

SUPPLEMENTARY INFORMATION

Planning Committee

21 June 2012

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If you need any further information about the meeting please contact Natasha Clark, Law and Governance natasha.clark@cherwellandsouthnorthants.gov.uk, 01295 221589

Agenda Item 13

CHERWELL DISTRICT COUNCIL PLANNING COMMITTEE

21 JUNE 2012

WRITTEN UPDATES

Agenda Item 6

11/01755/ OUT

**Land N of The Bourne and adjoining
Bourne Lane, Hook Norton**

- **Recommendation amended to DEFERRAL** on the following grounds
 1. To allow further consideration of the current position on five year housing land supply
 2. To allow consideration of the implications for development proposals in villages of the Adderbury appeal decision, received this week,
- **Statement from Councillor Mrs Victoria Irvine (ward member)** which includes letter from Sir Tony Baldry MP and OCC Developer Funding Officer. (Councillor Irvine also asked to be circulated a report for OCC by Mouchel's on increasing the school to 1.5 form entry – but this is a 56 page report that would be inappropriate to attach as a written update)

I very much hope that you will vote against the recommendation to approve this application.

Please find below my reasons:

1. Attached is a letter from Tony Baldry to Sue Smith laying out what he thinks the Planning Minister has made clear in recent statements in regard to the Five Year Housing Supply. The Council does not have a housing land shortfall.
2. You will also note from the report that of 341 comments submitted in relation to this application, 316 were objections. The village, the parish council and I are very much in agreement that this planning application should be objected to. It is not just local residents who oppose this application. You will see from the agenda that many of our major infrastructure and service providers have also raised very serious concerns. See 3.3 Thames Water, 3.5 & 3.6 Oxfordshire County Council. The school at present is at full capacity. The existing waste and drinking water infrastructure does not accommodate the needs of the proposal.
3. Of particular concern is the school. The proposed 70 new homes off Bourne Lane will mean far more children than the village school can accommodate. The proposed solution is either to bus them elsewhere or to extend the school. Is it realistic to expect that parents would put their 5 year olds onto a bus each day, surely they would drive? Apart from the highway impact of that, consider the funding by the

developer for this bussing arrangement – it will not be infinite. The proposal to extend the school is considered in a report attached. This identifies six phases of development costing over £3 million. As a consequence of all the additional building on existing play space, new land will be needed in order to provide the required play area. No land is identified for this, nor has any consideration been given to the cost. Each of the six phases of development would require an individual feasibility study. In addition, the report confirms that extension of the village school would have an inevitable impact on the local landscape. None of these items has been fully assessed, yet they are integral to the application for 70 houses at Bourne Lane.

4. Can you please confirm whether a site visit has been made by the planning committee? A site visit would show that the application is outside of the village envelope and the transport infrastructure within Hook Norton and the surrounding villages is not capable of taking this additional load. As a committee you have consistently opposed outline housing developments which are outside village envelopes, for example in Adderbury. As you know, when this went to appeal Cherwell District Council won the case.
5. At present Hook Norton has a further planning application ref. 12/00472/F in progress for the erection of 31 houses. I do not think that you can consider one application without taking into consideration the second.
 - The Stanton site is on a brown field site within the village envelope
 - The applicants of the Stanton site have consulted extensively with the village, whereas the consultation undertaken by the applicants for the Bourne Lane development has consistently been heavily criticised by local people.

Letter from Sir Tony Baldry MP ATTACHED

SIR TONY BALDRY M.P.



HOUSE OF COMMONS

LONDON SW1A 0AA

Sue Smith
Chief Executive
Cherwell District Council
Bodicote House
Bodicote, Banbury OX15 4AA

19th June 2012

Housing in Hook Norton

I was somewhat confused.

I understand that in respect of planning application for housing at Bourne Lane in Hook Norton that Planning Officers are recommending to Councillors that this planning application should be approved apparently on the grounds that the Council does not have an adequate five-year housing supply and that, as a consequence, if this particular planning application were to be refused, the District Council would be vulnerable to being overturned on appeal.

I do not think that the Planning Minister in the House of Commons could have made it any clearer in statements to me that the new National Planning Framework makes it clear beyond doubt that when considering whether a local authority has an adequate five-year housing supply that all existing planning permissions for housing should be taken into account, even if building work has not actually started.

On that basis, and counting in developments such as Bodicote/Bankside, I had understood that there was no dispute and that Cherwell has a more than adequate five-year housing supply for the foreseeable future and obviously extra sites being identified in due course as part of the existing ongoing work on the Local Development Plan.

So I am somewhat confused as to the advice being given to elected members in respect of this particular application at Hook Norton.

I should be grateful for your advice.

Email: tony.baldry.mp@parliament.uk

Website: www.tonybaldry.co.uk

From: Briscoe, Edward - E&E Infrastructure Planning

Sent: 22 May 2012 15:34

To: Simon Dean

Subject: RE: Education Information Relevant to Proposed Development at Bourne Lane, Hook Norton

Hello **Simon**

2 updates I have been instructed to inform you

A/

Primary School Infrastructure:

A feasibility study has been produced that considers the potential to expand this school,

I attach this for your convenience.

That addresses the ability of this facility to expand from one form of entry for each school year to

one and one half forms of entry per school year; the next logical step forward.

As you will see this has been estimated to cost £3,263,250; the equivalent of £31,079 per child so

contributions are calculated to address this figure. We seek another solution but do not expect this

(allowing for existing workloads and pressures) in the next quarter. Clearly the DFES sum set out

in your SPD (tabled in our 22-12-11 response) will be insufficient to provide for these children.

The proposal above for 70 dwellings would only deliver a partial solution. In the absence of full

funding, children would need to attend neighbouring schools depending on which had spare space

in the school year demanded. Additional school travel costs would so be incurred in addition to

the core contribution. These are set out below.

A core contribution of £854,961 index linked to Pubsec 3Q09 towards primary school infrastructure serving Hook Norton is sought to mitigate the impact of this development.

Primary School Travel Costs;

If this development proposal were to proceed, it would be likely that in addition to needing to

provide extra accommodation in order to accommodate the increased demand for primary aged

pupil places that there would also be a need to transport children to primary schools outside the

village of Hook Norton.

The need for such transportation will fall upon the County Council as part of its statutory duty and

the development of housing in Hook Norton will place an extra impact on the County Council as

Education Authority. That impact will need to be appropriately mitigated without detriment to the

existing community.

The County Council requires the costs of such transportation to be met from the development and

secured as part of the proposed S106 planning obligation.

We do not seek to cover such costs in perpetuity. Clearly the need for such transportation would only arise in circumstances where the parental choice was for education at a maintained school in Hook Norton could not be met (i.e. Hook Norton C of E Primary School - the Designated School of the village envelope and surrounding area including the proposed development site). The following will therefore need to be included within the planning obligation associated with the issue of planning permission for the above development.

The costs of transporting (via County Council procured services) children (resident at the development) to maintained primary schools outside Hook Norton shall be paid quarterly in arrears.

The payment of such costs shall **cease** at end of the school year following the **fifth anniversary** of the final first occupation at the development.

The contributions shall be £40 per child per term for travel to schools within 3 miles and £74.50 for schools located beyond 3 miles from the development.

The County Council will supply the developer with the number of children resident at the development for which costs are to be funded at the end of each term.

For clarity – Such costs do not apply when parental first preference is for an alternative school to

the local maintained primary school, Hook Norton CE.

Our expectations of the numbers of children allow for those who are privately educated

B/

Senior School Infrastructure

Chipping Norton School has recently been extended and I am told that no plans exist to increase

its capacity at this stage. Contributions will accordingly not be sought to expand secondary of VI

form school infrastructure if this proposal proceeds.

C/ For the avoidance of doubt Special Education needs remains unchanged.

Special Educational Needs School Infrastructure;

There is also likely to be an increased demand upon [SEN] special educational needs schools. We

are advised to allow £29,278 per place in special educational needs schools and that across

Oxfordshire 1.02% of children are educated in such separate schools.

The mix of dwellings proposed result in a sum of £14,275 being sought towards special education

needs school infrastructure supporting Hook Norton. If these children were not schooled

separately they would need to be accommodated in mainstream infrastructure.

I emphasise that I remain open to alternatives and hope that a more economical

solution may be found.

I will submit suggestions to the services I represent for Oxfordshire County Council. I do however consider it necessary to table the feasibility, let others consider it and progress from there

- **Comment of HPPDM on MP's letter**

- Sir Tony Baldry MP has written to the Chief Executive setting out that his understanding of the NPPF was that it "*makes it clear beyond doubt that when considering whether a local authority has an adequate five-year housing supply that all existing planning permissions for housing should be taken into account...[and that]... on that basis, and counting in developments such as Bodicote/Bankside, I had understood that there was no dispute and that Cherwell has a more than adequate five-year housing supply*".

Whilst the publication of the NPPF provides for some potential changes in the way that housing land supply is calculated, a full and formal review of housing supply taking into account these changes in circumstances, will be presented to the Council's Executive shortly. Until that time, it has been calculated that the current housing land-supply position, as reported at the Adderbury Inquiry, following the Bodicote decision, is 3.1 years.

- By way of clarification, the proposed draft submission Local Plan has not yet been published for consultation, but has been approved for consultation by the Executive.

- **An email from a local resident** has been received, also copied to the members of the Planning Committee, summarised below;
 - objecting to the content of the recommendation
 - setting out that the reasoning is not consistent with the guidance in the NPPF and that the tests in the document have been incorrectly applied
 - questions the methodology for calculating housing land supply
 - questions the assessments of the merits or otherwise of the scheme
 - questions the assessment of the impact of the scheme, including the highway safety, school and sustainability considerations
 - questions the impact of the proposal on the locally designated area of high landscape value
 - questions the degree of consultation, the level of engagement with the community and the impact of other development in the village.

- **On behalf of Bidvest Logistics (objector to the application)** Stirling Maynard Transportation (SMT) Consultants have carried out a review of the Transport Assessment submitted with the application. It concludes that Significant weight should not be placed on the ability of sustainable travel to solve traffic impact issues for the following reasons:
Whilst there is a bus travel option, the available routes do not close pass to the site. Shift working means that sustainable modes of transport are not always available or attractive (walking/cycling at night)
Travel by road is the only option for distribution operations
It is concluded that the net traffic generations for the proposed development are too low leading to a potential underestimate of the overall traffic impact of the proposals. The junction analysis shows junctions over or approaching capacity even using the flows calculated in the TA. If more robust traffic forecasts were used the situation would be worse than shown in the TA.
- **On behalf of the applicant** Peter Brett Associates has responded to the SMT's review stating that there are no points raised by SMT that would lead to any material change to the conclusions of the Transport Assessment supporting the application.
- **Oxfordshire County Council as Highway Authority** has responded to this review stating that the recommendation of approval subject to planning conditions and an appropriate s106 contribution towards the Banbury Transport Strategy remains reasonable and unchanged.
- **The applicant** has provided a letter and briefing note which are referred to below:
The key paragraph of the letter reads:

'We are in advance discussions with a number of multinational occupiers eager to locate to the site and the granting of planning consent will ensure their presence thus creating hundreds of new jobs for the area. This development will be realised through £110m of investment, generating in the order of 1,600 new employment opportunities offering a diverse range of mixed skills'

The briefing note is summarised as follows:

Barwood has a strong track record having developed over £75million worth of commercial property in South Northants and the Cherwell District since 1996. The application will deliver over 1.2m sqf of new B2 and B8 floor space. Building size and design driven by occupational demand.

It will provide quality and sustainable jobs.

Since Members deferred the application in March discussions have taken place to ensure that a route for the southern relief road would be safeguarded and South Northants Council has resolved to grant consent for the application subject to English Heritage sign-off.

Other matters include:

- The characteristics of employers in both the B2 and B8 sector have moved on since the 1987 Use Classes Order with the logistics sector now worth £74.45bn to the UK economy.

- UK logistics sector employs 1.7million people across 194,100 companies (8% of the UK's workforce) equal to the UK construction sector and substantially higher than the financial services sector.
- Research by Prologis in 2012 showed that of 6,800 employees 43% of employees worked in the warehouse element itself, 12% in administration, 9% in managerial roles and 25% in other mostly comprising highly skilled sales, engineering and customer service.
- The principle of a routing agreement has been discussed with SNC and NCC to avoid heavy traffic passing through villages. A financial contribution has been agreed for traffic calming if necessary.
- Using the TRICS data set it is estimated that
 - Junction 11 on the M40 will see an increase of 0.49% in traffic movements (a.m. peak) and 0.5% (p.m. peak).
 - Ermont Way/Daventry Road junction will see an increase of 1.03% (a.m. peak) and 0.98% (p.m. peak)
 - Ermont Way/Middleton Road junction will see an increase of 4.35% (a.m. peak) and 3.28% (p.m. peak)
- The design will meet BREEAM 'Very Good' and achieve low carbon energy performance certificates.
- SNC are now happy with the proposed landscape buffer
- Ridge heights have been lowered from 19m – 16m.
- Roofs will be coloured green or grey to assimilate buildings into longer distant views.
- Over 600 new trees will be planted in order to reintroduce native species and habitat creation.
- Up to date ecology surveys have been undertaken and will be done so on an annual basis.
- Quote from Councillor Rupert Fordham (SNC Portfolio Holder for Economic Development)

This application fulfils these [NPPF] criteria in a number of key aspects, including the potential creation of 1500 or more jobs on site with other secondary jobs likely to be created on the back of these. The applicants state that they will be able to attract prestigious international employers to the site, if so, this would raise the profile of the region considerably. Although the bulk of the site is in Cherwell, the benefits will accrue to South Northants as well. I understand that the applicants have satisfactorily addressed [South Northants] officers' concerns regarding sightline, roof levels and visual impact, and I would support the approval of this application on the grounds of the undoubted economic benefit it will bring to the region.

- **Banbury Civic Society** requests that application be deferred once again. Attached below in full at the end of this update is the most recent correspondence from them

- **South Northants Council** resolved to grant planning permission for the application subject to a number of matters, the key ones being
 - The final design to be based on options 4 and 5 only in the design and access statement
 - Roof colour to be anthracite
 - Restricting the height of the buildings to 16m
 - Minimum landscaping strip of 10m where the buildings are set back by 50m and 20m where the buildings are set back by less than 30m.

The Banbury Civic Society would request that this application be deferred once again for the following reasons:

Potential Scheduled Monument

The determination of this application was deferred in March 2012 on the grounds of Heritage and the South-to-East Link Road. As is now well known, English Heritage have now visited the site and made a recommendation to the Secretary of State regarding the designation of all or part of the First War shell filling factory on the site and adjacent as a Scheduled Monument. The SoS is aware of the urgency and has committed to a decision very shortly. CDC's specialist Conservation Officer has not been asked to provide advice.

Whilst the applicant has submitted a new Heritage Statement (CgMS, April 2012), because the determination of this application has been deferred specifically for further investigations on heritage, it would be premature to determine this application before we have English Heritage's independent assessment and the SoS's decision whether or not to Schedule any part of the remains.

'Planning Probe'

Only two weeks ago Michael Gibbard announced in the Banbury Guardian that a 'Planning Probe' would be launched following:

- *The levelling of the most significant historic earthwork on the Site (a First War filled shell magazine) immediately following English Heritage visiting the Site with a view to statutory designation as a Scheduled Monument. This took place in the most biologically diverse part of the site with potential for ground-nesting birds and protected reptiles during breeding / nesting season.*
- *'The premature removal of all every significant oak tree within the footprint of the proposed buildings, including those categorised in the EDP Arboricultural report as 'worthy of retention', at least two of which (described as) having 'high' and 'medium' potential as bat roosts were removed prior to the conclusion of the wildlife assessment.' 'It is not considered good practice to remove trees that may affect the application prior to approval'. (CDC Tree Officer, Mark Harrison, CDC internal email, 17/2/2012) 'Nine trees were found to have potential for roosting bats, three of which have since been felled, including one where possible bat roosting behaviour was seen... possibly breaking the law as no further surveys were done to check'. (CDC Ecology Officer, Sarah Postlethwaite, CDC internal emails of 27/01/2012 and*

08/03/2012)

Members and the public have yet to see the results of such an investigation or had a chance to evaluate its findings in the light of the most recent Ecological Update (EDP, June 2012), lodged on CDC website on 19th June.

Inadequacy of submitted information and further surveys

Archaeology

Bizarrely, having spent a considerable time on the site digging trial trenches, the submitted archaeology survey by Thames Valley Archaeological Service entirely failed to notice the highly visible earthworks of the First War shell filling factory, both on the Site and adjacent. The archaeology survey also failed to notice that these earthworks were inscribed on the Sites and Monuments Record (SMR), always the most elementary first step in any archaeological survey. It is of note that the NPPF and PPS5 state that scrutiny of the SMP is the minimum requirement of an archaeological survey. This archaeological survey has subsequently disappeared from the Cherwell website.

N.B. *Following objections on heritage, a supplemental Heritage Statement (CgMS, April 2012) has subsequently been provided by the applicant specifically for the First War remains. It has not yet been possible to compare the results of this with English Heritage's findings (awaited). The applicant's Heritage Statement recommends that any remains to be affected should be recorded prior to loss. It is a matter of fact that no formal recording was carried out before the remains were removed, despite this recommendation.*

Ecology Survey

The submitted Ecology Survey (EDP 2011) has been roundly criticised:

'The ecological appraisal provides an incomplete summary of the wildlife value of the site. The reptile, great crested newt and bat surveys did not cover the entire site, were conducted at sub-optimal times of year and were conducted over a short period'. (CDC Ecology Officer, Sarah Postlethwaite, internal emails 27/1/2012, 8/3/2012)

'I would rather we knew what the situation was before we determine. I'm especially concerned that the (ecological) surveys don't appear to have covered the entire site or been carried out at the right time'. (Clare O'Hanlon, CDC internal email, 01/03/12)

'I think that the Ecological Appraisal provided by the applicant's consultant contains numerous deficiencies and I would question some of the impact assessments made and the conclusions drawn'. (BBOWT Senior Conservation Officer, Neil Clennell, letter of 06/03/2011)

'The only data provided comes from a superficial Phase 1 walkover undertaken in mid-November, which renders the assessment meaningless. Such a habitat parcel should be subject to a thorough botanical survey, ideally during June/July, before a meaningful evaluation can be made'. (BBOWT letter, re. the Ecological Assessment of the Potential (county) Wildlife Site (PWS) (the most ecologically valuable part of the Site)

'Inappropriate timing, inadequate survey methodology and avoidance of the areas of most suitable habitat'. (BBOWT letter, re. the Reptile Survey and Assessment)

'Wrong time of year, cursory survey, wrong methodology, no resemblance to accepted best practice. The survey data are effectively worthless.' (BBOWT letter, re Great Crested Newt Survey and Assessment)

'I could make similar criticisms of the inadequacy of the design of the bat surveys, the effort involved, the very short survey period and the value of the data provided'. (Because of this and the removal of trees with potential for bat roots prior to survey) I find the conclusions spurious at best.' (BBOWT letter, re. Bat Survey and Assessment)

N.B. *Following the above comments, a supplemental Ecological Update Survey Report (EDP, June 2012) has subsequently been provided by the applicant. Lodged on CDC website on 19th June, Members and the public have not yet had sufficient time to evaluate its findings or to comment.*

Tree Survey

'In addition, some of the removed trees, categorised as C trees (poor health or little importance) (in the EDP Arboricultural report) (had) stem diameters of over 1m. I am not totally confident this reflects their original status'. (CDC Tree Officer, Mark Harrison, internal email 17/2/2012)

N.B. CDC has been obliged to put emergency TPOs on the trees remaining on site, to protect both them and the site's ecology pending a detailed proposal.

Transport Assessment and Travel Plan

'The Travel Plan does not appear to make allowance for 1,000 commuters, many of whom could be expected to arrive from new developments to the south of the town via the already congested Middleton Road'. (CDC Economic Development Officer, Steven Newman, CDC consultation response, 07/03/2012)

Traffic generation figures in the applicant's Transport Assessment are 'too light'. Background traffic flows in applicant's transport assessment are 2012 figures and do not include growth factors calculated from DoT database, without any explanation why. The effects of consented developments, notably ProDrive's Banbury Gateway development are not considered. They are thus 'probably too low'. In terms of effects, the junction analysis shows junctions over or approaching capacity already. The Ermont Way / A422 junction is said to be 'incorrectly modelled' and that, together with the ProDrive development 'there will be considerably more traffic using a roundabout already under pressure'. 'On this basis it is difficult to place any weight on the results and conclusions in the (applicant's) Transport Assessment'. (Transport Review for Bidvest Logistics, Stirling Maynard Transportation Consultants, June 2012)

N.B. The latter was loaded for consultation on CDC website 19/06/12. Again, neither Members nor the public have had time to assess this or to compare it to the applicant's study)

Objections / comments to be resolved

Too much B8 warehousing

'The Cherwell Economic Development Strategy (2011-2016) provides the agreed 'vision' for the development of the economy, yet the Planning Statement makes only brief reference to it. The Strategy seeks to provide a variety of jobs within a 'resilient' economy.. For instance assisting indigenous companies to expand to create employment. Other local businesses are seeking to expand... but may be dissuaded from investing in the application site (to develop manufacturing with R&D and office accommodation) for fear of being overshadowed by large warehouses. The direct effect of this would be to undermine the Strategy. Also, businesses at Canalside will be seeking to relocate locally and one would hope that this proposal could meet their needs'. (CDC Economic Development Officer, Steven Newman, Consultation Response, 07/03/2012)

N.B. We note that despite widespread concerns about the quantum and scale of B8 (warehouse) use, the Committee Report recommends that B2 (light industrial, business) be limited to a maximum of 50% because of a lack of policy backing. This appears misleading, as B8 could equally easily be limited, particularly given its extreme visual impact.

Ecology

If ecology is to be accommodated, it seems reasonable to accommodate this in the part of the site with the archaeological remains, given that this part of the site is the most ecologically diverse and a candidate County Wildlife Site. We cannot understand why this has not been explored further prior to the recommendation to approve the application, particularly given the concerns of Cherwell's specialist officers and external consultees.

'The proposed ecological enhancements are minimal given the size of the scheme'. (CDC Ecology Officer, Sarah Postlethwaite, internal email, 8/3/2012)

'With regard to the Potential Wildlife Site (PWS), this area is likely to be the most biodiverse part of the site and in order for the development to have a chance of enhancing biodiversity on the site, should be retained in some form if found to be of wildlife value. This could not be achieved by translocation it, since such habitats take years to evolve and are not easily recreated'. (CDC Ecology Officer, Sarah Postlethwaite, internal email, 8/3/2012)

'I have been out to site and discovered with extreme distain that every significant oak tree

within the footprint of the proposed buildings has been removed... I object to the proposal on the grounds that insufficient details have been provided (and) the landscape proposals do not go far enough to mitigate the loss of the existing trees or provide a sufficient green buffer'. (CDC Tree Officer, Mark Harrison, CDC internal email, 17/2/2012)

Conservation / Urban Design

Arguably the most highly critical internal comments were those of made by Cherwell's Conservation and Urban Design Team. Made well before CDC was aware of the heritage issue, these comments were highly critical of the scale, visual impact, landscaping and screening of the proposal. Now removed from the CDC website, it would be helpful if these comments could be brought before Members and the public. We understand that Cherwell's specialist officers have not yet been consulted on the recent changes to the proposal. As the Council's specialist advisers on heritage, the team may now wish to comment on the heritage sensitivities of the site, ideally in the light of the revised proposals, English Heritage's assessment and any decision by the SoS on the Scheduling of any remains.

- **Email received 12 June 2012, for and on behalf of: Mrs A Smith, 67 The Phelps**

Comments on Glanville Technical Note which was submitted following the end of the public consultation period.

1. OCC highways have made no statement of support, we have checked this point with the authority who confirm that they neither support nor oppose the development, that is not their role. However the conditions placed on any possible approval are not trivial matters. The access issue is fundamental to the delivery of the applicants plans and should be addressed before any outline planning approval is considered or granted, it would seem incongruous and unfair on all parties to leave this point as a reserved matter. It is also considered that visibility splay and refuse vehicle swept path analysis should be undertaken before determination
2. under a more appropriate plan the The Rookery need not be used at all.
3. Glanville must be aware that the physical characteristics of the proposed access point present particular difficulties which cannot be overcome while maintaining the amenity of No 67 The Phelps and at the same time achieving the standard of access design and layout required under OCC highways published criteria. The layout shown on the submitted plan is clearly inappropriate as mentioned in our previous submissions, Glanville have not addressed the access issue in any meaningful way in this technical note
4. Glanville have failed to recognise and address the objection i.e. any miles travelled via The Phelps are unnecessary miles. The only explanation given for using The Phelps at all is the disbursement of traffic movements via three separate exits but at no point is a satisfactory explanation offered as to why The Phelps is a better option for the majority of the developments traffic when Nurseries Road is by any standard of common sense the better option. The only possible explanation for even trying to force an access via the The Phelps is that from the applicant's point of view it offers a chance to maximise the commercial viability of the site. We accept that the applicant is perfectly entitled to try to maximise commercial potential but maximisation of commercial viability is not a planning consideration
5. If as maintained the majority of traffic would travel south towards Oxford and the A34 this would not improve the situation it would make matters far worse. The distance to the junction of Yarnton Road with Oxford Road from The Phelps is approx. 1.2 Kilometres, The distance from Nurseries Road to the same junction is approx. 450 meters, it is a little surprising that as highways consultants Glanville have failed to notice this point. The applicant insists that the application must be considered in line with the requirements of the NPPF therefore environmental considerations are perfectly appropriate clearly the proposal in its present form does nothing to improve the environmental considerations of traffic movements.
6. With regards to the safety of pedestrian connections the response completely fails to address the safety issue, to say that vehicle speeds would be very low

is a convenient unproven presumption, particularly in respect of vehicles approaching the development, and non residential vehicles such as delivery vans, taxis etc. despite calming measures and regulations drivers control the speed of vehicles , if regulation and road design always controlled speed nobody would ever be convicted of a speeding offence. Safety has to work in the real world, young children have little awareness of traffic, pedestrians and cyclists are often distracted by the use of personal music players etc. drivers are not always as alert as might be hoped. This is already acknowledged at the other point where the footpath / cycle path crosses The Phelps. These points are restricted via proper barriers, it would therefore be reasonable to expect the same level of safety at any new intersection, but as is made clear in our previous objection it is difficult to see how this might be achieved. The whole response on this issue is unconvincing, lacking in clarity and unsupported by any evidence.

7. If it is proposed to use the Phelps for construction traffic a conflict is likely to arise frequently during that period. Unless it is proposed to seek an RTO in connection with No67 The Phelps which would not be appropriate.
 8. To date no resident of The Phelps has objected to refuse vehicles reversing it is an observation not a complaint, the extension would simply mean that refuse vehicles would in all likelihood create more noise and disruption as they manoeuvre around the proposed turning point
 9. This technical note and the previous submission from Glanville should not be considered of any greater value or weight than the DTPC survey or the objections raised by others. Glanville have failed to address the significant and legitimate concerns raised in regard to access via The Phelps especially in respect to the seriously damaging loss of amenity to No 67. Glanville overstate the position of OCC highways, they have failed to address in a meaningful way the legitimate safety concerns and have failed to recognise that while not under the remit of OCC highways environmental concerns are a legitimate planning consideration especially when taken in the context of the NPPF, which as it states should be considered as a whole when assessing the sustainability of a proposal.
- **Email received 13/06/12 - Mr Nicholas Webb - 61 The Phelps, Kidlington,**
I have a further point that I would like add. I am not sure if this has been raised but if any trees are to be cut down in the close vicinity to houses, in particular the bungalows along The Phelps/building plot border, what is to be done about the roots? In my previous experience most of the roots would be removed but some would be under the bungalows and after the trees are cut down the roots will shrink/rot causing possible subsidence to the existing properties. What will be done to guarantee that even if the trees are cut down no damage will occur to these properties?
-
- **Email received 16/06/12 - Mr Christopher Collett - 69 The Phelps, Kidlington,** I would like to thank Mr Bailey for his concern regarding his neighbours and the trees and his thoughts about having the site cleared but as I now have become to regard them as a very valuable part of our environment and think it would spoil one of the most attractive and local green areas that we have left please do not take them down.
-

- **Email received 13/06/12 – David Coates on behalf of the applicant:**

As you know I have been asked to offer planning advice on this application. I have now seen your Committee report and the recommendation for refusal. I must place 'on the record' my concern about the third reason for refusal. I make no comment at this time on the other two, other than to say I don't believe they can be supported either.

You will be aware of the careful phrasing used in the Planning Statement submitted as part of the application (which included objections to the likely application of the draft SPD) and also in subsequent submissions. Your requirements, and those of the County Council, have emerged over time culminating in an email from you to Darren Aspinall only yesterday (after your report had been written) with no more than a couple of lines simply requesting, though not justifying, a contribution to offsite play. Paragraph 5.36 of your report states that '*...as there is a recreation ground close by the applicant is willing to make an offsite contribution instead*'. I am not aware of such an offer and, in any event, its proximity (with a wide range of facilities) suggests to me that a contribution would be inappropriate.

Your reason for refusal is because there is an '*absence of a satisfactory legal agreement*' and you are '*not convinced*' that there would be one. How, precisely, can you claim that? Not, surely, because I have raised objections to the application of the draft SPD and asked for justification of what was being requested? Even if there was no issue taken with your demands, how could a S106 be entered into before your report had been written, which is actually what you are seeking? I would refer you to the final paragraph of the Planning Statement which was drafted in anticipation of the line you have now taken.

Under these circumstances I would ask you to withdraw this reason for refusal.

- **Email received 19/06/12 from Applicant's Agent:**

Prior to Thursday's planning committee we thought that it would be worthwhile to submit our response to the contents of the planning committee report with a series of bullet points set out below. These points counter the arguments put forward by the objectors and the recommended reasons for refusal contained in your report.

Refusal 1

- Site development density is 27 units per hectare (11 units per acre) and this is below the density supported by local and national planning policy. However, the proposed density is reflective of the site constraints that have been appropriately balanced against the need for efficient utilisation of development land. The constraints have been properly and carefully integrated into the scheme proposals.
- The submitted surveys have found that the majority of trees are of no amenity value and very limited ecological value.
- All category B trees (those considered under the relevant British Standard to be of sufficient quality to warrant retention) are retained and are successfully integrated into the proposals. The proposed layout includes Tree root

protection zones in accordance with 'best practice' recommendations.

- Level of shading to the proposed dwellings: Each proposed plot has sufficient amenity space in addition to the tree canopy area and the larger still tree root protection zones.
- Point a) & b): There is a proposed 2.5-3.0m wide planted landscape buffer identified to the southern boundary. This would allow a continuous 2.0m wide hedging and planting to provide a reasonable buffer between the existing and proposed dwellings. This could be appropriately conditioned and dealt with in detailed landscaping design.
- Point c): There is no planning policy requirement to provide a formal open space within the site. The proposed layout however, seeks to integrate the existing tree (T57) as a positive feature of the development and this represents good design. There is sufficient space around the tree to meet tree root protection zone requirements and for supplementary planting.
- Numerous complaints have been received over the years from neighbours in Nurseries Road and The Phelps regarding the overgrown and overbearing nature of the vegetation and trees on the site.

Refusal 2

- The traffic involved relates to 10 new dwellings only. Seriously detrimental impacts are therefore unlikely. Further information is provided below by our clients' highways consultant.
- The proposed dwellings adjacent to the southern boundary are orientated with habitable room and windows facing east-west to avoid any direct overlooking of neighbouring private gardens and habitable rooms to the south.
- Proposed building depths has been purposely limited to minimise any overbearing and over-dominating impacts, and buildings are orientated with the shorter gable elevation facing the existing properties to the south.
- The total length of the southern boundary is 91m. The total width occupied by gables is a total of just 23m.
- There are no side windows proposed at first floor level to plots 4, 5 and 7 so there will be no overlooking and loss of privacy to surrounding properties.
- The layout proposes private rear gardens to each property with a minimum 10 metre depth in accordance with local planning policy guidance. A minimum 20m offset is achieved between opposing habitable rooms, although this is exceeded in most cases.
- Plot 4 specifically: The gable is in line with gable to No. 26 Nurseries Road and proposed layout follows same pattern of development as existing condition. The proposed layout follows the pattern and character of surrounding area.
- Plot 5 specifically: There is a generous offset distance to No. 26 and to the rear garden of No. 68 The Phelps. The gable of plot 5 is positioned facing the public turning head to The Phelps.
- Plot 6: There is a generous offset to west boundary and buildings are oriented with habitable rooms facing east-west to minimise overlooking. There is no reason why the illustrative layout of plots 6 & 7 cannot be rotated so that these gables follow the line of the southern boundary. This could be

appropriately conditioned by the LPA.

The proposed dwellings are all to the north of the existing properties to the south, and the solar orientation is such that direct sunlight would be unrestricted and there would be no over-shading impacts.

Highways Comments

It is noted that report stated that *'the proposal in respect to access, parking and highway safety is acceptable in principle, subject to conditions'*. The report goes on to state *'it is considered that the proposed means of access off The Phelps to serve 10 no. units, The Rookery to serve 1 dwelling and The Nurseries to serve 3 no. units is acceptable in highway safety terms'*. Therefore, the reasons for refusal do not include highways and transport matters. We wish to record the following key points as follows:

- The development as a whole would generate 7 additional vehicle movements in the morning peak, 8 additional vehicle movements in the evening peak and 69 additional vehicle movements daily. This traffic will be spread across The Rookery (1 no. unit), The Nurseries (3 no. units) and The Phelps (10 no. units).
- The 10 no. units proposed to be accessed from The Phelps would only generate 6 vehicle movements during the peak hours (i.e. one vehicle every 10 minutes) and 53 vehicle movements daily.
- According to Oxfordshire County Council's *Residential Road Design Guide*, The Phelps has been constructed to the standard of an 'access way' and therefore is able to serve up to 25 dwellings. The Phelps currently serves 8 no. dwellings and will serve an additional 10 no. units with the proposed development i.e. less than 25 no units in total.
- Refuse vehicles will be able to use the turning head provided within the development and therefore would no longer be required to reverse down The Phelps as they currently do.
- Parking has been provided in line with current Oxfordshire County Council standards, this includes additional provision for visitor use, thus the development is not expected to give rise to any overspill parking on The Phelps.
- A Construction Traffic Management Plan will be submitted to the Planning Authority for approval and therefore the Highway Authority will have an opportunity to comment and approve the routing of construction vehicles.
- The proposed development is in line with policy set out in Oxfordshire County Council's Local Transport Plan 3. The site has a highly sustainable location and therefore would enable future residents to make journeys on foot, cycle or public transport thereby reducing traffic, congestion and carbon emissions.
- Oxfordshire County Council have not objected to the proposed development and have accepted that the provision of access for 10 dwellings from The Phelps is suitable.

The report also states that No. 67 has no off site parking. Whilst this is true it appears that the parking associated with this unit is provided within the parking court to the west of the site. It also appear from the satellite image that cars park in the turning head which is clearly in contravention of highways regulations and this represents a nuisance and safety issue.

- **Comments from the Council's arboriculture officer** upon the above Refusal reason one comments above from the applicant's agent
 - Despite being identified within the submitted Ecology Survey as a site with low ecological value, the report then goes on to state within the 'Executive Summary' section that valuable garden habitat is present and that if necessary its loss may be mitigated in the development by "*substantial planting of trees & shrubs....*". Secondly, an assessment of tree amenity value is generally not a stated objective for an arboricultural report undertaken in accordance with BS5837. To comment upon the amenity value of any trees on site would require the support of suitable accompanying evidence such as an amenity assessment in accordance with a recognised evaluation system such as Helliwell or TEMPO.
 - Mitigation planting or retention of semi-mature existing trees along the southern boundary will increase shading issues for adjacent plots as tree dimensions increase through growth and development. Such increases in growth may result in the reduction of amenity space for identified plots which in turn will place increasing pressures for tree pruning or removal.
 - A 2.0m wide hedgerow would not be sufficient in providing adequate screening without becoming either a nuisance issue for adjacent plots or a high maintenance feature for owners and, more importantly, it would not be possible for the LPA to protect such a privately owned feature from complete removal in the future under current legislation. A landscape buffer strip of such a specified size would not be adequate for the provision of suitable replacement or mitigation tree planting as required or recommended either by myself or within both the ecological report and the arboricultural report
 - The retention and enhancement of T57 will make for a striking and prominent feature within the proposed site. The main issue with T57 is the proximity of the adjacent Plot 14 and the associated future nuisances such as excessive afternoon shading, needle/cone drop and the risks of direct/indirect damage to the property by roots and branches. Tree root protection has been well considered and, providing adequate precautionary measures are undertaken in accordance with BS5837, there should be no significant concerns. Tree planting around T57 is possible within the current design proposal however, such planting would have greater establishment successes if more space was allocated clear of the influential tree and any adjacent built features such as curbing, hard surfaces etc.

- **Revised Legal agreement contributions**

Off-site play contribution = £32,452.16

Outdoor Sports = £28,412.93

Indoor Sports = £8,035.56

Total contribution sought is £126,132.64

