

**Land North and West of Bretch Hill Reservoir
Adj to Balmoral Avenue Banbury**

20/01643/OUT

Case Officer: Matthew Chadwick

Applicant: Lone Star Land Limited

Proposal: Erection of up to 49 homes, public open space and other infrastructure, with all matters reserved except access - re-submission of 19/01811/OUT

Ward: Banbury Calthorpe and Easington

Councillors: Councillor Clarke, Councillor Mallon and Councillor Mepham

Reason for Referral: Major Development

Expiry Date: 21 September 2020
2020

Committee Date: 10 December

1. BACKGROUND

- 1.1. The application was considered by Planning Committee on the 8 October 2020.
- 1.2. This report should be read as an addendum to the Officers' report from the 8 October 2020 committee. (attached)
- 1.3. Members resolved to refuse the application for three reasons: The principle of development; the impact that the proposal would have on the safety of the local highway network; and the poor standard of amenity that future occupiers would have due to the nearby water tower and communications mast.
- 1.4. In preparing a decision, officers reviewed the Committee's resolution and the debate that preceded it. The day after the Committee the applicant also submitted submissions regarding the material considerations and policies that had been drawn to the attention of the Committee prior to the decision being made.
- 1.5. Having reviewed the matter and having taken advice from the Council's legal services team, officers are returning this application to the Committee to seek clarity on particular matters, to advise on developments since the October meeting and to obtain the Committee's instructions.

2. APPRAISAL

2.1 This report seeks:

- To clarify and/or inform the Committee regarding the site's Development Plan status and the Banbury Vision & Masterplan SPD; and
- To confirm the wording of the reasons for refusal in respect of the three matters set out in para 1.3 above.

The site's Development Plan status

- 2.2 Members' discussion in this regard placed emphasis on the fact that the site is not allocated for development. It was not clear to officers whether this weighed into the reason for the principle of development. Clarity is sought in this regard.
- 2.3 The site was identified for development within the 2004 Non-Statutory Plan but given that Plan's status the site was not thereby allocated. The Cherwell Local Plan 2011-2031 Part 1 ('CLP 2015') did not allocate sites for less than 100 dwellings. It was on this sole basis that the site was not allocated within the CLP 2015.
- 2.4 It is correct that the site is not allocated for development in the Development Plan. However, the housing strategy of the Development Plan is to focus development "in and around" Bicester and Banbury (B.88, page 57). The CLP 2015 was a Part 1 document, allocating strategic sites (100+ dwellings) and was intended to be followed by a Part 2 which would have allocated smaller sites for development.
- 2.5 Further, while the Development Plan is the starting point for decision making, it is not the end point. Not being allocated does not in itself make a site unacceptable. The decision maker must decide what harm is caused by such a development proposal, either to the Council's housing strategy or to other interests.
- 2.6 In summary, to refuse permission on the basis that the site is not allocated is not defensible and would leave the Council vulnerable to an award of costs at appeal.

The Banbury Vision & Masterplan SPD

- 2.7 The applicant has brought to our attention that the Officers' report from the 8 October 2020 committee meeting did not mention the Banbury Vision & Masterplan SPD. This document is a material planning consideration that was not considered during the debate and before the committee resolution to refuse the application of 8 October 2020.
- 2.8 The BVM establishes the long-term vision for the town and identifies the main projects and initiatives to support the town's growth.
- 2.9 The applicant had made submissions that the BVM SPD includes the site in the built form of the settlement and that it identifies the site as being a 'future development site'.
- 2.10 However, the BVM SPD (as set out within the Adoption Statement of 19 December 2016) *'builds upon and provides further guidance to support the adopted Cherwell Local Plan 2011-2031 Part 1'*. While it is a material consideration, the BVM cannot allocate sites for development. Allocation can only be done through the Local Plan or Neighbourhood Plan process.
- 2.11 Officers do not consider the BVM has any material bearing on the acceptability or otherwise of the principle of development.

3. CONCLUSION

- 3.1 In officers' view, while the BVM SPD is a material planning consideration, it does not change the acceptability or otherwise of the principle of development. Members are asked to consider the information set out above in respect of the site's Development Plan status and the BVM, and in light of this information to consider the extent to which this affects its resolution of 8 October 2020.

4. RECOMMENDATION

That, having regard to the additional information contained in this report,

- (a) The Planning Committee confirms its previous decision made on 8 October 2020; and,
- (b) Agrees the wording of the reasons for refusal

Proposed wording for Refusal Reason 2:

By virtue of its siting in close proximity to the water tower and telecommunications mast, the proposed development would result in significant and demonstrable harm to the living conditions and general amenity of the future occupiers of the proposed development, and this harm is not capable of being addressed through any layout of development or through a reduced number of dwellings. The proposal is therefore contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policy C30 of the CLP 1996 and Government guidance contained with National Planning Policy Framework.

Proposed wording for Refusal Reason 3:

By virtue of the increased vehicular movements onto Broughton Road, the proposed development would cause harm to the safety of the local highway network. The proposal is therefore contrary to Policy SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained with National Planning Policy Framework.

CASE OFFICER: Matthew Chadwick
753754

TEL: 01295