

**URGENT BUSINESS AND SUPPLEMENTARY INFORMATION**

<b>Planning Committee</b>
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<b>22 April 2010</b>
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Title
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Written Update
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*If you need any further information about the meeting please contact Michael Sands, Legal and Democratic Services michael.sands@cherwell-dc.gov.uk (01295) 221554*

# Agenda Item 16

## CHERWELL DISTRICT COUNCIL PLANNING COMMITTEE

22 April 2010

### WRITTEN UPDATES

#### **Agenda Item 6**      **10/00106/F**      **Bryan House, Chapel St. Bicester**

- The request by the Head of Recreation and Health for a contribution towards indoor sport provision has been removed from the draft Heads of Terms for the proposed Section 106 as there are no on-going schemes or plans for improvement at present. After consultation with the Head of Legal & Democratic Services, it has been concluded that there is, therefore, no legal justification for the request.
- The Environment Agency have yet to respond fully (although they had been endeavouring to get back to us today). The EA wish to emphasise that it's not a lack of a response from them that is the delay but a recent review of flood risk through Bicester that has led to a need to update the baseline knowledge of flooding to this site and a need to review whether the proposed opening up and flood alleviation measures incorporated into the scheme will be technically feasible. Consequently it is **recommended** that the approval be made subject to the HDCMD being given delegated authority to approve the application upon the resolution of the flooding issue and withdrawal of the EA objection. In the event that this objection is not removed it will be necessary to return this application to Committee.

#### **Agenda Item 8**      **10/00134/F**      **Phase 2 Apollo Office Park, Wroxton**

The following comments have been received in response to the latest Ecological (reptile) survey dated April 2010 submitted in addition to the original Ecological survey dated March 2010 -

- **Natural England** - All the reptile survey visits (including the further 7 proposed) should be carried out and the full impacts and mitigation should be described before the application is determined (as recommended in ODPM Circular 06/2005).

However, it sounds as though the population is low, and can probably be released around the edge of the site for future recolonisation, provided there is going to be enough green space in the proposed plan for the site. If this is going to happen, and parts of the site will be 'lost' to development, some enhancements could also be made to improve the site for reptiles, eg hibernacula, and some basking area.

Therefore, if the application is to be determined before these 7 visits are done, you will need to condition the rest of the full survey, and also the recommendations that come out of it.

I note that you should probably also condition timings for breeding birds, and some suitable forage for badgers (as recommended in the phase 1 survey).

- **OCC (Ecology)** - As protected species are a material consideration in the planning process, I would advise that in the majority of cases, full survey results and mitigation strategies must be submitted and considered by the planning authority before a decision is made regarding whether to grant planning permission or not.

However, in this case it appears that the reptile population (if present) is likely to be small and mitigation measures should be able to be carried out without needing to amend the proposed development.

Therefore, Cherwell DC could decide to take this proposal to planning committee on 22nd April with conditions requiring further surveys and mitigation.

The following conditions are therefore suggested to address the comments made by Natural England and Oxfordshire County Council:

Re-worded condition no. 14 - Submit Landscaping Scheme (RC10A)

That no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping the site which shall include:-

- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas, hedgerow planting, creation of a wildflower grassland and SuDs. The planting scheme should cover: species mix (species should be of local provenance and appropriate to the local area) and methods of establishment.
- (c) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
- (c) details of the hard surface areas, pavements, pedestrian areas, crossing points and steps.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan and also to protect habitats of importance to nature conservation from any loss or damage in accordance with the requirements of PPS 9: Planning and Biodiversity, Policy NRM5 of the South East Plan 2009 and Policy C2 of the adopted Cherwell Local Plan.

New conditions 23-25

23.. SC 9.4A Carry out mitigation in ecological report (RC85A)

The development hereby permitted shall be carried out in accordance with the recommendations set out in the Ecological Appraisal of the by Richard Tofts Ecology dated March 2010 and Reptile Survey: Initial Report dated April 2010 unless otherwise agreed in writing by the Local Planning Authority.

Reason - To protect habitats of importance to nature conservation from any loss or damage in accordance with the requirements of PPS 9: Planning and Biodiversity, Policy NRM5 of the South East Plan 2009 and Policy C2 of the adopted Cherwell Local Plan.

24. Notwithstanding condition no. 23, and the mitigation measures and recommendations contained in the Ecological Appraisal by Richard Tofts Ecology dated March 2010 and Reptile Survey: Initial Report dated April 2010 a scheme for the management of badgers should be submitted to and approved in writing by the Local Planning Authority prior to any works taking place and that a further 7 no. site visits be made by the appointed Ecologist to undertake further reptile survey work, and that following these visits and prior to any works taking place, a full Ecological report be submitted to and approved in writing by the Local Planning Authority which provides details of mitigation and recommendations. The development hereby permitted shall be carried out in accordance with the mitigation and recommendations.

Reason - To protect habitats of importance to nature conservation from any loss or damage in accordance with the requirements of PPS 9: Planning and Biodiversity, Policy NRM5 of the South East Plan 2009 and Policy C2 of the adopted Cherwell Local Plan.

25. Vegetation shall not be removed except between 1<sup>st</sup> September and 28<sup>th</sup> February (inclusive) as this is outside of the bird breeding season. If any trees need to be removed between 1<sup>st</sup> March and 31<sup>st</sup> August (inclusive), they will need to be checked over by an ecologist immediately prior to removal to ensure there are no nesting birds present. If nesting birds are present, the tree must be cordoned off and protected and cannot be removed until the birds have fledged.

Reason - To protect nesting birds in accordance with the requirements of PPS 9: Planning and Biodiversity, Policy NRM5 of the South East Plan 2009 and Policy C2 of the adopted Cherwell Local Plan.

It is also **recommended** that the issue of the permission is withheld until a satisfactory intended unilateral undertaking concerning the Banbury ITS contribution is received.

**Agenda Item 9**                      **10/00187/F**                      **B-Line Business Centre, Station Rd, Enslow**

APPLICATION WITHDRAWN

**Agenda Item10**                      **10/00247/F**                      **Land adj 45 George St. Bicester**

- An additional objection has been received on behalf of a local resident who

objects to the proposal on the grounds of disruption to their tenant and that it may influence the quantity of daylight entering the property as well as having a direct effect upon their privacy.

**Agenda Item 11**      **10/00297/F**      **Land rear of New Vicarage, Earls Lane, Deddington**

- Two further letters of objection have been received raising similar points as those stated within the report.
- A further response has been received from the neighbouring resident at 3 The Beeches after viewing the Council's Design guidance stating:

We have reviewed this and we believe the proposed development 10/00297/F does not comply with the guidelines in a number of areas...

**(i) Section 6 - Neighbours**

*"Where the extension has a window at the rear it should normally be at least 22 meters from a window of a neighbour's habitable room to prevent loss of privacy...."*

The guidance does not mention that this only applies to a 'habitable room window' in the extension so the fact that the two second floor windows in house 4 are bathroom windows does not mean that this guideline should not apply. Also, you are applying this guideline to the windows at the front of the house 4 so you should also be applying this guideline to windows on the side elevations of house 4 also.

We also believe that the front windows of house 4 are not 22m from the rear patio window of Tays House, which will also be over looked by house 4. You highlighted you had checked the measurements to The Vicarage.

Taking into account your comment yesterday that Cherwell Council specify that 'obscure glass' in a non-habitable room (i.e bathroom) with no opening windows means that a neighbour's privacy will not be lost, which we find an unacceptable compromise, then the rule regarding windowless elevations should at least apply:

*"A windowless elevation should normally be at least 14m from a window of a neighbours habitable room to prevent overshadowing"*

The east elevation of house 4 is not 14m away from the nearest habitable window in our house, 3 The Beeches, (which is infact the side window of the lounge and not the patio window) so as we specified yesterday house 4 will over shadow our house.

Taking the above guidelines into account then House 4 of the development 10/00297/F should be moved away from 3 The Beeches so that it's east elevation is **at least 14m away** from the west elevation, if not 22m. This would also ensure it is 22m from other neighbouring properties.

**(ii) Section 5 - Extensions**

With regards to the position of the two storey element of house 4, which we believe is positioned too far forward, blocking our light. Your guidelines state:

"....an assessment of the effect on a neighbour's light will be made, based on an angle of 45 degrees taken horizontally from the mid-point of the nearest habitable window."

As you highlighted yesterday you have taken this measurement from our patio window to house 4 but in fact the nearest habitable window is the side window of the lounge and if you take the measurements from this window then the 45 degree guidelines does not comply.

Again, moving house 4 at least 14m, if not 22m, from 3 The Beeches would negate the impact of this.

Finally, we believe the proposed development is over developed and this is supported by the effect on the gardens of the proposed development 10/00297/F. Your guidelines state:

"The council will also consider the size of the garden in which the extension is proposed, to ensure that the remaining garden is a usable size and the plot is not being over developed. Orientation will also be taken into account, so that, ideally, north facing gardens will receive some direct sunlight (particularly during winter months)."

As you highlighted yesterday, garden size is very subjective so a good comparison would be to compare the gardens to similar properties in the area. If you compare the gardens of the two 4 bed detached houses in the proposed development these are at least half of the size of the gardens of similar properties in The Beeches, which cannot claim to have large gardens. Also, all of the gardens are north facing; with the number and in particular the size of the houses proposed for this site none of these gardens will receive any direct sunlight in the winter months.

Again, we ask you to reject this proposal on the basis that the site is over developed. Two houses would be more appropriate (either 2 detached or 4 semi-detached) as this would allow for a usable garden for all properties, enable some direct sunlight into the gardens, if designed appropriately, and also reduce the impact on the neighbours.

The Case Officer has responded to these comments noting that the affected windows are secondary; the en-suite windows on house 4 will be obscure glazed; and the gardens are considered to be of adequate size.

- An email of support from the agent for the application has also been received stating:

As agents for the above planning application which is to be considered by your planning committee at the meeting on the 20th of April, we have reviewed the correspondence and responses published on the planning website and wish to make the following comments:

1. The density of the proposed development, at a fraction under 30

dwellings per hectare, is at the low end of the density range advised by Planning Policy Guidance in PPS3 and is comparable with other recent permissions granted by Cherwell.

2. Garage and parking provision for the development exceeds the required standards and there is no objection from Highways.
  3. The development does not face onto or obstruct the access lane which affords emergency access to the adjoining school.
  4. The east and west facing elevations of Houses 4 and 1 respectively have no windows at upper floors other than obscured bathroom windows to bathrooms.
  5. The site lies to the North of the properties on Earls Lane and will cause no loss of daylight or sunlight in respect of these houses.
  6. In respect of the relationship between House 4 and 3 The Beeches the proposal complies with the recognised standards of Design for Sunlighting and Daylighting.
  7. The layout of the proposed development meets the required overlooking distances from adjoining properties. Specifically, House 4 is 22m from the New Vicarage and over 30 metres from Mayfield. In respect of 'The Bungalow,' which is not directly overlooked, the raised ridge of the garage to the front of House 1 prevents any view from south facing first floor windows of the new house towards either the bungalow itself or its garden. Similarly, the placement of the garage roof to the front of House 1 prevents any view from its first floor windows towards Tays House and its garden.
  8. The plot sizes and spacing of the new houses are comparable with those of adjoining development at 'The Beeches.'
  9. The new houses, with varied use of Hornton stone, stock facing brick and tiled or slated roofs have been carefully designed to be appropriate in their surroundings.
- The Environment Agency have advised it is likely to have a low environmental risk and due to work prioritisation are unable to make a full response.

**Agenda Item 12      10/00353/F      47 St.Johns Way, Hempton**

- The Council's Environmental Protection Officer notes that his records do not show contamination is present on this site although there are potentially contaminative sources on nearby land and therefore recommends the imposition of an informative (ZZ) on the decision notice.