

<b>Application No:</b> 11/00157/F	<b>Ward: Ambrosden &amp; Chesterton</b>	<b>Date Valid:</b> 01.02.2011
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<b>Applicant:</b>	Bicester Hotel, Golf & Spa, Akeman Street, Chesterton, Bicester, OX26 1TE
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<b>Site Address:</b>	Bicester Golf & Country Club, Akeman Street, Chesterton, Bicester, OX26 1TE
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**Proposal:** Removal of Condition 2 of 09/01357/F.  
 Within 2 months of the date of this permission, a scheme for the traffic calming of nearby access routes shall be submitted to and approved in writing by the Local Planning Authority. The agreed works shall be undertaken within a further six months in accordance with the approved details.

## 1. Site Description and Proposal

### 1.1 Site

The Bicester Hotel, Golf & Spa is an established leisure facility to the south west of Bicester and close to the village of Chesterton but within the open countryside. Access to the car park which serves the Hotel, from Bicester, is off Akeman Street (A4095) along an unnamed classified road and north off Green Street. There is also an access directly onto Akeman Street. Most of the land immediately surrounding is given over to the golf course and wider landscape is characterised by arable farmland and open countryside.

### 1.2 Proposal

This application seeks to remove a condition imposed on planning permission 09/01357/F relating to the use of the Bicester Golf & Country Club for overnight accommodation.

### 1.3 The condition reads:

*Within two months of the date of this permission, a scheme for the traffic calming of nearby access routes shall be submitted to and approved in writing by the Local Planning Authority. The agreed works shall be undertaken within a further six months in accordance with the approved details.*

*Reason - In the interests of highway safety and to comply with Government advice contained in PPG13: Transport.*

### 1.5 Relevant Planning History

The planning history to this site is quite lengthy and available to view in a comprehensive list on the case file and can be accessed electronically via our website. The following are considered to be the most relevant to this case:

- 03/01050/F – Planning permission granted for this reapplication of partially implemented permission CHS.344/90 to show redesigned extension to existing golf clubhouse inc. fitness gym, swimming pool, health and beauty suite, 52 No. bedrooms. Ancillary service yard, access road, alterations to existing golf course

- and landscaping. Amendments to 02/00182/F (as amended).
- 05/01327/F – related to a condition which stated ‘That over night accommodation hereby permitted shall be occupied only by Members of Bicester Golf & Country Club, their guests and members of visiting golf societies’. Reason – In the interests of highway safety, amenity of neighbouring residential properties and to retain planning control over a development where a hotel would not normally be permitted. The application was refused the subsequent appeal was dismissed
  - 09/01357/F – This application sought to remove the condition referred to above. Consent was granted for this proposal subject to the condition subject of the application currently under consideration.
  - 10/01169/F – Planning permission granted for, inter alia, the relocation of the service entrance to Bicester Golf & Country Club. Two access points are approved onto Akeman Street, one for the dwelling house and the other to serve the Club.

## 2. Application Publicity

- 2.1 The application has been advertised by site notice, neighbour letter and press notice. The final date for comment was 17 March 2011. No third party correspondence has been received.

## 3. Consultations

- 3.1 Whilst all the responses to the consultation exercise are detailed on the core file, available electronically via our website, a summary of the submissions received is provided below:
- 3.2 Chesterton Parish Council: **Object.** No traffic calming measures are proposed. From the minute the hotel was completed CDC have been ineffectual and following the decision in Sept 2009 continued to be so, as were OCC Highways.
- 3.4 Oxfordshire County Council (Highways): **No objection.** The LHA has concerns of the hotel use in this location due to increased traffic on a rural part of the highway network and accessibility by sustainable modes of transport. The previous permission withdrew control, restricting hotel residence to members and visiting societies. The withdrawal of this control would increase the number of trips to and from the site; however, the significance of trips generated by the proposal would not support the need for traffic calming and so the condition would not meet the tests of circular 11/95. The Local Highway Authority does not wish to object to the removal of the condition.

## 4. Policy Considerations

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|-------------------------------|---|
| National Policy Guidance      | <ul style="list-style-type: none"> <li>• PPS1 - Delivering Sustainable Development</li> <li>• PPS4 – Planning for Sustainable Economic Growth</li> <li>• PPG13 – Transport</li> </ul> |
| South East Plan 2009 Policies | <ul style="list-style-type: none"> <li>• Cross Cutting – CC1: Sustainable Development</li> <li>• Spatial Strategy – SP3: Urban Focus and Urban Renaissance</li> </ul>                 |

- Tourism & Related Sports & Recreation – TSR2: Rural Tourism
- Transport - T1: Manage & Invest

Adopted Cherwell  
Local Plan 1996

No relevant saved policies.

## 5. Appraisal

### 5.1 Introduction

This application relates to the removal of a condition and Government advice is clear in Circular 11/95 that any condition imposed on a planning application should not be retained unless there are sound and clear-cut reasons for doing so. Further guidance is offered relating specifically to occupancy conditions. The Circular states 'Conditions restricting occupancy to a particular occupier or class of occupier should only be used when special planning grounds can be demonstrated and where the alternative would normally be refusal of permission'.

### 5.1 Background

The golf club was granted consent in 1990 for the demolition of the existing buildings and the erection of a new golf headquarters. Further permissions were granted in 2002 and 2003 which related to design amendments. In 2005, the applicants applied to remove an occupancy condition (05/01327/F refers) but this was refused on grounds that it would be likely to generate some demand for tourism unrelated to golf at this site. Given the isolated location of the site this non golfing element is likely to be highly reliant on the private car and to generate increased levels of car borne traffic, contrary to government guidance and policy. These elements should be located in a town centre and in accordance with a sequential approach which has not been applied in this case which is also contrary to policy.

A subsequent appeal was dismissed. It is noted from the Inspector's report that any need for good quality hotel accommodation for Bicester should be met in Bicester. With the condition in place there would be less travel on the surrounding road network and that in the interests of road safety it would be preferable for fewer movements to take place. It was considered that the amenity of neighbouring residents would not be affected. Finally, the location of the hotel development should be assessed sequentially. The issue of enforceability was also addressed.

Application 09/01357/F attempted once more to remove the occupancy condition and Members approved the application subject to 2 new conditions, one of which is the subject of this application. It should be noted that the contested condition was not recommended by your officers. The other relates to the requirement to produce a Green Travel Plan (GTP) and whilst no formal discharge of condition has been submitted there are details on this application relating to the GTP. At this moment, the submitted GTP includes practical measures and objectives but does not contain sufficient detail to discharge the condition of the previous planning permission.

This application has been submitted because the applicant considers that there is no demonstrable requirement for traffic calming in nearby access routes. Discussions have been held with the County Council, as Highway Authority, and the GTP is offered as a means to ensure that an increasing number of visitors to the

site arrive by means other than the private car.

#### 5.2 Planning Policy relating to Hotels

Whilst it is noted that the reason for the imposition of the condition relates purely to highway safety matters and compliance with PPG13, the original reason for the related occupancy condition being imposed and as discussed by the Inspector in the 2005 decision, takes the debate wider and includes matters of the need to centrally locate hotels into town centres, and that the sequential test should be applied. PPS4 is the most relevant government guidance to address this matter and the situation remains that the vitality and viability of town centres should continue to be promoted as important places for communities. South East Plan policies seek a similar urban focus. Hotels should be focused in existing centres and this will have the knock on benefit of protecting the open countryside.

Most of the policy references relate to new build tourist facilities. In this case there is no further pressure being put on the open countryside in terms of take up of land. Also, there is no evidence at this time that the vitality and viability of Bicester town centre would be harmed in any way given its current investment level. Your officers hold the view that there would be no conflict with these policies as a result of allowing this proposal and that the matters are confined purely to highway safety.

#### 5.3 Impact on Highway Safety

Guidance on highway safety matters is offered centrally by PPG13 which is still relevant. Advice is also sought from the County Council and this application was referred to their headquarters. Having debated the matter, the County Council have concluded that they have no objection to the application, holding the view that the number of trips related to this use does not support the need for such measures. Your officers hold the view that the traffic calming measures would be disproportionate to the existing activities at the hotel and the amount of traffic along the affected roads in the vicinity are not all related to the hotel.

It should also be noted from the OCC website that works are underway for the slip roads to Chesterton off the A41 to be closed and replaced by the new roundabout for the Bicester SW Perimeter Road and to include a new link road to Chesterton. The view is held that this will reduce through traffic to Chesterton.

#### 5.4 Appropriateness and enforceability of the Condition

Circular 11/95 sets out 6 tests to determine whether or not a condition should be imposed on a planning permission. Conditions should not be imposed unless they are both necessary and effective and do not place unjustifiable burdens on applicants. As a matter of policy, conditions should only be imposed where they satisfy all of the tests namely; necessary, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable

Consideration is given to whether or not the condition is necessary and it should be noted that during the 15 months since the condition was imposed, the County has confirmed that the results of a traffic speed survey they undertook would not support further traffic calming measures under OCC criteria. Mention has been made to a footway but the County Council are of the opinion that this would not be appropriate either and would be an unreasonable request of the applicant. The applicant still needs to comply with condition 1 of the original application (09/01357/F) which relates to the GTP and once finalised will ensure that trips by private car are kept to

a minimum.

It is clear that if the condition were to remain, this Council would have to take enforcement action against the applicant as this is the next logical step. However, such action would need to be supported by evidence that this condition is necessary. It is concluded, therefore, that the condition does not pass this test of being necessary.

Also the view is held that a condition which has no relevance to planning is *ultra vires*. In this case, the condition was imposed for highway safety reasons in compliance with PPG13 but it is shown above that it is not necessary and does not serve the purpose for which it was intended. It is considered that the GTP can achieve the same objective so it is further argued that the condition is not reasonable. We have an undertaking from the applicants agent that works will continue in this regard.

5.5 Other matters raised by the applicant and/or supporters

Chesterton Parish Council hold the view that their views have been ignored by CDC and the County Council and that the applicants have ignored all proper requests to take this matter forward. It is the view of your officers that the proper procedures have been followed in this case. OCC have undertaken traffic survey works to determine whether or not the traffic calming measures being sought are reasonable and have concluded they are not.

It is completely in order for the applicant to submit an application to remove the condition under Section 73 of the Town and Country Planning Act 1990. This is the only appropriate route for the applicant to take in order for this Authority to assess whether or not there would be any harm caused using the criteria in Circular 11/95.

5.6 Conclusion

The condition was imposed for matters of highway safety. These matters have been thoroughly investigated by the County and surveys reveal that traffic calming measures are not necessary. The imposition of the condition therefore fails the tests laid down in Circular 11/95. If this application is refused, enforcement action should logically follow but there is no evidence to support such action. The view is held that the Green Travel Plan when agreed and applied under condition 1 of 09/01357/F will be appropriate.

<b>6. Recommendation</b>
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<b>Approval (no conditions)</b>
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