

SUPPLEMENTARY INFORMATION

Planning Committee

31 October 2013

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If you need any further information about the meeting please contact Natasha Clark / Aaron Hetherington, Democratic and Elections natasha.clark@cherwellandsouthnorthants.gov.uk, 01295 221589 / aaron.hetherington@cherwellandsouthnorthants.gov.uk, 01295 227956

Agenda Item 23

CHERWELL DISTRICT COUNCIL PLANNING COMMITTEE

31 OCTOBER 2013

WRITTEN UPDATES

Agenda Item 7 **13/00984/F** **Land S of Cedar House, Souldern**

- A letter has been received from solicitors acting for the applicant. This is attached to the rear of this update. The plan referred to will be separately circulated and displayed at Committee

Agenda Item 8 **13/00990/F** **Land adj Webbs Way, Kidlington**

- Additional information received from the applicant's agents consisting of photomontages to support the original landscape and visual assessment; an amended landscape plan with details of the proposed construction of the driveway, temporary protection during construction of the house, post construction finishing and details of the management regime for the accessway
- Attention has been drawn to errors in Para 5.7 of the report
The paragraph should read "The latest information received (...) appears to offer the prospect of a form of **drive construction** that would have a significantly reduced impact upon the appearance of the driveway proposed as part of the appeal schemes. Further research will be needed in advance of Committee however before I am happy to confirm this opinion. It is possible therefore that the recommendation of refusal may be changed to an **approval.**"
- Additional letter received from resident of Webbs Way which draws attention to the fact that the land west of Webbs Way features in the Council's SHLA report and that in the report it is noted that the owner of the site (Pye Homes) have indicated that the land is available for development. Attention is drawn to the applicant in this application being the Managing Director of Pye Homes
- **Recommendation changed to APPROVAL** with conditions to deal with the following
 1. Standard 3 year consent
 2. Condition identifying approved plans
 3. Sample panel of stone to be used for construction of walls to house to be approved
 4. Roofing materials to be agreed before commencement of development
 5. Materials for construction of garage to be approved before commencement
 6. Details of all boundary treatments to be agreed before commencement of development
 7. Obscure glazing to bathroom window in SE elevation
 8. Prior of the commencement of development a replacement badger sett shall be provided in the location and general manner described in the submitted ecological report and in accordance with all the licensing requirements of Natural England and the existing badger sett shall be

then be closed in accordance with the above mentioned licensing requirements

9. Landscaping to be undertaken in accordance with the revised landscaping scheme, including hedgerow on northwestern boundary of the paddock
10. Full details of the turf-reinforced accessway across the paddock shall be submitted to and approved by the LPA prior to the commencement of construction and shall be in general accord with the revised details contained in plan no. 3607/D09/D13-0296 Rev 2 and shall thereafter be constructed and maintained in accordance with those details
11. Details of driveway within house curtilage to be submitted to and approved by LPA before the commencement of development
12. Details of access to highway to be approved, including gate
13. Permitted development rights to be removed

Agenda Item 9 13/01186/F Paradise Farm, South Newington

- In respect to paragraph 5.40 the applicant has clarified the position as follows

“The existing hedgerow immediately to the North-West will be improved and thickened to help screen views of the proposed new dwelling. The ditch adjacent to the existing footpath will be re-dug to improve drainage, which is currently an issue in this area. The width of space available for the footpath will be increased by moving back the fence line to improve the quality of the footpath (as it currently stands part of the footpath is very narrow and muddy and despite signage people are deviating from the footpath to use the driveway for the section between the farm buildings and the field to the South-West corner of the site)”.

- Council’s Countryside Officer is now content with the applicant’s clarification regarding the location of Footpath no. 12, which remains unaffected and comments as follows: “South Newington Footpath No 12 runs within the application site from just south of the proposed tennis court in a south westerly direction; and South Newington Footpath No 13 runs adjacent to the north eastern boundary of the application site. No Public Path Order will be required to enable development but the applicant needs to be reminded of his duty to ensure that throughout the construction period no member of the public using South Newington Footpath No 12 is endangered, or prevented from exercising their right of way”
- Planning Note 1 is to be amended as follows:
 1. The applicant is advised that no materials, plant or temporary structures of any kind should be deposited on or adjacent to any public footpath running through the site, that may obstruct or dissuade the public from using the route whilst the development takes place.

Agenda Item 13 13/01318/OUT Land at Great Bourton

- Members were previously sent the full copy of OCC’s “One Voice” response
- Members may have received a letter dated 29th October 2013 from the agent acting

on behalf of the applicant (Phase 2 Planning & Development Ltd.) The letter refers to the submission of a draft s106 agreement to secure financial contributions at the site. As the agreement is draft and has not been agreed by the County Council or District Council Officers, reason for refusal 3 must remain should Members choose to refuse permission.

The letter makes reference to the local designation of the site as an Area of High Landscape Value. Notwithstanding the authors comments on the veracity of the local designation, the fact remains the site lies in the open countryside outside the settlement of Great Bourton and the harm identified to the character and appearance of the area remains.

The letter also makes reference to the recent housing appeal decisions at Hook Norton, Bloxham and Bodicote. Members should note that in each of these decisions the Inspectors reported that the sites were within areas that are considered sustainable and within easy reach of amenities and services such as schools, employment areas, doctors etc.. In this case, the site is considered unsustainable and any reliance on the appeal decisions is limited.

The letter reports that the application has been negotiated with the Parish Council and they do not object to the development. It must be made clear that just because the Parish does not object does not mean they support the development. Moreover, there is no evidence that the "silent supporters" of the scheme are in fact supporters of the scheme.

Finally, the letter reports that "the Localism Bill was designed to encouraged to developers to bring forward proposals that that had the support of the community..." However, the correct mechanism which localism works is the local plan. If Great Bourton are considering allocating the land for housing development then this would need to be promoted through the Neighbourhood Development Plan. To date such a plan does not exist.

- **Reasons for Refusal**

Reasons for refusal 1 and 2 have been amended to take into account the unsustainable location of the site. Refusal reason 3 remains unchanged.

1. The proposal represents development beyond the built up limits of Great Bourton in an area of countryside and is not allocated for development. Due to the location of the site and the lack of amenities and services and alternative suitable public transport links the proposal would constitute unsustainable development which fails to contribute towards the achievement of sustainable development as required by the National Planning Policy Framework March 2012. The application is therefore contrary to Policy H18 of the adopted Cherwell Local Plan, Policy Villages 3 of the Proposed Cherwell Local Plan Proposed Submission Draft March 2013 and Government guidance contained within the National Planning Policy Framework.

2. The site forms part of an Area of High Landscape Value and is prominently located adjacent to public rights of way. It is considered that the development of this site for a housing scheme represents sporadic development in the countryside which would have a harmful impact on an important part of the open countryside and would cause harm to the rural landscape setting of the village and would reduce the amenity value afforded from the existing Rights of Way. The proposal is considered to be contrary to saved Policy C8 and C13 of the adopted Local Plan, Policy ESD13 of the Proposed Cherwell Local Plan Proposed Submission Draft March 2013 and the advice within the National Planning Policy Framework.

- Bicester Town Council - No objection

Agenda Items 16 and 17 13/01410/F and 13/01411/LB Heyford Manor

- Lower Heyford PC raise no objections

Agenda Item 18 13/01449/ADV - Prezzo Unit 1 Pioneer Sq, Bicester

- Amended plans now received and condition 2 should now refer to plan nos. 385681- 2 Rev A and 3 Rev A
- Bicester Town Council - No objection

Agenda Item 19 13/01517/ADV - Deans Diner Unit A2 Pioneer Sq, Bicester

- Amended plan received so condition 2 should now refer to plan no. 388488-3 Rev A

Evans & Co SOLICITORS

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31 October 2013

Cherwell District Council Planning Committee
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Dear Sirs,

Re: Our clients: Iain and Mary Porteus
Application Ref No: 13/00984/F
Land to the South of Cedar House, Souldern.

We are instructed to act on behalf of Mr and Mrs Porteus in relation to the above referenced matter.

The application in its current form was considered first by the Planning Committee on 3rd October 2013. You will be aware that the application was refused. You will also be aware that procedurally the meeting was defective, as our clients' representative Robert Sutton was not allowed to speak despite having notified you of his intention to do so. You will understand that this is particularly concerning from our clients' perspective, as it is imperative that each application is considered based on its merits and disadvantages. It is clear that Mr Sutton will make submissions in our clients' favour at the meeting scheduled for 31st October 2013. We would ask that these submissions are considered objectively, and with due consideration to current planning guidelines.

In view of the importance of arriving at a correct conclusion we would wish the following matters to be put to the members and considered by them.

1 Mapping matters.

a) The 2003 decision

The 2003 application was refused partly on the evidence on a map of 1920 on which Cedar House does not feature yet this decision is referred to in the submission of the Planning Officer in the abortive procedures of 3rd October. Given the inaccuracy which such a plan can bring into proceedings we would suggest that the matter now be determined with reference to an up to date map without regard to what has gone before. Therefore we ask that Paragraph 5.7 of the officer report be disregarded: as should Paragraph 5.13 where the site is described as double its actual size.

b) The Ordinance Survey map in the Member Document pack.

The Ordinance Survey map in the Member Document pack and the Neighbour Map on the Council Website shows "The Barn House" as a single dwelling with a very large garden. This is an inaccuracy.

In reality, permission for development of The Barn House was granted on 2 July 2003 –well before my clients' first application, (Ref. 03/01014). Following this The Barn was divided from the Barn House to form two semi-detached houses, a substantial area of garden divided and served by a new entrance. The Barn was substantially extended to the north and a large double garage added at the north end of the new drive, 35 metres from the Grade II* listed Manor Farm Barn.

These building works were begun in 2003 and completed shortly afterwards. The attached map is marked to show the current buildings and garden boundaries. [These are also clearly visible on the satellite image in the Heritage Impact Assessment in the current application.] This blocked any vehicular access to the rear of the Barn House, as noted on the map.

2 Council Policy.

Our concern here is to ensure that due process is followed, and that the correct result, based on the evidence for and against our clients' application, is obtained.

The 2003 application, was made following the advice from Robert Duxbury, the then Area Planning Officer, who attended the site. The recorded position of Mr Duxbury, then Area Planning Officer, and Mr Duncan Chadwick Planning Control Manager in the case notes is that the application merited approval. Presumably such a recommendation would not have been made if the officers concerned believed that policy prevented it from being acceptable.

As the policy has not changed, from 2003 until now and so far as we are aware there is no new evidence to detract from the merits of the application we are unable to see why there should have been a retraction of the original recommendation in 2003, neither can we see why it should remain the case now.

3 Matters raised on 3rd October 2013

With regard to the the discussions concerning the development itself, we understand that the following issues were raised on 3 October by the Planning Officer:

- a) the development could have an impact on the Souldern Conservation Area
- b) that the development could not be regarding as “infilling”;
- c) acceptance of the application could set a precedent for future applications;

a) the development could have an impact on the Souldern Conservation Area

Whilst it is the role of the committee to be satisfied that the proposed development will preserve or enhance the character of the Area. This does not mean that the area must remain unchanged. The argument to suggest that the development would have a negative impact on the Conservation Area does not seem to be supported by any evidence.

You will see from the plan which accompanies the approval of Mr and Mrs Cooper's application (24th March 1995 reference 95/00182/F) that their property was extended considerably by virtue of the grant of permission. It was clearly deemed in this case that the development would preserve or enhance the Conservation Area, and we would therefore question the basis of the Planning Officer's view that our clients' application would not.

With regard to the Backland Development considerations which the committee must weigh we would suggest that this is quite clearly not relevant in this case, as the land is surrounded by a three metre high wall, very tall hedges and trees and there is no loss of amenity whatsoever to existing buildings. This cannot therefore be regarded as a reason for refusal, as the facts do not support it in any way.

b) that the development could not be regarding as “infilling”

With reference to infilling, again, we would question the Planning Officer's reference to this. Infilling is simply the development of land which has been left vacant. Policy H14 of the Adopted Cherwell Local Plan indicates that new residential criteria will be restricted to infilling, amongst other things. Originally the Officer recommended approval of the application in the light of these policies, which appear not to have changed. In the light of the Council's Constitution which calls for consistency in order to maintain the integrity of the planning system we would suggest that Mr and Mrs Porteus's application

still fits this criteria.

c) acceptance of the application could set a precedent for future applications

The Council's recording of the meeting shows that the Planning Officer made repeated references to the fact that acceptance of Mr and Mrs Porteus's application may set a precedent for future applications.

There are two aspects to this matter:

i) We do not accept that this is a good reason to reject an application, in fact we do not accept that the "floodgates" principal is a material planning reason for an objection at all. Each planning application must be considered based on its individual merits and disadvantages. If future applications are made by others following an acceptance of this application, the same individual consideration must be given to them regardless of the outcome in this application.

ii) We do not believe that there is scope for any similar type of application in the near vicinity as the matters referred to by the Planning Officer have been developed already.

We are sure you share our concern to reach a fair decision based on clear evidence, and hope this letter assists you in this task.

Yours faithfully,
Evans & Co