

**Item No: 7**

**Reference: B/09/01337/FUL**

---

**Parish: CHELMONDISTON**

**Location: Foresters Arms, Main Road, Chelmondiston**

**Proposal: Change of Use, extension and alterations to for 3 no. units (one, two and three bedrooms)**

**Applicant: Mr M Frankland**

**Case Officer: Deborah Board**

**Date for Determination: 14.07.2010**

---

**Members are advised that this application is reported to Committee in order to obtain the Committee's resolution, following receipt of an appeal against non-determination. As such the District Council can no longer determine the application but must convey its position were it in a position to determine it.**

#### **THE SITE**

1. The application site is located within the built up area of Chelmondiston. The site contains a former Public House (The Foresters Arm) with a flat above. The built form of the pub extends across the site frontage with an access under the building through to a car parking area at the rear. The site is located within the built up area of Chelmondiston and the AONB.

#### **THE PROPOSAL**

2. In the absence of decision, the applicant has elected to appeal against non determination. Members are requested to consider the following report and to confirm the position the Council is to take on appeal.
3. The application seeks full planning permission for the change of use, extension and alteration of the former public house known as The Foresters Arms. The application proposes to re open the public house on the ground floor providing a 'Real Ale Experience'.
4. The proposal includes a two storey extension to the rear (north) of the building, which would facilitate the provision of a kitchen, store and toilets at ground floor and three residential units over the first and second floors. The site currently contains one residential unit (3 bed) above the pub and so the development represents a net gain of two units.
5. The application documents can be viewed on line via the planning pages on the District Council's website.

#### **RELEVANT HISTORY**

6. B/08/01493/FUL - Change of use from public house to residential dwelling, Refused and Dismissed at appeal
7. B/07/01305/FUL - Change of use from public house to residential dwelling, Refused and Dismissed at appeal.

#### **NATIONAL GUIDANCE**

8. **PPS1** – Delivering Sustainable Development
-

9. **PPS3** – Housing
10. **PPS9** – Biodiversity and Geological Conservation

## **PLANNING POLICIES**

11. The Development Plan comprises saved policies in the Suffolk Structure Plan, adopted 2001, and saved policies in the Babergh Local Plan (Alteration No. 2) adopted 2006. The following policies are relevant to this proposal:

### **Babergh Local Plan (Alteration No.2) 2006**

- **CR20** (Protecting Existing Village Facilities)
- **EM24** (Retention of Existing Employment Sites)
- **CN01** (Design Standards)
- **HS02** (Villages)
- **HS03** (Non Sustainable and Sustainable Villages)
- **EM01** (General Employment)
- **EM20** (Expansion of Existing Employment Uses)
- **CN01** (General Design)
- **TP01** (Pedestrians)
- **TP03** (Provision of Cycle Routes)
- **TP15** (Parking Standards – New Development)
- **TP16** (Green Travel Plans)

**The relevant policies can be viewed on line. Please see Page 3 for details.**

## **CONSULTATIONS**

12. PC – recommend refusal for the following reasons:
  - The re opening of the premises as a local pub would be a threat to the established business, The Red Lion, the village cannot support two pubs;
  - No parking facilities have been made for customers which would cause a problem with cars being parked along Main Road.
13. LHA – to be reported
14. EA - Standing advice for surface water management
15. SWT – record of brown long eared bats from the property and the property should be surveyed for the presence of bats prior to the application being determined.
16. NE – advise that no evidence of a bat roost were found when visiting the property and advise that the proposed work proceed as planned as it is very unlikely to affect Bats or their roost.
17. Trees – The TPO on site has been revoked as the tree blew down in a storm in 2002.
18. Environmental Health – no adverse comments from a food hygiene perspective. There is potential for loss of amenity to the proposed units through noise and odour. In order to make an assessment of the potential loss of amenity due to noise the proposed hours of opening and position of the smoking area should be submitted to the planning authority for approval. In addition a scheme of extraction should be submitted prior to installation and any approval should include a condition to prohibit amplified and live music.

## REPRESENTATIONS

19. Three letters of representation have been received and the comments are summarised as follows:
- Insufficient demand for another pub;
  - There is no room on the site for adequate parking for three flats and the customers of the pub. Therefore customers would park on the main road, causing hazard and inconvenience;
  - Not meeting local housing need – there is no need for accommodation for visitors;
  - Overdevelopment – the site cannot accommodate three flats as well as a viable pub, development should be proportionate with what the site can accommodate;
  - This is not a viable business site as it is surrounded by residential dwellings.

## PLANNING CONSIDERATIONS

### Principle of Development

20. The application site is located within the built up area of Chelmondiston. Policy CR20 of the Babergh Local Plan seeks to retain and protect village facilities, such as public houses. Chelmondiston is identified as a Sustainable Village for the purposes of policy HS03 and the provision of three units at first floor would therefore be acceptable in principle subject to satisfactory design and layout arrangements.

### Relationship to Surrounding Properties

21. Policy CN01 of the Local Plan seeks to resist development that would have a materially adverse impact on residential amenity and seeks well designed layouts that provide an appropriate scale, density and form and relate well to their surroundings.
22. The site sits between a terrace of cottages, 1-9 Main Road and a two storey property known as Long Reach. The application proposals in terms of the rear extensions would not change the relationship between the properties 1-9 Main Road and the application site. The extensions proposed would be sited on the west side of the building and would be located 6 metres from the shared boundary with Long Reach. This in combination with the relative positions and orientation of the properties is such that the proposal would not result in overlooking or loss of light to Long Reach.
23. The remaining relationship that requires consideration is that between the public house use and the three units proposed at first floor. The main issues are the potential noise from the public house, odour and location of the smoking area. It is considered that these issues are not insurmountable and could be resolved through the submission of a noise survey and soundproofing details, details of the extraction proposed for the kitchen and agreement with the applicant regarding the location of an outdoor smoking area. Had the applicant not appealed then these details would have been requested in advance of reporting the application to Members for consideration. In addition in order to control noise from the public house conditions are recommended prohibiting live and amplified music and restricting hours of opening.

## **Design and Layout**

24. Policy CN01 of the Local Plan seeks to resist development that would have a materially adverse impact on residential amenity and seeks well designed layouts that provide an appropriate scale, density and form and relate well to their surroundings.
25. The design of the proposed extension is modern in its approach but is of a simple form and appropriate scale, which if executed in quality details and materials, would not be harmful to the locality or host property.
26. The layout to the rear of the building makes provision for a communal garden area and five car parking spaces for the proposed flats in the area that has previously been utilised as a pub car park area. The garden area is of a reasonable size (190 sq m) and would be laid to grass and decked areas. The detail of this area and how it would be gated/divided off for private use can be controlled by condition.

## **Highways**

27. The key policies to consider are TP03, TP15 and TP16 of the Babergh Local Plan. These policies seek development that is well laid out in terms of site access and highway safety, traffic flow and the environment and where appropriate seek the submission of a Travel Plan. The maximum car park standards for a residential development in a suburban/rural area are provision of a maximum of two spaces for a three bedroom property. The proposal provides two spaces for the three bed unit and leaves a further three spaces for the two and one bed units to share. This level of provision is considered acceptable in this location with Chelmondiston being a sustainable village.
28. The site has an existing access from Main Road that served the Public House car park from a drive through arrangement that led to the rear of the building. The comments of the LHA are awaited and will be reported to Members via the addendum if received.

## **Other Material Considerations**

### Protected Species

29. PPS9 sets out that development would not be permitted which would have a material adverse impact on protected species. The applicant has undertaken a bat survey as part of the planning application submission and this has confirmed that the proposals would not have an adverse impact on bats.

### Trees

30. The Council's Arboricultural Officer confirmed that the protected tree to the rear of the site blew down in 2002 and consequently the TPO was revoked. There are no other significant trees affected by the development.

## **Planning Obligations**

31. Policy HS32 of the adopted Local Plan requires all applications proposing new dwellings to make provision for public open space. This is either in the form of on-site provision (minimum of 10% of the application site area) or off-site provision in the form of a commuted payment. In this case, given the constraints of the site on site public open space provision is not considered appropriate. A payment towards off-site public open space provision/improvement could be secured via a S106 Agreement.

32. In accordance with the Community Infrastructure Levy Regulations, 2010, the obligations recommended to be secured by way of a planning obligation deed are (a) necessary to make the Development acceptable in planning terms (b) directly related to the Development and (c) fairly and reasonably relate in scale and kind to the Development.

### **REASON FOR APPROVAL**

33. Having regard to the pattern of existing development in the area and the relevant provisions of the development plan, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan, would not materially harm the character or appearance of the area or the living conditions of neighbouring occupiers and would be acceptable in terms of traffic safety and convenience.

### **RECOMMENDATION**

- (1) That had the applicant not appealed to the Secretary of State against non-determination, the Council would have refused planning permission for the following reasons:-
- (a) The absence of a planning obligation to mitigate the impact of the development (in relation to public open space provision and HS32).
  - (b) The absence of sufficient information on the proposed method of extraction, location of the smoking area and any details relating to any necessary soundproofing of the flats, and restrictions on prohibition of amplified and live music so as to prove that the proposal would not be harmful to the residential amenities of the occupiers of the flats.
  - (c) Any as recommended by the CHA.
- (2) That the Chief Planning Control Officer (and LHA if appropriate) defend the Councils position on appeal on the above grounds.
- (3) That the Solicitor to the Council seek to secure a Planning Obligation under S106 of the 1990 Act to be presented to the Secretary of State providing that should the appeal be allowed and planning permission be granted, seeking the following:-
- A satisfactory financial contribution towards public open space.