

**IN THE MATTER OF  
A PLANNING APPEAL  
REFERENCE APP/C3105/A13/2190714**

**CONCERNING**

**THE BISHOP BLAIZE  
BURDROP  
SIBFORD GOWER  
OXFORDSHIRE  
OX15 5RQ**

**ADDENDUM  
TO PREVIOUSLY SUBMITTED  
VIABILITY ASSESSMENT  
BY JOHN JOSEPH KEANE**

## **1.0 INTRODUCTION**

- 1.1** I have been asked by Mr Ross Chambers, a solicitor in the Law and Governance Department of Cherwell District Council, to provide an update to my earlier Viability Assessment dated July 2012 in respect of The Bishop Blaize Public House.
- 1.2** This update is required in connection with an appeal by Mr Geoff and Mrs Jackie Noquet against the refusal of planning permission by Cherwell District Council for a change of use of The Bishop Blaize Public House from A4 public house to C3 residential.
- 1.3** To assist me I have been provided with a Number Of Documents Including An Undated Viability Report By Mr Barry Voysey, A Hearing Statement By The Appellant, a Report and Statement of Case by the Local Planning Authority and copy e-mails in connection with offers that had been made to purchase The Bishop Blaize. In addition I have referred back to my earlier Viability Assessment of July 2012.
- 1.4** I have not re-inspected the premises as I understand that they are essentially unchanged since my last inspection on 6<sup>th</sup> June 2012. I note, however, that at Paragraphs 5.5 - 5.8 of Mr Dean's Report he refers to an alleged change of use from A4 public house to A1 retail that has taken place in respect of the bottle store. As my instructions relate to the Viability of The Bishop Blaize I do not consider such a change to be of sufficient importance to warrant a further inspection.
- 1.5** My focus in preparing this Addendum is to re-consider the issue of viability in light of current economic and market conditions, to reconsider the capital valuation of the property and to identify areas of agreement and disagreement between Mr Voysey and me. These headings do not stand alone and inevitably merge into each other and so it may assist the Inspector if I approach this by addressing the areas of agreement and disagreement between Mr Voysey and I from which a wider ranging consideration of the issues may be had.

## **2.0 AREAS OF AGREEMENT**

**2.1** Perhaps not surprisingly Mr Voysey and I are in agreement over much of this matter and our differences are more concerned with emphasis and degree than substance. Such differences, when taken individually, may seem relatively minor but when taken together have led us to come to two divergent conclusions – Mr Voysey that The Bishop Blaize is not viable in the longer term and I that it is.

**2.2** An example of how our emphasis can be different can be found at Paragraph 4.5 of Mr Voysey's Report in which he says "the road layout is likely to result in occupants of vehicles approaching the public house from the south not sighting the building until almost past". I accept that there is an element of truth in that but it is equally true of many other pubs and does not address the fact that village pubs such as The Bishop Blaize, and The Wykham Arms for that matter, do not rely on passing trade but are rather village pubs that also attract a destination trade.

**2.3** Another example is the way in which Mr Voysey and I treat the views that are to be had from the rear and garden of the property. Mr Voysey makes no reference to the impressive views from the rear of the property either in the property section of his Report (Section 5.0) or in his consideration of food led operations at Sections 8.1.24 - 8.1.27. At 8.1.27 he points out that "smaller public houses with lower volume food sales, particularly situated in the rural area, have found [it] increasingly difficult to compete with [corporate operators] unless they have a unique attraction, or selling point". In my opinion the views that The Bishop Blaize enjoys over The Sibford Gap are such a unique attraction or selling point, which, incidentally, was a conclusion also reached by Mrs Morgan at Paragraph 46 of her decision in the previous appeal.

### **2.4 The National Picture**

**2.4.1** Turning to Mr Voysey's overall assessment of the pub market

– Section 8.1 // The National Picture – I find that I am largely in agreement with him and indeed have used similar data concerning beer volumes and pub closures in my own Reports. Such an analysis provides a useful backdrop but it can reduce one’s focus on the specific advantages and disadvantages of a given property. Most pub closures for instance, have involved brewery or pub company sell-offs of pubs that have often suffered from many years of neglect, unsustainable rents and, consequently, a history of “revolving door” licensees. Often, though admittedly less so recently, they were of pubs in run-down town and city locations and they continued to trade because of an extended property bear market when in reality they should have closed many years earlier. By contrast, until the Appellants decided to close The Bishop Blaize it had a proven history of generating good profits and featured in both The Good Pub Guide and The Good Beer Guide.

**2.4.2** Despite my general agreement with Mr Voysey I think he is somewhat selective in his consideration of the growth in the eating out market. The reference to The Association of Licensed Multiple Retailers concluding that “if you want to make a profit – forget food” referred to a provocative debate involving 100 people at The Restaurant Show in 2007 rather than a piece of considered research and, in my opinion, is less convincing than the recently announced financial results of M&B, J D Wetherspoon, Marstons, Spirit Group and Greene King that all show continued growth in the sector (Appendix1). I would agree, however, that it has been the large corporate chains, especially those with a “value” offering, that have seen the most growth in the sector.

**2.4.3** The same can be said of his quoting of Jonathon Leinster at Paragraph 8.1.16 – “Eating out as a share of total food sales peaked in 2005..... That is to say the eating out market is a poor one, but we are suggesting that the backdrop is not as

constructive as some believe and is no panacea for a ..... poorly located pub". The full quotation, however, reads "is no panacea for a poorly invested, poorly located pub", which changes both the emphasis and the meaning of Mr Leinster's report. In my opinion, notwithstanding its voluntary closure by the Appellants, The Bishop Blaize is neither poorly invested nor poorly located.

## **2.5.0 Classification Of Pubs**

**2.5.1** As with Mr Voysey's comments on the national picture I find I am in general agreement with his comments concerning the characteristics of local wet-led pubs, destination food-led pubs and destination pub-restaurants (Paragraphs 8.1.19 - 8.1.30). I agree that a national corporate operator would not be interested in The Bishop Blaize and I think it unlikely that it would appeal to a "Gastro" operator, particularly as The Wykham Arms has already gone down that route. I also agree, by and large, with his comments on what constitutes a local-wet-led pub but I think that his later characterisation of The Bishop Blaize as a local wet-led pub with nominal food sales is rather simplistic for reasons that I will give further on in this Report.

## **2.6.0 The Sibfords Community Plan**

**2.6.1** I was interested to note that Mr Voysey had the benefit of reading the Sibfords Community Plan that was published in October 2010. That document was not available as at the date of either my last Report or the Public Inquiry at which I gave evidence.

**2.6.2** I have now read it myself I am not surprised that only 71

out of 535 responses said they used The Wykham Arms once a week and of those 55% said they used it for food and 45% for socialising. The Wykham Arms, in my opinion, is a destination “food-house” with main courses typically being in the £15.00-£16.00 price bracket. It promotes itself as a “gastro-pub” with its web-site emphasising the CVs of the owners, the quality of its wines – but not beers – and includes a review that refers to it as having been listed by The Daily Telegraph as “one of the best village restaurants in the country”. The Bishop Blaize, by contrast, was more of a village pub that attracted people from outside the village and that is how I believe it ought to be positioned were it to re-open.

### **2.7.0 Competition**

Mr Voysey’s schedule of competition at Section 8.3 *ff* includes all of the pubs that are mentioned in my own Report of July 2012 plus The Horse & Groom, Milcombe, The White Horse, Wroxton, The Pheasant, Tysoe, The New Inn, Wroxton Heath and The Dun Cow, Honiton. Mr Voysey’s schedule is a good synopsis of the competition in the area but his summary, I feel, paints a picture that is too black and white. I say that for three reasons :-

- 2.7.1** i) The Wykham Arms is not run as a traditional public house – it is a “gastro-pub” that has a bar area rather than a village pub that serves food;
  
- 2.7.2** ii) To state that the Sibfords have a population of 926 in 348 households does not prove that The Bishop Blaize is not liable. In my evidence to the previous public inquiry I said that few village pubs can survive on local trade alone and that most rely on attracting

outsiders to supplement local trade. That is clearly the case with The Wykham Arms and, I believe, would also be the case with a re-opened Bishop Blaize. To put the population of the Sibfords in the context of the competition I have attached at Appendix Three a Schedule showing the populations of the competitor pubs and their local populations. It is evident that a significant proportion of these villages have populations of less than 350 and of the six pubs that are closed, for sale or to let five of them have local populations of less than 300 and one – The North Arms, Wroxton – is one of two pubs in a village of 530 people. Using population as an analytical tool can be useful but in my view is a somewhat blunt tool.

**2.7.3** iii) It does not necessarily follow that the village cannot support two pubs because of the low level of declared support for The Wykham Arms. I think it is unlikely that the village alone can adequately support The Bishop Blaize but with a suitably differentiated offer and with the necessary trade from outside the village I believe both pubs can be viable.

**2.7.4** I do not have much to add to Mr Voysey's comments on the individual pubs but I may be able to assist the Inspector in the case of The Stags Head, Swalcliffe, The New Inn, Wroxton Heath and The North Arms, Wroxton.

**2.7.5** With reference to The Stags Head my firm carried out stocktaking services at the pub for the period 16<sup>th</sup> July 2010 – 7<sup>th</sup> March 2011. For that period wet sales were

£56,241 exc VAT, which would give an annualised wet turnover of approximately £87,000. Unfortunately, I am unable to provide any details regarding food sales. What is apparent, however, is that whether the overall turnover was £140,000 as G A Select's press release suggests, or something a little higher or lower, a rent of £24,000 p.a. as reported in the press release would have been unsustainable and in itself would cause viability issues.

**2.7.6** Turning to The New Inn, Wroxton Heath, Enterprise Inns' letting details (Appendix Four) indicate that over £400,000 has been invested in this site in recent years and that the guide rent is not £27,500 per annum but £27,500 per annum for year one with an expectation that the rent would rise to £45,000 thereafter on a tied basis. Taking an approximately 9%-10% rent would suggest that Enterprise's expectation is that Fair Maintainable Trade would be approximately £450,000-£500,000 per annum on a tied basis.

**2.7.7** Moving on to The North Arms, Wroxton, this is a pub with which I am familiar having acted in the last two tenancy changes in January 2007 and October 2010. This pub has seen little investment over the years and the kitchen and thatched roof in particular are poor. As a tied house it is competing with The White Horse, which in my opinion is a more attractive business proposition, and The New Inn further along the main road (see above). As a freehouse it would be better placed to compete and the Agent has advised me that it was sold relatively quickly at a price of £265,000.



## **2.8 Type of Operation**

**2.8.1** I have expressed the opinion elsewhere that in my view The Bishop Blaize is best suited to being a food-led village pub with an emphasis on traditional pub food and a good cask ale offer. It has a large beer garden and patio from which customers can enjoy the views over The Sibford Gap and a car park that is adequate in winter but is likely to be inadequate in summer.

**2.8.2** As to the likely level of Fair Maintainable Trade and subsequent profit Mr Voysey and I are apart. Mr Voysey's approach has been to analyse historic or assumed levels of trade at a number of competitor outlets and to derive an estimate of FMT from the analysis. My approach is to build up my estimate of FMT by making an assessment of barrelage – using comparable pubs available in the open market – and grossing that up using industry benchmarks. My estimate of the split between beer and cider sales on the one hand and wines, spirits and minerals on the other is based on my own experience and data compiled by Enterprise Inns (See Appendix Five). In estimating total beer and cider sales I adopted an average price per pint of £3.18 which is in line with the prices charged at The Wykham Arms - £3.00 for house ale rising to £3.65 for premium lager. In doing so I arrived at a total wet sales figure of £100,493 per annum exc VAT which is actually nearly £10,000 less than Mr Voysey's figure of £120.00.

**2.8.3** Our main point of divergence is in our respective assessments of food income. I have considered how, in a falling beer market, pubs have had increasingly to

change the focus of the business away from wet sales and towards food sales. In 2006, which is the last year for which we have accounts for Mr and Mrs Noquet's predecessors, the wet:dry split was approximately 66%/33% and in my opinion that split would have hardened to 55%/45%. My resultant estimated food turnover of £90,403 leads to a total net take of £200,897. This is only marginally higher than the annualised take for 2006 and is significantly less than would have been the case had trade simply kept pace with inflation. As a point of reference RPI between March 2006 and July 2012, when I prepared my Report, was approximately 23% which, if applied to an annualised turnover of £196,000 would give a figure of over £240,000 at July 2012 values.

**2.8.4** I have looked again at my estimate of FMT in the light of Mr Voysey's own estimate of £180,000 and in particular in light of the schedule of sales at Paragraph 9.4.6. of his Report. There is no single correct way to estimate FMT and Mr Voysey's approach is as equally valid as mine. I would comment, however, that whilst my estimate relies on an informed "bottom-up" approach Mr Voysey's relies on known trade information being available in the market. Each method has its weaknesses but insofar as Mr Voysey's schedule is concerned only three pubs – The Stag's Head, The Norman Knight and The Lampet Arms – have known trades and of those of The Stag's Head and The Norman Knight are now too historic to be of value. We do have some barrelage information for The Cherington Arms, which, with a local population of 245, lends some support to my estimate for The Bishop Blaize of 100 barrels. Of the other six pubs in Mr

Voysey's schedule none of them have any trade or barrellage evidence and in the case of The New Inn, Wroxtton Heath Mr Voysey's estimate of trade appears to be extrapolated from an incorrect asking rent.

**2.8.5** Moving on through our respective estimates of Fair Maintainable Operating Profit Mr Voysey takes a higher gross margin than mine – 58% as opposed to 56.3% - and a slightly higher percentage of working expenses – 36.9% to my 36.3%. To some extent these have a balancing effect but the net result is that Mr Voysey has estimated an operating profit of £38,580 compared to my £40,882.

## **2.9.0 Level of Return**

**2.9.1** It is when we come to the treatment of our respective Fair Maintainable Operating profits that our main difference of opinion occurs. This difference has two main aspects :-

- a) the operating cost
- b) the cost of finance

**2.9.2** Looking at the opportunity cost first, Mr Voysey refers to RICS Guidance Note (GN94/2012) Financial Viability in Planning in support of his adopting a required funding of £292,500 to acquire The Bishop Blaize. This figure is derived from an open market value for the property of £262,500 plus an additional £30,000 to fund various support works. The rationale is that a purchaser would require a return on his investment in addition to the remuneration he would expect from operating the site. In my view that introduces an element of double

counting into the assessment and is analogous to a householder expecting a return on the house in which he lives. In my experience the licensed property market does not work in that way. Historically the calculation as to the required return has been an assessment of the profit to be derived by trading the business plus any capital growth that may be had from either property value inflation or by increasing the trade. By taking an opportunity cost plus finance cost plus remuneration approach the overall required return becomes £57,000 equating to nearly 32% of an FMT of £180,000.

**2.9.3** I also have a concern over the use of the RICS Guidance Note. This note is concerned with the effect that planning obligations have on large scale schemes or developments and is not concerned with the financial viability of stand alone public houses. The calculation that is to be made in the case of the former is that the cost of the land plus the costs of the development plus the expected profit plus the cost of planning obligations must be equal to or less than the value of the finished development for the scheme to be viable. With the latter the market is concerned with the prospect of ongoing income streams and the ability to service long term loans.

**2.9.4** Insofar as Mr Voysey's assessment of a required funding of £292,000 is concerned I would merely point out that I gave evidence at the public inquiry that for the purposes of financial planning I would take a capital value of £250,000 and a figure for capital support works of £20,000.

**2.9.5** Turning to the cost of finance I took the required loan necessary to acquire The Bishop Blaize to be £150,000. This was based on a loan to value ratio of 60% at 5% over 20 years. By contrast Mr Voysey has taken the full £292,500 at 6.5% over 15 years. The difference this makes is considerable with my finance costs being £11,880 per annum on a repayment basis and Mr Voysey's £30,576 which he rounds to £30,000. In my view the amount that it is necessary to cover is the cost of the mortgage payments themselves and not the theoretical cost of servicing a loan equal to the capital value of the property plus contingencies.

**2.9.6** As to the appropriate rate of interest to be applied I double checked my previously stated position of taking a 60% loan to value at 5% over a 20 year term by speaking to John Williams, Chairman of Sidney Phillips. Sidney Phillips is one of the country's largest specialist Licensed Property Agents and has its own in-house specialist mortgage arm. Mr Williams' advice is contained at Appendix Six and confirms that currently it is difficult to obtain more than 50% of a property that is open for trading and fully equipped as a going concern and that 60% is possible on a "bricks and mortar" basis. He also advised that a 5% interest rate is still achievable. Consequently, I am satisfied that it is still appropriate to use my previously adopted rates and term for the purposes of assessing viability.

## **2.10.0 Conclusion as to Viability**

**2.10.1** In analysing both Mr Voysey's and my assessment of viability there are three primary differences of opinion :-

- a) I have taken an assessment of FMT of just over £200,000 which in itself is a discount of nearly 20% in real terms when set against the last known trading records of the site. By contrast Mr Voysey has taken a FMT of £180,000 which represents a discount of 25% in real terms and an actual fall of about £16,000 when set against the 2006 records.
- b) I have only allowed for the cost of the assumed mortgage and not for an additional return on the opportunity cost, which, in my opinion, is consistent with the practice and behaviour of the market.
- c) I am satisfied that a loan to value ratio of 60% for a term of 20 years and at an interest rate of 5% is appropriate when assessing the viability of The Bishop Blaize.

**2.10.2** Whilst my assessment of Fair Maintainable Operating Profit is about £2,000 higher than Mr Voysey's, if one were to substitute my finance costs for Mr Voysey's one would arrive at the following :-

Profit before ownership	38,580
Less finance costs	<u>11,880</u>
Operator's remuneration	<u>£26,700</u>

**2.10.3** I suggested in my Report of July 2012 that the level of remuneration that would be required by the market would be approximately £27,000 per annum. The above figure of £26,700 is slightly less than that but not so far less that it would lead the market to conclude that the pub is not viable in the longer term. Inevitably in matters

where we are using our expertise and experience to assess financial viability a small change in one or two variables can make a big impact. In my view the above difference of £300 is so small as to be negligible for viability purposes but if the Inspector were to prefer Mr Voysey's approach of allowing a return on the whole investment plus a separate return for operator's remuneration than on that basis I agree that the pub would not be viable.

### **3.0 MARKETING OF THE PUB**

**3.1** I have already expressed the opinion that the open market value of The Bishop Blaize falls between £240,000 and £275,000. Mr Voysey has placed a value of £262,500 on it. In essence we are in agreement on that matter. At the time of the Public Inquiry in August of last year evidence was given by the Appellants' Sale Agent, Mr Graham Allman, that the pub had been marketed at an asking price of £499,000 in 2010 and that after about a year the asking price was reduced to £450,000. He further said that the pub was no longer being actively marketed and that it had been put "on the back burner".

**3.2** As part of the research I undertook in preparing this Report I telephoned the then Agents, G A Select, on 11<sup>th</sup> April 2013 and was advised that the pub was not available at the moment and had not been for some time. I was told that the vendors were looking into selling off the car park separately and that it was unlikely that the pub would be put back on the market. I double checked with G A Select's web-site and found that The Bishop Blaize was still listed. It was still listed on 17<sup>th</sup> April 2013, when I printed off a copy (Appendix Seven) although as at the date of this Report the listing has been removed.

**3.3** I think it is reasonable to say that The Bishop Blaize has not been actively marketed at a realistic and sustainable asking price. According to a report in The Banbury Guardian an offer of £250,000 had apparently been made to the Appellants in late 2012 but the offer was rejected (Appendix Eight). As can be demonstrated by the recent sales of The Lampet Arms, Tadmarton and The North Arms, Wroxton if a pub is realistically priced and the vendor has a genuine intention to sell then there is a good chance that it will find a buyer. I accept that the Appellants are faced with the prospect of potentially losing a considerable proportion of the price they had originally paid for the pub but that is essentially due to two reasons – a) a correction in property values generally and pub values in particular and b) the closure of the pub.

#### **4.0 HEARING STATEMENT ON BEHALF OF THE APPELLANT**

**4.1** I have had the benefit of reading the Hearing Statement on behalf of the Appellant and insofar as the substance of it is concerned I think I have already addressed most of the points raised earlier in this Report. I would, however, like to address the point raised a Paragraph 18(b)iv concerning the necessity of carrying out a marketing exercise in order to demonstrate non-viability.

**4.2** Firstly, I would preface these remarks by stating that I am not an expert in town and country planning matters but that as a licensed property specialist I try to keep abreast with developments in other spheres insofar as they impact upon licensed premises.

**4.3** The Appellant refers the Inspector to the Decisions in the matters



of The Hostry Inn, Monmouth, The Tontine Inn, Shropshire and The Black Horse, Hose. I am familiar with these Decisions and would comment as follows :-

**4.3.1** The Hostry Inn. This Decision pre-dates the National Planning Policy Framework (NPPF). A marketing exercise was held to be not necessary due to the “remote and sparsely settled rural location” of the pub.

**4.3.2** The Tontine Inn. This Decision pre-dates the NPPF. The appeal against a refusal to grant planning permission of The Tontine Inn into a private dwelling was upheld on two grounds- a) lack of viability was adequately demonstrated and b) the premises had been adequately marketed. Despite that the pub continued to trade and since then has been extended and refurbished.

**4.3.3** The Black Horse, Hose. This Decision predates the NPPF. The Inspector held that the village was small – 500 residents – that there was nothing unique about the services provided by The Black Horse, that there was another pub 300m – 400m away, that The Black Horse suffered from poor trading conditions, and that there was no requirement for the Appellant to demonstrate lack of financial viability. Consequently a marketing exercise was not necessary.

**4.4** By contrast there has now been a number of post NPPF planning appeal Decisions relating to the change of use of public houses which have held that a properly executed marketing exercise is necessary. Specifically, I would refer the Inspector to the following :-

**4.4.1** The Phene Arms, Chelsea –  
APP/K5600/A/12/2172028 and APP/K5600/A/12/217552  
Paragraph 48.

The Cross Keys, Chelsea –  
APP/K5600/A/12/2172342.  
Paragraph 21.

The Carpenters Arms, Cambridge -  
APP/Q0505/A/12/2168512.  
Paragraphs 9 and 10.

The Plough, Shepreth –  
APP/W0530/A/11/2167619.  
Paragraphs 28 – 30.

The Rosemary Branch, Cambridge –  
APP/Q0505/A/12/2183797.  
Paragraph 10.

The Unicorn, Cherry Hinton -  
APP/Q0505/A/11/2167572.  
Paragraph 11.

**4.4.2** I am also aware of one other Decision in which the Inspector held that a pub had been properly marketed and that that exercise constituted good evidence of non-viability. See “The Butt of Ale, Salisbury” – APP/Y3940/A/12/2186633 – Paragraphs 6 – 9.

## 5.0 PROFESSIONAL DECLARATION AND STATEMENT OF TRUTH

- 5.1** I confirm that my report includes all facts that I regard as being relevant to the opinions that I have expressed and that attention has been drawn to any matter that would affect the validity of those opinions.
- 5.2** I confirm that my duty to the Tribunal as an expert witness overrides any duty to those instructing or paying me, that I have understood this duty and complied with it in giving my evidence impartially and objectively, and that I will continue to comply with that duty as required.
- 5.3** I confirm that I am not instructed under any conditional fee arrangement.
- 5.4** I confirm that I have no undeclared conflicts of interest.
- 5.5** I confirm that my report complies with the requirements of the Royal Institution Of Chartered Surveyors (RICS), as set down in Surveyors Acting as Expert Witnesses: RICS Practice Statement.
- 5.6** I understand that my overriding duty is to assist the Tribunal in matters within my expertise, and that this duty overrides any obligation to those instructing me or their clients. I can confirm that I have complied with that duty and will continue to do so and that I am aware of the requirements set out in Part 35 of the Civil Procedure Rules and the accompanying Practice Direction, the Protocol for the Instructions of Experts to give Evidence in Claims, and the Practice Direction for Pre-action conduct.
- 5.7** I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and those which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

Signed : .....

Dated : .....