

SUPPLEMENTARY INFORMATION

Planning Committee

11 June 2015

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Agenda Item 17

CHERWELL DISTRICT COUNCIL PLANNING COMMITTEE

11 June 2015

WRITTEN UPDATES

Agenda Item 7 14/01816/F Land SE Blinking Owl PH, North Newington

- Additional comments from North Newington PC(see appendix 1); in summary their concerns relate to the use of The Pound as vehicular access both during construction and thereafter; large house is not infill, and will be detrimental to the character and appearance of the area , and to the Conservation Area and setting of listed buildings; inappropriate to have raised no objections to business use of existing building; concerns about the handling of the case
- 6 additional communications from local residents objecting to the revised scheme on the grounds that
 - Inaccuracies in base plan
 - larger dwelling will result in greater use of The Pound; impacting on the condition of the lane and the safety of users
 - overlooking of houses on the other side of Banbury Road
 - adverse impact upon historic part of the village and Conservation Area
 - important area of open land
 - adverse impact upon view to open countryside
 - not infill development
 - loss of undisturbed wildlife haven
 - challenging the applicants right to use the lane
 - concern about construction access

Agenda Item 8 14/02132/OUT Land at Bunkers Hill, Shipton on Cherwell

1. A letter has been received from the agent in response to the committee report. The main points raised are as follows:
 - Paragraph 3.6 of the report – condition relating to an arboricultural method statement – any trees or hedgerows required to be removed to enable the access improvements are not worth protecting and replacement tree and hedgerow planting can be carried out. The greater benefit must be the proposed improvements to the access road
 - Paragraphs 3.8 and 5.21 of the report – states that the proposed vision splay onto the A4095 is not in the applicant's control. This

is misleading as there is a legally binding agreement to acquire the land to enable the highway improvements to be carried out if planning permission is granted. A vision splay is included in the red line and a condition can impose a condition requiring the vision splay to be approved prior to any other development taking place

- Paragraph 5.11 – 5 year housing land supply. Disputes the use of a 5% buffer and a 20% buffer should be used due to a record of persistent under delivery. The Council has only 4.5 years supply of housing land.
 - Paragraph 5.41 – relates to viability of the site once sold to a developer. Considers this to be scaremongering and the application should be considered on its own merits including the benefits being offered which will be secured by a s106 agreement. If a later application offers less benefits this should be considered on its merits. The Council could then decide that without the benefits the balance would be against granting planning permission.
 - Paragraph 5.42 – The benefits will not be provided for the existing houses at Bunkers Hill without the funding being made available from the development of the new houses.
2. Two letters have been received from the applicant in response to the committee report. The main points raised are as follows:
- Paragraph 2.1 of the report – 11 letters objecting to the application represent 6 households. 63% of the households who expressed an opinion responded supporting the development.
 - Paragraph 5.27 – water supply. There is no quick fix to the water supply problems – new tank, pumping facility and suitable building to house the new tank and pump are required. An isolation unit could be installed to protect the Thames Water supply but there would not be enough volume to cope with peak demand.
 - Paragraph 5.29 – water supply. Queries the opinion given and questions that the opinion given is not of an expert nature.
 - Paragraph 5.40 – financial viability. The scheme is financially viable after the costs of providing the benefits have been delivered. The need for a financial viability assessment to prove that it is financially viable to deliver the promised benefits is highly unusual indeed that there is no knowledge of a similar request by

the Council before on such a small scale scheme.

- Section 5.43 and Section 6 – disputes that the Council has been positive and proactive due to the length of time taken to report the application back to Members.
 - Notes that the committee report date is 21st May 2015. Questions whether the report was delayed to ensure that the application returned after the 5 year housing plan was released.
 - The applicant is happy to place a legal charge on the title deeds for the Bunkers Hill land in favour of the Bunkers Hill Management Company Ltd (BHMC) to ensure that if the application is approved and the land sold, with no other legally irrevocable arrangement in place to deliver the promised benefits, funds totalling £286,780, to cover all improvements promised, would be deposited in the BHMC bank account at the point of sale to ensure that the improvements are delivered.
3. Two letters have been received from objectors to the scheme one of which has been sent directly to Members and has been signed by 16 signatures. They comment that:
- Nothing has changed since the March committee meeting.
 - Not sustainable – Cat C village. Contrary to aims of local and national planning policies
 - Many residents feel their views were misrepresented
 - CDC has been misinformed or is uninformed of the current status of the amenities and services. Payments for Bunkers Hill services have been increased and there is an option to share the cost of graded improvements to the sewage and water systems as and when required. The water supply is now drinkable.
 - Residents still have to vote on whether to give up some land for development.
 - The footpaths and pavements to Kidlington and the surrounding villages are very limited making venturing on foot or bicycle very dangerous
 - The bus service is unreliable and inadequate necessitating the use of cars for all journeys.
 - Shipton PC did not and do not represent us or our views. No resident was consulted by the PC before they sent in their

approval. They cannot say that any development will significantly improve the infrastructure and amenities as they don't live in Bunkers Hill, visit Bunkers Hill or take any interest in Bunkers Hill.

- Whilst there have been intermittent issues with the water supply in the past this is not the case now nor has been for some time.
- To their knowledge the water tower has not been deemed structurally unsafe – payments have been made by residents to maintain it,
- Residents contribute to a management committee fund. The houses are all private properties and all residents moved to Bunkers hill with the knowledge that there was a fee to pay for the water and sewerage. The houses have managed for years without the need for a developer to help and there is no reason for this to change. Insurance is included in the fee covering liability if anyone is injured walking under the water tower.
- Speed limit on A4260 is 50mph – unsafe for children to cycle to school
- Community building would not be an asset. Residents contribute through council tax for the Millennium Hall in Shipton which is used for meetings.
- The applicant does not have control over the land that the new and improved access would go over. The land required to widen the road belongs to BHMC and the owner of No. 24. For the applicant to receive the BHMC land a vote has to be held by shareholders – this has not been done. There is currently a dispute over a section of the land that appears on the title deeds of both No. 24 and BHMC. Until this is resolved the vote cannot take place nor can No. 24 offer the land for sale. The applicant cannot provide a legal agreement that the benefits can be delivered.
- Bus service is infrequent and route to it is unlit.
- Footpath to Kidlington is not wheelchair or buggy friendly
- Precedent if approved
- Traffic generation not comparable with Cotswold Country Club as it did not open at peak times in the morning or evening
- Approval of the application would be inconsistent with previous

refusal and the refusal on the adjacent land.

- Community building – residents are expected to pay for the upkeep and run themselves.
 - PC made representations without advising the residents that the matter was to be discussed at the PC meetings and therefore not giving the residents the opportunity to discuss concerns
4. A further letter has been received from the applicant seeking to address some of the objectors' comments. This is summarised as:
- Access road is under the ownership of the applicant and the legal arrangement is that those residents who enjoy a right of way over the access do so as they are liable for the upkeep. This is documented on the applicant's title deeds and individual title deeds for the houses.
 - The access road is in need of repair. Ownership of the access road is to be transferred to BHMC and funding of the rebuilding of the access road as part of the benefits. Happy to extend legal commitment to the transfer of the access road in title deeds to BHMC.
 - Dwindling number of volunteers to look after the water supply and sewerage facility.
 - Temporary water supply is not compliant with current standards and sewerage plant will fail soon.
 - Misconception that housing is too dense. Much less dense than the existing Bunkers Hill housing. If it was the same density there would be 14 houses.
 - Quotes paragraph 5.22 of the committee report relating to impact on living amenities of the neighbouring properties
 - Running costs of the community building – happy to increase the amount offered to run and maintain the community building to allow for a period of 20 years in line with the other benefits
 - Factually correct to say that the majority of households who have expressed an opinion are in favour of the scheme and the improvements it will bring to the community.
 - Not relevant to object to points on which the Council and its officers have already considered and passed judgement on.

Agenda Item 9 15/00307/F The Roebuck, Banbury Rd. North Newington

- **Amended reason for refusal**

Reason 1.

The site is unusually sited beyond the built up limits of the village on the Banbury Road frontage of the site at this key entry point to the village, and it does not constitute infill development as defined in the adopted Local Plan, and therefore its development is considered to be unacceptable and contrary to Policies H14 and H18 of the adopted Cherwell Local Plan

Agenda Item 10 15/00412/F Site of Winners, Victoria Rd. Bicester

- **Viability appraisal by the Council's consultant Bruton Knowles (report by Mr Guy Emmerson)**

Mr Emmerson raises queries over the following: Projected land value, sales values, marketing and sales costs, the development programme timescale, land acquisition costs

Mr Emmerson applies lower electricity and Council Tax costs in his model, and notes that the stated professional fees (10%) and gross developer profit (20%) are at the higher ends of the normal ranges (e.g. 6 – 10% for the former) for such costs.

However, Mr Emmerson concludes that the currently proposed development would be rendered non-viable by the Affordable Housing and Day Care Centre contributions.

He explains that the application site has *“a high Site Value (threshold land value) by virtue of the extant planning permission for 40 assisted living units that was not burdened by any planning gain costs”*. With regard to the projected land value which is disputed, Mr Emmerson notes:

“To reduce it, the Applicant would need to decrease values or increase costs within that appraisal. And to do that, for consistencies sake, the same changes would need to be made in the application scheme appraisal which would have the effect of reducing its ability to contribute”,

and describes this as a ‘circular effect’ that is difficult to break. The same applies in respect of other input values.

Mr Emmerson concludes: *“I am unable to say that the application proposals can viably contribute towards planning gain mainly due to the high existing use value of the site and the fact that the extant scheme, that has no planning gain burden, yields a similar value to the application scheme.”*

- **Housing Strategy Officer**

The relevant officer requests an off-site contribution towards Affordable Housing rather than a proportion of the development itself. In light of Mr Emmerson's conclusion, it is considered that this contribution would render the proposed development unviable.

- **Amended recommendation**

As a consequence of the above two sets of comments the recommendation is amended to omit requirement (a) i.e. omitting the need for a Section 106 agreement

- **Conditions**

Amendments to the following conditions:

Condition 7 (fire hydrants) deleted as not meeting the Framework's tests for conditions, i.e. not reasonable or necessary under planning legislation.

Condition 16 (permeable surfaces) is largely a duplicate of Condition 12, so Condition 16 should be deleted, provided that the reason for Condition 16, including the words, “and flood prevention”, supersedes the recommended reason for Condition 12.

Condition 24 (plan for enhancing biodiversity) to be re-worded to require a scheme to be submitted within 3 months of the date of the approval: the applicant advises that some demolition has already taken place within the site.

Condition 26 (BREEAM standards) to be deleted, as the Deregulation Bill 2015, which received Royal Assent on 26 March 2015, states that planning permissions should not be subject to conditions requiring compliance with any technical housing standards (other than for those areas where authorities have existing policies on access, internal space, or water efficiency)

Condition 27 (use restriction) to be deleted, as not meeting the Framework’s tests for conditions, i.e. not relevant to the current proposal or necessary under planning legislation

Agenda Item 11 15/00454/OUT Land parcel 6927, The Hale, Chesterton

- The Council’s arboriculturalist comments
*A significant number of concerns expressed at the Pre-app stage have been addressed within the submitted Arboricultural Impact Assessment provided by SJ Stephens Associates (e.g. Tree survey, Impact assessment and shading patterns).
Boundary hedgerows are acknowledged with buffer zones and water sensitive features providing adequate protective measures.
Any recommended loss of boundary trees, particularly to the north–west boundary should be mitigated with boundary planting of appropriate native trees.
The village green provides a good central feature as a potential ‘hub’ to connect green infrastructure however I have concerns that without sufficient verge widths such integration and connectivity will not be achievable. The Masterplan indicates that such connectivity may be achieved by residential hedgerows and street tree planting however, legal protection of such hedgerows is not possible which leaves these features vulnerable and at risk to replacement by fencing. Trees planted within the streetscene may have their environmental and aesthetic benefits compromised if sufficient space is not allocated for their development. Highway verges of a minimum width of 3.0m, along with a radial planting distance of 6.0m to house frontages must be provided if trees of a size and species capable of providing connectivity to the boundaries and benefits to the community are to be planted and allowed to mature.*

Agenda Item 12 15/00541/F Land S Leycroft Barn, Somerton Road, Souldern

- **Amended Recommendation Deferral** to allow submission of the Odour Management Plan referred to in paragraphs 3.3, 3.4 and 5.31 of the report

Agenda Item 13 15/00604/OUT Land adj. Ells Lane, Bloxham

- **Application Withdrawn**

Official Response from North Newington Parish Council

Application 14/01816/F Allotment Gardens, North Newington

1. This response is submitted by NNPC for and on behalf of the Parish. The PC would like it noted that they have received several representations from the parishioners and there is considerable feeling in some areas of the village on this matter. The NNPC response reflects the majority of views that have been presented to them.
2. The Site represents an important space close to the centre of the village. It is elevated above the road and will have a significant impact on the visual amenities of the area. The proposal is therefore contrary to Policy C23 of the Local Plan as the proposed development does not make a positive contribution to the character and appearance of a conservation area.
3. As the property will be elevated due to the nature of the site, this is likely to be detrimental to the degree of privacy received currently by the occupiers of existing properties. This is contrary to Policy C30 of the Local Plan which states that any new building must provide standards of amenity and privacy. It is also not compatible in appearance or character to existing dwellings in the area.
4. The access through the Pound to the Allotment Gardens is not a legitimate access. There was no access to the land prior to a wall being removed and creating a new access point. In previous refusals it has been suggested by the Appeals Court that action should be taken to remedy this situation and the wall should be reinstated. This matter was not correctly followed up by the Authorities at the time, but that still does not give grandfathered rights of access. We also note that although due process has been followed with the advertisement in the Banbury Guardian for the owner of the Pound, just because there has been no forward notice given, does not mean that there is no a legal right. Therefore there is no legal right of way from the Pound.
5. The Pound is recognised as a footpath and as being substandard in width, alignment and surface construction. Heavy vehicles such as JCB's would cause the road surface to degrade further and make it impassable during inclement weather. Any additional traffic would cause more problems for the current home-owners. The access is also substandard in vision terms and further traffic generated by the proposal would result in hazardous conditions to other road users in the area.
6. The Pound is a registered footpath. There is no refuge for pedestrians from a large influx of traffic.
7. There would appear to have been serious inconsistencies both in this application and in previous application from the applicant. It is unclear to the Parish Council how these

inconsistencies have been managed and whether due process has been followed. NNPC would have liked to have seen more transparency in the information and actions pursued by the Planning Officer.

8. We would refer to the Letter from Rights of Way Officer Sarah Alder to Rebekah Morgan 27.11.14, which clearly states the problems and issues building a property at the Allotment Gardens would cause The Pound for both the environment and the community. The NNPC fully support these views. We would also like it to be noted that S Alder does also question the legality of consistent vehicle access over a registered footpath. At the current time there is no demonstrated LEGAL vehicle access onto the Allotment Gardens.
9. The Parish Council would note that in a letter from the Planning Officer Rebekah Morgan to Mr McNally, it is suggested that on appeal an Inspector gave little weight to the lack of compliance regarding infill, provided that the siting of a development as logical and of high quality. The NNPC can not see what another appeal has to do with this application: we have not received details of the other application but cannot foresee that the circumstances are similar enough to have any bearing on this application. The PC would also like to know what is the exact definition of logical development that was used in the previous appeal, and would be minded to raise an Freedom of Information request to clarify information and communications associated with the definition and decision. Is it logical to build on every piece of land regardless of the site conditions and concerns from community and professionals alike just because there is a chance of appeal. And why would logical override the complete policy on infill. This in itself does not make any logical sense.
10. The site does not apply under the terms of infill. Infill is classed as a development of a small gap in an otherwise continuous built up frontage suitable for one or two dwelling. The site of the allotment gardens is approximately .14 hectares and can not be classed as a small gap. Therefore this is contrary to Policy H14 of the Local Plan. This point has been made clear on previous applications at refusal that it not infill and should not be construed as such.
11. There has been the suggestion by the client that heavy vehicles constantly use The Pound. This is complete nonsense, as even the oil lorries will no longer deliver on an ad hoc basis due the road condition and the blind bend. Only smaller vehicles must enter due to the nature of the road and its conditions.
12. The allotment gardens were always just a garden, an overgrown garden but a garden. They had been fallow for 20 years prior to its purchase by Mr McNally. It was the reason of lying fallow that the case against change of use was not upheld. Agriculture did not commence on the land until 2004. In the 90 years previously it was the garden of a property on Park Lane.
13. Whilst a change of use has been granted to B1, documentation states this is only in respect to one part of the site only. It would seem that large term storage which has been the suggestion if the applicant does not get planning permission which is contrary to Policy EMP4, C22 and C31 of the Local Plan which seeks to direct commercial use to appropriate sites. An elevated area in the middle of a conservation village could not be suggested to be an appropriate site. The site is not business appropriate as it has no demonstrated legal road

access and would be damaging to both Listed and Heritage graded sites close by.

14. Land Registry documents show only the plot of land known as the Allotment Gardens to belong to Mr McNally/Penfield Homes. There is no access shown or rights of ownership to the land known as The Pound. Applications for the previous change of use, for which there were objections, claim that Mr McNally is not the same party as Penfield Homes. He is of course the director of the company so it is the same party.
15. The Parish Council believe that the development of the land known as the Allotment Gardens is contravening Policy EN34 of the Cherwell Local Plan. It meets every criteria of the Policy in that it will cause an undue visual intrusion, be inconsistent with local character and harm the historic value of the landscape. This has always been open land and should not be changed in such an area of the village so close to listed buildings. There are two Grade II listed buildings very close to and as well as Local Heritage buildings. We would go as far to say this is an exemplar of the Policy EN34 and if planning is permitted we would be minded to challenge why policy EN34 even exists.
16. Cherwell District Council Conservation Officer has already stated that this application should be refused due to the significant engineering works that would have to take place on this piece of land. There is no considerable difference in this application to previously **refused** applications. There have been no considerable changes in environment, conditions of entry or of further scale building in the community. If there have been no changes and this application was approved, does that not open the door on previous applications and concerns as to why they were originally refused. There may be a question of conflict of interest brought up by a previous applicant.
17. Close recent applications have been refused. These would have less visual impact on the community and had better access. In fact it to be shown by the Applicant that his development meets the terms of T8 of the Oxfordshire Structure Plan, which states the development should only be permitted if adequate access is provided and with a mitigation of adverse transport impacts. Despite gaining a B1 instead of an Agricultural listing on a technicality, the unpaved path/road up The Pound does not allow access for large vehicles. There is not the 8 lorries a day going up and down the road as suggested in the application. This will not decrease traffic by allowing a home instead of a business. The exit from The Pound is substandard and can have very poor visibility especially during school hours when there is an almost continual line of parked cars.

In Summary, the Parish Council is **refusing the Application:**

1. Contrary to Policy C22, C23, C30, C31 and H14 of the Cherwell Local Plan
2. Contrary to Policy EN34 of the Non-Statutory Cherwell Local Plan 2011
3. Questions over the change of use and the legality of the planning regarding the change of use

4. Supporting information by professionals S Alder and F Du Buiteleir also refusing the application.
5. Large community feeling that the application should be refused, and questioning the validity of some of the information provided.

ADDITIONAL COMMENTS

From the Parish Council meeting of the 2nd June 2015 North Newington Parish Council wishes to make the further comments in light of the application for a substantially property.

1. The application for the Allotment Gardens has increased to a now 2 storey building from the previous application of a bungalow. While we are not supportive of any development on this land, this latest amendment will now have a greater impact on the environment than a bungalow and will effect the whole village. There is to be an increase amount of soil removal. This can not be taken out of The Pound. which is actually designated as a footpath by OCC, and will not sustain the vehicles required. This means that any lorries, delivery vehicles, construction vehicles will be parking on the brow of the hill on a blind bend causing serious dangers for both road users and pedestrians. Combine this with any school traffic and there will be an accident waiting to happen. Also a larger house equals more traffic, something the unlawful access up the classified footpath (the Pound) could not sustain. This would mean that the development fails to meet T8 of the Oxfordshire Structure Plan which states that development should only be permitted if adequate access is provided with a mitigation of adverse transport impacts. NNPC would state that the footpath (The Pound) is not an adequate access and vehicles parked on the hill (as described above) would have an adverse transport impact. Indeed vehicular access into the allotment garden site, via the footpath (the Pound) is via a hole in a which an appeal stated that the wall should be reinstated. There fore the access through the footpath of the pound is totally inappropriate on several accounts.
2. The visual impact will also be much greater, the house is not infill despite what the planning officer would like to think, it simply does not meet the definition. It will tower over the houses and structures around it, with an increased ridge height. This is detrimental to the environment surrounding the house, to the local heritage buildings as well as the listed buildings. As said in a recent refusal in the immediate vicinity **"The proposed dwelling draws no inspiration from the tradition forms of vernacular architecture within the village in except it is proposed to construct the building from stone, and would fail to preserve or enhance the character and appearance of this aspect of the North Newington Conservation Area"**. (Dr Rose Todd, Senior Conservation Officer 8/5/15) Therefore the application still does not meet the standards set out in policies H14, C22, C23, C30, C31 and H14 of the adopted Cherwell Local Plan.
3. The application had been also applied for in a change from Agricultural to B1 status. This property should not qualify for B1 status, there is not a business use at this property. If there was it would then be contra to EMP4, C22 and C31 of the Local Plan which seeks to direct commercial use to appropriate sites. An elevated area in the middle of a conservation village could not be suggested to be an appropriate site. As an agricultural site it is too small to benefit from any permitted development rights for agricultural building (Appeal Decision APP/C3105/C/04/1165055)
4. NNPC would also like to know how this application became a two storey structure. There has been an apparent lack of transparency from CDC during this application which leads to concerns that due process and impartial advice can not be demonstrated to have been

followed. NNPC will be filing a Freedom of Information with CDC regarding this. As part of this response we formally request that the case be moved to a Senior Planning Officer (or at the least request a senior Peer review) due to the inherent concerns in the handling of the case so far and to avoid an suggestion (from any quarter) of standards of process and practise falling below that expected of CDC.

In Summary North Newington Parish Council REFUSES this planning application.

1. Contrary to Policy C22, C23, C30, C31 and H14 of the Cherwell Local Plan
2. Contrary to Policy EN34 of the Non-Statutory Cherwell Local Plan 2011
3. Questions over the change of use and the legality of the planning regarding the change of use
4. Supporting information by professionals S Alder and F Du Buiteleir also refusing the application.
5. Large community feeling that the application should be refused, and questioning the validity of some of the information provided.
6. With the Freedom of Information requested NNPC feel that there should be time for the documentation to be received and processed prior to any decision.