



Appeal Decision

Site visit made on 10 October 2018

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 November 2018

Appeal Ref: APP/D3125/W/18/3205571

Cotswolds Hotel and Spa, Southcombe, Chipping Norton, Oxfordshire, OX7 5QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Glucka Wijesuriya, Cotswolds Club Chipping Norton, against the decision of West Oxfordshire District Council.
 - The application Ref 18/00645/S73, dated 28 February 2018, was refused by notice dated 16 May 2018.
 - The application sought planning permission for the erection of a three-storey extension to the existing hotel for use as 20 self-catering apartments, extension to hotel reception, erection of a building housing fitness studios, gym, swimming pool and spa facilities, and associated access, car parking, infrastructure and landscaping (Amended drawings) without complying with a condition attached to planning permission Ref 17/01758/FUL, dated 26 January 2018.
 - The condition in dispute is No 16 which states that: The occupation of the accommodation hereby permitted shall be limited to holiday tenancies not to exceed 6 weeks (in each case) and no person shall occupy the accommodation in consecutive tenancy periods. None of the apartments are to be used at any time as permanent accommodation or as a primary place of residence. The owner shall provide upon request by the District Council a list of all the persons who in the twelve (12) month period leading up to the date of such a request have occupied one or all of the apartments (such list is not to be unreasonably withheld or delayed).
 - The reason given for the condition is: The accommodation is on a site where residential development would not normally be permitted, and is unsuitable for continuous residential occupation.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a three-storey extension to the existing hotel for use as 20 self-catering apartments, extension to hotel reception, erection of a building housing fitness studios, gym, swimming pool and spa facilities, and associated access, car parking, infrastructure and landscaping (Amended drawings) at Cotswolds Hotel and Spa, Southcombe, Chipping Norton, Oxfordshire, OX7 5QH in accordance with the terms of the application, Ref 18/00645/S73, dated 28 February 2018, without compliance with condition number 16 as originally imposed on planning permission Ref: 17/01758/FUL, dated 26 January 2018, but subject to a varied condition 16, and also subject to the conditions set out in the attached schedule.

Procedural Matters

2. The address within the banner heading at the start of this decision is taken from the appeal form rather than the original planning application form. The address on the planning application form refers to the "road from Chipping Norton to Oxford Road Southcombe" which I consider to be a vague and unnecessary component of the address. This reference is removed on the appeal form and as such, that version is more precise.
3. During the course of the appeal, the revised National Planning Policy Framework (the Framework) has been published. The Council has also adopted the West Oxfordshire Local Plan 2011 – 2031 (2018) (LP) during the course of the appeal, and a written ministerial statement regarding housing land supply in Oxfordshire was made on 12 September 2018.
4. Both main parties were given an opportunity to comment on any relevant implications of these events for the appeal, and any comments received have been taken into account in my reasoning.

Main Issue

5. Planning permission was granted for an extension to the hotel to provide 20 self-catering apartments, amongst other things. Condition 16 of this permission restricts occupancy of the accommodation so as to prevent continuous residential occupation due to the location of the appeal site which is located in the open countryside. Local policy is restrictive in relation to housing within the open countryside and therefore the need for a restrictive condition is common ground between the main parties.
6. The main issue is therefore whether varying the condition would continue to fulfil the purpose of restricting the occupancy of the extension to holiday accommodation only, bearing in mind the site's location within the open countryside.

Reasons

7. The appellant does not dispute the need for a restrictive condition. However, the concern relates to what the appellant has termed the "extra restrictions" of the condition. These being the limitation of tenancies not to exceed 6 weeks and that no person shall occupy the accommodation in consecutive tenancy periods. It is suggested that these restrictions affect potential investment into the business-model although little evidence has been provided to support this claim.
8. The reason for the original condition states that residential development would not normally be permitted on this site and states that the site is unsuitable for continuous residential occupation. However, in its evidence, the Council also states that the aim of the condition is to achieve holiday accommodation and not just to avoid permanent dwellings.
9. The supporting text to Policy E4 of the LP states that proposals for tourist accommodation in locations where new dwellings would not normally be permitted will be subject to planning conditions or legal agreements restricting buildings to holiday accommodation use. However, no reference is made in the policy or the supporting text in relation to limiting tenancy periods.

10. The Council considers that the varied condition would be harder to enforce because it removes the time limit. Accordingly, it is suggested that the variation is less precise. Although 6 weeks would appear to be longer than most holiday periods, there is no substantive evidence before me that identifies why 6 weeks would be an appropriate or necessary restriction beyond that achieved in the varied form of words.
11. In its varied form, the condition would still restrict the use of the accommodation for holiday purposes only. It would retain the reference to apartments not being used as permanent accommodation or as a primary place of residence. Moreover, the Council could still direct for a list of persons who had occupied the apartments in a 12 month period. The proposal would therefore not be tantamount to the creation of new dwellings in the open countryside for which there would be no overriding justification.
12. The occupancy restriction would not be as onerous as the Council originally desired. However, there is nothing in the evidence before me that establishes an indisputable need for the extra restrictions. Furthermore, the varied condition would still comply with the tests established in the Framework.
13. The Council has brought to my attention a dismissed appeal that considered a similar occupancy condition. The full details of that appeal are not before me. However, it appears that the particular appeal sought the removal of the condition in its entirety and consequently, the Inspector concluded that such an approach would have resulted in a new dwelling in the open countryside. In seeking to remove the condition, that appeal was materially different to this proposal in which the appellant accepts the need for the condition. I am therefore satisfied that I am not bound by the findings of a previous Inspector.
14. I therefore conclude that the varied condition would continue to fulfil the purpose of restricting the occupancy of the extension to holiday accommodation only. As such, it would accord with Policies H2, E4, OS2 and EH1 of the LP which, taken together, identify the Council's approach to the delivery of new homes, seek to locate development in the right places so as to conserve and where possible enhance the intrinsic character of the local landscape, and promote tourism and leisure development which utilises and enriches the natural environment of West Oxfordshire to the benefit of visitors and local communities.

Conditions

15. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
16. Conditions 1, 2, and 3 are imposed in the interests of certainty and precision, and conditions 4, 5, and 6 are necessary due to the rural sensitivity of the appeal site and the need to achieve high quality architectural detailing. In the interests of highway safety and in relation to car parking provision, conditions 7

and 8 are necessary, and conditions 9, 10, 11, and 12 are necessary to promote alternative means of transport.

17. Condition 13 is necessary in the interests of flood risk and conditions 14 and 15 are necessary to ensure construction does not result in any highway safety concerns or undue disruption and nuisance to neighbouring properties. These three conditions require details to be agreed prior to the commencement of development as they are matters that cannot be legitimately resolved after building work commences. The appellant has provided written confirmation in relation to the acceptability of these conditions.
18. Condition 16 remains necessary in its amended form so as to restrict the occupancy of the extension approved.
19. Some of the conditions set out below include 'tailpieces' that enable alterations to the details required by the conditions. I have retained these 'tailpieces' as I consider that they would only allow for minor variations to the scheme and would therefore not compromise the interests of third parties.

Conclusion

20. For the reasons identified above, the appeal is allowed. I will therefore grant a new planning permission subject to a varied version of condition 16.

Martin Chandler

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. That development be carried out in accordance with the following approved plans: 160-22 18; 160-22 19; 16-022 27 C; 16-022 26 D; 16-022 25 D; 16-022 32 B; 16-022 31 C; 16-022 28 C; 16-022 24 C; 16-022 20 C; 16-022 23 D; 16-022 12 G; 16-022 21 B; 16-022 30 B; 16-083-D201 A.
3. The development shall be carried out in accordance with the plan(s) accompanying the application as modified by the revised plan(s) deposited on 31 October 2017 and 17 October 2017.
4. Before above ground building work commences, a schedule of materials (including samples) to be used in the elevations of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in the approved materials.
5. Notwithstanding the details contained in the application, detailed specifications and drawings of all external windows and doors, to include elevations of each complete assembly at a minimum 1:20 scale and sections of each component at a minimum 1:5 scale and including details of all materials, finishes and colours, shall be submitted to and approved in writing by the Local Planning Authority before that architectural feature is commissioned/erected on site. The development shall be carried out in accordance with the approved details.
6. The window and door frames shall be recessed a minimum distance of 75mm from the face of the building unless otherwise agreed in writing by the Local Planning Authority.
7. The visibility splay shown in submitted RPS Drawing no JNY8786 shall be maintained and kept free from obstruction above 0.6m high prior to the occupation of any of the development, unless otherwise agreed to in writing by the Local Planning Authority. Thereafter the means of access shall be constructed and retained in accordance with the approved details.
8. The development hereby approved shall not be occupied until car parking spaces to serve the development have been provided according to details that have previously been submitted to and agreed in writing by the Local Planning Authority. All car parking shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter, unless otherwise agreed in writing beforehand by the Local Planning Authority.
9. Prior to the first use of the development hereby permitted, full details of a route for pedestrians and cyclists to the development from the London Road (A44) shall be submitted to and approved in writing by the Local Planning Authority. The route must be signed, lit and give convenient access for cyclists to cycle parking. The approved details will be implemented prior to first occupation of the development.
10. The development hereby approved shall not be occupied until 7no cycle parking spaces located to the west of the hotel reception and shown on the submitted Site Plan (Acanthus Clews Drawing No 16_022_12G) shall be covered prior to the first occupation of any development, with details of the

cover to be submitted and agreed in writing by the Local Planning Authority. The cycle parking shall be retained unobstructed except for the parking of cycles at all times thereafter, unless otherwise agreed in writing beforehand by the Local Planning Authority.

11. Prior to occupation, a Travel Plan Statement meeting the requirements set out in the Oxfordshire County Council guidance document, "Transport for New Development; Transport Assessments and Travel Plans" shall be submitted to and approved in writing by the Local Planning Authority.
12. Travel Information Packs, the details of which are to be submitted to and approved in writing by the Local Planning Authority prior to first occupation, shall be made available to every occupant of the self-catering apartments.
13. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:
 - Discharge rates
 - Discharge Volumes
 - Maintenance and management of SUDS features (including contact details of surface water management company)
 - Sizing of features – attenuation volume
 - Infiltration in accordance with BRE365
 - Detailed drainage layout with pipe numbers
 - SUDS (list the SUDS features within the FRA to ensure they are carried forward into the detailed drawing strategy)
 - Network drainage calculations
 - Phasing
 - Pipes sizes must be included in the strategy
 - Soakage test results to be supplied
14. Prior to the commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. The CTMP shall include a commitment to deliveries only arriving at or leaving the site outside peak traffic periods. Thereafter, the approved CTMP shall be implemented and operated in accordance with the approved details.
15. Prior to the commencement of any works on site, a construction management plan shall be submitted to and be approved in writing by the Local Planning Authority. The construction management plan shall contain, among other items, details of how dust and noise from the construction process are to be kept to a minimum.

16. The occupation of the accommodation hereby permitted shall be limited to holiday purposes only. None of the apartments are to be used at any time as permanent accommodation or as a primary place of residence. The owner shall provide upon request by the District Council a list of all persons who in the twelve (12) month period leading up to the date of such a request have occupied one or all of the apartments (such list is not to be unreasonably withheld or delayed).