

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

14/01153/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 from C1 into 4no. dwellings (C3)

Committee Referral: Previous schemes on this site determined by Committee

Committee Date: 19.05.15

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 In terms of site constraints, the site is within the Green Belt and an Area of High Landscape Value (AHLV). There are legally protected species in close proximity and is within a BAP habitat, there are no other notable site constraints.
- 1.3 This application seeks consent to change the use of the hotel building into 4 no. dwellings comprising:
- 1 no. 2 bedroom unit
 - 1 no. 3 bedroom unit
 - 2 no. 4 bedroom units

Each property will have a garden and parking provision to the front of the site.

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 28th August 2014. 3 letters have been received raising the following objections:
- Horton-cum-Studley does need a pub or hotel for civic amenity, and because a pub or hotel is important to support tourism in our beautiful area of the country.
 - The applicant claims that the Otmoor Lodge is unviable. Horton-cum-Studley recently published the results of our Village Plan survey. The village response to the questionnaire was tremendous, with a 75% of households returning their questionnaire. In response to the question "Do you think that Horton-cum-Studley would benefit from having a pub in the village?", 242 people replied "Yes", whilst 27 people replied "No". To allow a change of use to that building would be a great loss to

our village and surrounding area, and we now have the evidence to see that the vast majority of villagers feel the same.

- The Village Plan Questionnaire Results show that there is substantial potential local support for a pub. There are also scores of cyclists passing through our village each Saturday and Sunday, because we're on the very popular Otmoor cycling circuit. If the Otmoor Lodge were open, it would be the only place to find refreshment in a 6 mile stretch of that circuit, and I feel sure that an innovative operator would soon find the business there quite healthy. There is also space both inside and outside for quite an excellent gastro / destination pub, and with close access to the excellent village playground, a family-focused pub would bring in customers from the village and nearby Oxford.
- With a little imagination and flare, and crucially a fair lease, the Otmoor Lodge could be the thriving heart of the community that Horton-cum-Studley is crying out for. The applicant will of course attempt to show that the business is inevitably doomed, because that serves his business interests (it would take many decades for a pub to make as much profit as a conversion to domestic use), but the planning system should serve the long-term needs of the community – not the profits of an individual applicant.
- If the applicant does submit a viability report, the village (via our Parish Council) should be given time to conduct a CAMRA viability report in response, to ensure that a fair assessment may be reached by reviewing both reports.
- It is disappointing that the occupation of the Lodge Cottages has been allowed to continue in spite of the absence of planning permission. This should not be taken as a reason for approval of the application.
- Errors in the submission which includes existing flat not a house, no indication of hotel rooms lost, access road position from The Green imposes an unsuitable and dangerous vehicle movement area onto The Green.
- Concerns about the manipulation of the vehicular access to the rear and the inadequacy of proposed parking arrangements.
- Kemp and Kemp are advertising the property as a Grade 2 listed building public house with hotel accommodation. Otmoor Lodge is not listed and the advertising campaign and this is totally at odds with the planning statement accompanying this application which states that Otmoor Lodge is primarily and lawfully a hotel with no legal status for the public house. Could this confusion be the reason why the sale of the property has been unsuccessful?
- If confined to the north of the rear fence line, the conversion would not impact adversely on the Green Belt but major concerns that with the applicants history of attempted development on and to the rear of the site future proposals could still be made to build houses behind this line.

3. Consultations

3.1 Horton Cum Studley Parish Council wishes to object to this application via a Planning Consultant (JPPC) on the following grounds and raises the following comments:

- The planning history of this site is relevant
- Viability of the business is a factor but no viability report has been seen and therefore no robust assessment of the continued viability (or otherwise) cannot be made

- Accept applicant's comments in respect of the licensed bar and that if this was a standalone use it would benefit from PD rights.
- If no essential village service is to be lost as a result of the proposal (as it asserted) it remains the objective of the Council to promote tourism in the district through Policies T1 of the ACLP and SLE3 of the SLP. The loss of existing hotel bedspaces appears to be contrary to the Council's objectives.

Cherwell District Council Consultees

- 3.1 **Public Protection** - Land contamination may be an issue depending on any former potentially polluting activities that may have been undertaken from the site or even possible elevated levels of natural occurring contamination such as arsenic.

No information has been provided with respect to any risk assessment in this respect and so we would therefore make no adverse comment subject to imposition of appropriate safeguarding conditions regarding the need for a risk assessment for contaminated land .

Oxfordshire County Council Consultees

- 3.2 **Highways** – There is an issue with use of the land to the front of the hotel which has not been resolved. No comments received on the parking provision or highway safety aspect.

Other Consultees

- 3.3 **Thames Water** – No objection

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
- T1: Provision or improved facilities for tourists

Other Material Policy and Guidance

National Planning Policy Framework
 Planning Practice Guidance

Submission Cherwell Local Plan – October (SLP)

Submission Local Plan (October 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 reconvened and closed in December 2014. The Inspector's report is due in Spring 2015.

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
SLE1: Employment development – change of use of employment site
SLE3: Support for new or improved tourist facilities in sustainable locations
PSD1: Presumption in favour of sustainable development

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:

- Policy context and principle of development
- Asset of Community Value
- Access arrangements and highway safety
- Impact on neighbouring properties.
- Affordable Housing

Policy context and principle of development

Principle of change of use

- 5.2 The key consideration in respect this planning application is whether the proposed development involves the loss of a community facility.
- 5.3 Policy S29 of the ACLP seeks to protect village services and states:
- Proposals that will involve the loss of existing village services which serve the basic needs of the local community will not normally be permitted”.*
- 5.4 The supporting text in respect of policy S29 states that the District Council recognises the importance of village services, particularly the local shop and public house.
- 5.5 One of the core planning principles contained within the NPPF states that both plan making and decision taking should take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.
- 5.6 Paragraph 28 of the NPPF also states that planning policies should support economic growth in rural areas and promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.
- 5.7 The Submission Local Plan also seeks to promote a good quality of life for villages and rural areas through protecting, maintaining and improving local services, wherever possible (para C205 refers).
- 5.8 The relevance of para 28 of the NPPF, para C205 of the Submission Local Plan and policy S29 of the ACLP is dependent on the lawful use of the site and whether Otmoor Lodge is a public house with a restaurant and rooms (Class A4 of the Town and Country Planning (Use Classes) Order 1987 (as amended)), or whether it is a hotel (Class C1 of the Town and Country Planning (Use Classes) Order 1987 (as amended)).
- 5.9 It is important to note that the planning history in respect of this property since 2004, continually refers to Otmoor Lodge as a hotel. The description of development in respect of application reference 04/02395/OUT was described as ‘*extension to hotel to form 19 bedrooms and construction of 4 town houses with associated parking*’. The description of development from the reserved matters in respect of the above outline planning permission (09/01697/REM) was described as ‘*proposed extension to hotel to form 20 bedrooms and ancillary facilities, shop and post office and construction of 4 dwellings*’. In the consideration of these and other applications, officer reports have referred to Otmoor Lodge having a lawful hotel use.
- 5.10 In addition to the above, the Parish Council sought to list The Otmoor Lodge as an Asset of Community Value (ACV).
- 5.11 Section 88(2)(a) of the Localism Act provides that a building or land is of community value if “*there is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community...*” According to the regulations (paragraph 2(b)(iii)), a building used in whole or in part as a hotel is a residence, and therefore may not be listed as an Asset of Community Value.

- 5.12 In considering that application, the Council concluded the bar element comprised a bar / restaurant within a hotel, with the majority of the nominated property being used as a hotel. On this basis, the Otmoor Lodge may not be listed as an Asset of Community Value under the Assets of Community Value (England) Regulations 2012.
- 5.13 Having regard to the above, and on the basis that the lawful use of Otmoor Lodge is as a hotel (Class C1 of the Town and Country Planning (Use Classes) Order 1987 (as amended)), the proposed development does not involve the loss of a village service which serves the needs of the local community. As such, the proposed development is not contrary to para 28 of the NPPF, para C205 of the Submission Local Plan and policy S29 of the ACLP.

Green Belt

- 5.14 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.
- 5.15 The Oxford Green Belt washes over the village, as does the Area of High Landscape Value. The application site comprises an existing hotel building, 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.
- 5.16 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.
- 5.17 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.
- 5.18 Further at Paragraph 87, “inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”.
- 5.19 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.

- 5.20 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.
- 5.21 The proposal seeks to change the use of the hotel building to provide 4 no. dwellings, other than the removal of a small single storey section of the building and some minor opening changes the is no actual material change to the size or appearance of the building.
- 5.22 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.
- 5.23 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 development.
- 5.24 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 fact that this application is a change of use rather than a new build weighs in favour of the proposal in the planning balance.
- 5.25 Having regard to the above, the principle of the proposed development is considered to be acceptable and accords with guidance contained with the NPPF, policies within the ACLP and guidance contained in the Submission Local Plan.

Highway Impact

- 5.26 Parking provision for 8 vehicles would be to the front of the properties. OCC has raised an issue with this parking provision on the basis that it constitutes highway land and therefore there is a dispute on this matter. The applicant has advised that evidence can be provided by way of statutory declarations to rebut the presumption of the extent of the highway as alleged by the Highway Authority. This evidence stems back to over 40 years and that the land (now alleged to be part of the public highway) in a private capacity and in conjunction with, a public house pre 1975 too. The evidence will show that the land in question has always been maintained privately by the applicant and his predecessors. This matter is ongoing.

Neighbour Impact

- 5.27 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.

Affordable Housing

5.28 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.

5.29 In this case because the development is proposing 4 units there is a 35% affordable housing requirement equating to the provision of 1 unit. Notwithstanding the Council's affordable housing policy 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."*

5.30 The implications of this new piece of Government guidance 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

6 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. it is considered that the duty to be positive and proactive has been discharged through dialogue with the applicant and agents to establish the extent of the application submission and gather additional supporting information.

Conclusion

- 7 On the basis that the lawful use of Otmoor Lodge is as a hotel (Class C1 of the Town and Country Planning (Use Classes) Order 1987 (as amended)), the proposed development does not involve the loss of a village service which serves the needs of the local community. As such, the proposed development is not contrary to para 28 of the NPPF, para C205 of the Submission Local Plan and policy S29 of the ACLP.

6. Recommendation

Approval, subject to:

The following conditions:

Full Application: Duration Limit

The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

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

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.