness of the green belt. The units of accommodation already exist and benefit from enclosed 7m deep gardens and back onto the open countryside, thus having the potential to have the greatest impact on the Green Belt. However this also benefits from an existing 1.8m high fence and this contains the residential curtilage of the dwellings. Car parking is no different to that currently existing also. It is considered however, both necessary and appropriate to restrict the potential for domestic outbuildings and extensions to the units and domestic curtilages in order to limit the impact on the green belt – as such it is proposed to apply restrictive conditions to any approval.
- 5.14 It is acknowledged that this site would not normally be an acceptable location for new residential dwellings due to its poor sustainability credentials. However the existing use as hotel accommodation is not sustainable either, therefore this is one unsustainable use replacing another unsustainable use. Furthermore the fact that this application is a change of use rather than a new build weighs in favour of the proposal.
- 5.15 When assessing the proposal against Green Belt policy contained within the NPPF and the adopted Cherwell Local Plan it is considered that the proposal complies with the guidance and ultimately the scheme does not affect the openness of the Green Belt and as such is considered to be appropriate.

Impact on viability of the existing enterprise

- 5.16 Policy S29 seeks to resist the loss of existing village facilities which serve the basic needs of the local community. Otmoor Lodge and its associated 'bar' has been closed since 2010 on the basis that it was no longer viable to continue as a going concern. Planning applications have since sought to 'enable' the continuation of the business and essentially the 'village pub' facility for the community, though the construction of new build dwellings on the remaining land, but the case for this has not been accepted by this Council and therefore the premises remains closed.

- 5.17 Notwithstanding that matter, the loss of these 4 units of accommodation will not in principle potentially impact on the viability of the business, as a business case put forward required the construction of 4 detached dwellings to ensure its viability and the continued success of its associated bar area, for the community. I am therefore content that should the hotel re-open, the accommodation provision will not be compromised by the loss of these units. It is considered that Policy S29 is complied with.

Neighbour Impact

- 5.18 Given the relationship of the buildings to the neighbouring properties and the nature of the use of neighbouring buildings it is not considered that the proposals will cause harm to the residential amenities. The proposal is unlikely to result in any overlooking or loss of privacy. It is considered that the proposal complies with Policy C30 of the adopted Cherwell Local Plan.

Highway Impact

- 5.19 Whilst it is noted that the Parish Council refer to 'near misses' at the entrance to the site, the visibility from the entrance is good and given the bend in the road vehicles would and should not be normally moving quickly around this entrance. The Local Highway Authority have not objected to the application but recommend that 6 no spaces are provided for the occupiers of the dwellings. Four spaces are shown and given the extent of the existing car park, it is possible to provide a further 2 spaces. The proposal also retains parking for Otmoor Lodge.

Affordable Housing

- 5.20 Policy H5 of the ACLP deals with affordable housing requirements and Policy BSC3 of the SLP and the Planning Obligations SPD seeks to secure 35% of new housing as affordable housing on site in villages, where residential development is 3 units or more. A financial contribution in lieu of onsite provision is sought in exceptional circumstances.
- 5.21 In this case because the development is proposing 4 units there is a 35% affordable housing requirement equating to the provision of 1 unit. However there has not been a Housing Needs Survey carried out in the Parish since 2006; therefore there is no identifiable local housing need in the parish. For this reason together with the fact that having one unit would present housing management challenges for an RP, the Strategic Housing Officer requested an offsite financial contribution of £60K equivalent to a one bedroom units, be sought in order to re-provide affordable housing elsewhere in the district.
- 5.22 Notwithstanding the Council's affordable housing policy or the request from the Council's Strategic Housing Officer for an offsite financial contribution, on 28th November, 2014, there was a significant change in government guidance contained within the revision to the Planning Practice Guidance. The revision is detailed as follows:

Planning obligations

Are there any circumstances where infrastructure contributions through planning obligations should not be sought from developers?

There are specific circumstances where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from [small scale and self-build development](#).

- contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm*

- *in designated rural areas, local planning authorities may choose to apply a lower threshold of 5-units or less. No affordable housing or tariff-style contributions should then be sought from these developments. In addition, in a rural area where the lower 5-unit or less threshold is applied, affordable housing and tariff style contributions should be sought from developments of between 6 and 10-units in the form of cash payments which are commuted until after completion of units within the development. This applies to rural areas described under [section 157\(1\) of the Housing Act 1985](#), which includes National Parks and Areas of Outstanding Natural Beauty.*
- *affordable housing and tariff-style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing home.”*

5.23 The implications of this new piece of Government guidance (which has come out without prior warning) means that in this particular case and all other similar sites in villages, the Council is no longer able to seek affordable housing on sites that propose 3 -10 residential units, as we have most latterly being doing. Consequently, whilst extremely unfortunate, especially in villages where affordable housing is most needed the Council has no option but to accept the Government’s stance on planning obligations and not seek the offsite affordable housing contribution on this site.

Engagement

5.24 With regard to the duty set out in paragraphs 186 and 187 of the Framework, discussions on this site have been continuing for almost 2 years with negotiations still continuing on the wider site. In terms of this actual proposal the applicant was invited to submit the application to regularise the unauthorised use as it was not considered expedient to take enforcement action if the change of use of the building was in principle acceptable. It is considered that the duty to be positive and proactive has been discharged to ensure that the unauthorised use of the units could be regularised.

Conclusion

5.25 The proposal seeks to regularise an unauthorised use which has occurred on the site since 2012. The 4 residential units are not required for the continued viability of the hotel business. The use causes no harm to any neighbouring property and vehicular access and parking provision are considered to be acceptable to the local highway authority. On the basis of revised Government guidance the Council cannot seek planning obligations in the form of affordable housing from the site and consequently taking the above assessment into account the application is considered acceptable.

6. Recommendation

Approve subject to the following conditions

1. That the vehicular access and 4 no. car parking spaces detailed on drawing no. 12.900/32A shall be kept free of obstructions at all times and used only for the purposes of access to and vehicle parking for the Otmoor Lodge Cottages.

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

2. Notwithstanding the provisions of Classes A, B, C and E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development)

(Amendment) (No. 2) (England) Order 1995 and its subsequent amendments, the dwelling shall not be further extended, nor shall any further structures be erected within the curtilage of the dwelling, without the prior express planning consent of the Local Planning Authority.

Reason – To ensure that the special character and the openness of the Green Belt are protected in accordance with Policy GB1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

Statement of Engagement

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as the decision has been made in an efficient and timely way.