

SUPPLEMENTARY INFORMATION

Planning Committee

19 May 2016

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

Cherwell District Council

Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House,
Bodicote, Banbury, OX15 4AA, on 17 May 2016 at 7.26pm

Present: Councillor David Hughes (Chairman)
Councillor James Macnamara (Vice-Chairman)

Councillor Hannah Banfield
Councillor Andrew Beere
Councillor Colin Clarke
Councillor Chris Heath
Councillor Alastair Milne Home
Councillor Mike Kerford-Byrnes
Councillor Alan MacKenzie-Wintle
Councillor Richard Mould
Councillor D M Pickford
Councillor Lynn Pratt
Councillor Nigel Randall
Councillor G A Reynolds
Councillor Barry Richards
Councillor Nigel Simpson
Councillor Les Sibley
Councillor Nicholas Turner

1 Appointment of Chairman for the Municipal Year 2016-2017

Resolved

That Councillor David Hughes be appointed Chairman of the Planning Committee for the Municipal Year 2016-17.

2 Appointment of Vice-Chairman for the Municipal Year 2016-2017

Resolved

That Councillor James Macnamara be appointed Vice-Chairman of the Planning Committee for the Municipal Year 2016-17.

The meeting ended at 7.28 pm

Chairman:

Date:

Agenda Item 16

CHERWELL DISTRICT COUNCIL PLANNING COMMITTEE

19 May 2016

WRITTEN UPDATES

Agenda Item 7 14/01685/F former Burgess building ,Canal St. Banbury

- **Banbury Civic Society – comments dated 13.05.2016**

Banbury Civic Society has considered the comments received from CDC Estates dated 19/4/2016, CDC Conservation dated 29/4/2016 and Historic England dated 5/5/2016 and commented as follows.

Banbury Civic Society is concerned that Historic England have made a premature conclusion on the viability of conversion of this building based on the comments of CDC Estates.

A structural survey is required to fully assess the suitability of conversion.

Officer advises - This information was submitted as part of the amended application documents and was included as part of a recent consultation dated 19th April 2016.

The applicant's conversion scheme comprises 1082 square metres of lettable floor area. No drawing of the conversion scheme have been provided so cannot understand if it would be a suitable conversion attracting occupiers.

An alternative conversion scheme has been prepared by Save Banbury Steam Factory campaign presented by Banbury Civic Society. Designed to yield the same number of commercial units and a similar lettable floor area to the applicant's new build scheme. It also includes new building element of 340 sq metres giving an attractive frontage to the canal with a total lettable floor area of 1422 square metres.

The *Save Banbury Steam Factory* refurbishment scheme would appear to have much to commend it, particularly given the Council's objective of regenerating Banbury's Canalside and moving its economy away from one based exclusively on small industrial units. The refurbished and new-build units in the *Save Banbury Steam Factory* refurbishment proposal are thus more orientated towards commercial units (including studio / office space) that benefit from the Site's heritage U.S.P and attractive canal-side location, rather than on 'industrial' units with their strict requirements for 5-metre eaves height (the eaves height of the refurbished units is 4.3 metres). Indeed, I would note also that the applicant's new-build scheme

also states that they intend 'commercial units', rather than 'industrial units'. The popularity of rural commercial units in historic converted farm buildings would appear to indicate that there is indeed a ready market for attractive and distinctive commercial units that do not conform to any 5-metre eaves height standard.

In this context I note that a local commercial agent (Neil Wild of the Wild Property Consultancy) has already written to CDC (21st February 2016, (attached)), strongly expressing his view that a refurbished building would let at a similar rental to new-build (£8.00/sq.ft).

I would hope that, having seen the *Save Banbury Steam Factory* scheme, CDC Estates Dept would concur that their proposed refurbishment scheme would indeed prove attractive to prospective businesses looking for attractive and distinctive commercial / studio-type space, with excellent car-parking and ready access to the railway station.

As regards costs, the *Save Banbury Steam Factory* refurbished scheme has not been costed. It is unlikely that the costs for the refurbished element would not be greatly different from those supplied by the applicant. Similarly, the cost per square metre of the new-build element of the *Save Banbury Steam Factory* scheme would be likely to be in the same ball-park and the new-build cost supplied by the applicant. Here we would note that the applicant has never asserted that refurbishment would not be commercially viable.

Whilst the applicant has submitted detailed costings for new-build and refurbished, there would appear to be some disagreement over the exact cost differential. Thus at 2.2 of the applicant's cost comparison report it is stated that "*The differential in cost between the refurbishment and new build is £217,010*", whereas in their letter of 14th August 2015 Historic England state "*I calculate that the total price difference between the two options is only something in the region of £36,500. This is very different from the difference given in 4.15 of the Framptons report, which gives the difference as £192,500. I do not know how they arrived at this figure.*"

As I noted in my letter of 18 Feb 2016, I noted that the applicant's costings were substantially flawed in one very significant respect. This is with regard to ground conditions and the unspecified costs of carrying out a new-build scheme on this particular brownfield site in terms of contamination costs.

Here I would add that the new-build element of the *Save Banbury Steam Factory* scheme is designed be a lightweight structure, founded on the existing massive foundations of the former engine house on its footprint. The costs, and risks, associated with its foundations would thus be negligible.

Conclusions

In conclusion, I would argue that no decisions can be taken on the grounds of viability and likely marketability of the alternative new-build or refurbished schemes until such time as the information recently requested by CDC Estates Dept and by your colleague, Sean Gregory (on 13th February 2015) has been supplied by the applicant.

I nevertheless do hope that the attached refurbishment scheme proposed by the *Save Banbury Steam Factory* campaign and the market intelligence supplied by the Wild Property Consultancy (both attached) may persuade your Estates Department to reconsider their initial reaction that a refurbishment scheme might potentially be unviable or difficult to let.

Given the likely risks inherent in a new-build proposal without advance ground investigation, it may indeed be that an exemplary refurbished scheme would cost less to deliver, involve less risk, be more attractive to prospective tenants and deliver equal yields to a new-build scheme.

Furthermore, a refurbished scheme would, of course, be policy compliant (unlike the new-build proposal), given the existing building's locally-listed status and its acknowledged importance to the Banbury Conservation Area, within which the site lies. An imaginative and mixed refurbished scheme would also be in accord with the emerging Banbury Masterplan, which commits the Council to steer the area's economy away from yet more small industrial units and to retain and reuse the area's "*most important historic buildings*" to give the regenerating area a unique and defining character.

- **Historic England – comments dated 5.5.2016**

Advice on whether the repair and restoration of the Burgess Building is likely to be commercial viable has been provided by CDC's Estates Department. The Estates and Facilities Management Team have advised that the building would be very difficult to convert to meet modern standards and the likely costs against the rental income provided by the

reduced floor space (when compared to the new build) would affect commercial viability. Para/ 134 of the NPPF requires the LPA to weigh harm against public benefit, including finding the optimum viable use for the site. Given the findings of this report – that conversion is unlikely to be viable – we would not object if the Council concluded that restoration was not viable and resolved to grant planning permission for the demolition of the burgess building.

- **Conditions**

An additional condition is recommended which requires, prior to any demolition on the site, the submission of a signed contract between the applicant and a contractor to construct the new building commercial units.

Following discussion with the applicant's agent following conditions have been amended as follows:

Condition 16 – This condition can be removed as finished floor levels are shown on the proposed plan 1360 – 04 'c' and this plan is the approved plan and secured by condition number 2.

Condition 17 – Notwithstanding the submitted details, no demolition or alteration to the existing northern elevation of the building (which is shown to be retained and maintained as a wall at a height of 4 metres as shown on the approved plan Drawing No: 1360 – 04 'c'), shall take place until a scheme outlining the intended treatment of the wall has been submitted to the LPA and approved in writing. Once agreed the wall shall be maintained or rebuilt in accordance with the approved details.

Reason: To ensure that part of the existing building is retained to enable an understanding of the location of the heritage asset which is being lost as part of this proposal in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

- **Change to Recommendation**

Following the most recent comments from Banbury Civic Society, which are set out above, it is **recommended that the application be deferred** for the following reasons:

1. To allow further consideration for the alternative conversion scheme presented by Banbury Civic Society;
2. To allow Members of Planning Committee to visit the site.

Agenda Item 8 15/01326/OUT Land N of Wykham Lane, Bodicote

- It is estimated that this development has the potential to attract New Homes Bonus of approximately £2,183,543 over 6 years under current arrangement the Council. This includes £141,120 for Affordable homes
- **Amendment to Officers' Recommendation:**

RECOMMEND DEFER to ensure that both the applications on the allocated Banbury 17 site (14/01932/OUT AND 15/01326/OUT) are considered at the same Planning Committee

Notwithstanding the recommendation set out in the agenda, in light of the objection received from Oxfordshire County Council (received on 17th May 2016 and appended as **Appendix 1** to this written updates paper) Officers consider it prudent for Committee to defer consideration of this application until both applications for development on the Banbury 17 site are able to be considered comprehensively at the same Planning Committee in the interests of sound decision taking and to best ensure the objectives of Policy Banbury 17 of the Cherwell Local Plan 2011-2031 Part 1 are overall successfully met.

- **E-mail from Cllr Heath**

I am sorry that I am unable to attend the planning meeting on Thursday 19th May but I would just like to make a few comments if that is allowed with regard to this application.

Having read very carefully through the agenda notes I feel that this application should be deferred until the Gallagher application is also ready to come to committee as there seems to be so many "unknowns" relating to this other application and it would seem to make more sense to bring the two applications to the same committee meeting. I also note that Oxfordshire County Council are of the same mind, especially relating to the spine road and refer to a Banbury 17 Masterplan which has not been submitted, meaning the application is not compliant with Banbury 17 policy.

I also feel that the new car parking area to be provided has not been sufficiently investigated and that it will not be big enough to accommodate the huge number of cars which currently park in Whitepost Road. This would not be so bad in the mornings when parents are just dropping off their children at various times, but at the close of school when all children leave at the same time, some parents actually arrive 20 minutes beforehand (or even more) to be able to park near to the school – this would not just be quick drop off but probably up to half an hour of parking.

- **Late Representations**

In addition to the late objection from Oxfordshire County Council, a further late objection has been received from Hill Hofstetter Ltd acting on behalf of the landowners of a section of the Salt Way to the north of the site. The letter refers to what is claims are inaccuracies in the Committee Report. It is believed that this objection has also been circulated to the majority of Members of the Committee. The objection raises the following matters:

- The landowners consent would be needed to enhance or widen the existing public footpath connection onto the Salt Way restricted byway;
- The applicant has made no attempt to contact the landowners of the Salt Way to the north. Improvement of the existing footpath connection onto the Salt Way would require the cooperation of the landowners which cannot be relied upon;
- The provision of links between the application site and a scheme that has not yet come forward should not be taken into account in considering whether a suitable network of pedestrian/cycle routes has been provided. Relying on this as part of granting planning permission would make the decision vulnerable to judicial review;
- As a result of the above, the application should be refused.

In response to this objection, the applicant has made the following points in an email dated 18/05/16:

- The notices served as part of the planning application were correct when compared with the application red line boundary;
- There is no suggestion that our development could not enhance the existing footpath within the red line site boundary. That is what is proposed and is to be secured by a recommended planning condition;

Page 92 of the Committee Report refers to the heads of terms for the S.106 Agreement and includes a reference within the Oxfordshire County Council (OCC) section to a financial

- contribution towards improvements to the Salt Way. This contribution can be used by OCC for any improvements close to the site on the Salt Way as part of its responsibilities for highways and rights of way. This is similar to the contribution to be provided by the development to the west of Bloxham Road on the Banbury 16 site (Application reference 14/01188/OUT);
- The illustrative drawing for this outline planning application was amended during the application process to only show the existing footpath linking onto the Salt Way;
- The site is well served by pedestrian and cycle linkages, shows many opportunities for new cycle and pedestrian routes within the site and fulfils the criterion within the Banbury 17 allocation as is stated within the officers report;
 - Given the heritage association that has been highlighted by the Council for the Salt Way there is a heritage benefit to having fewer linkages and we have shown the opportunity for a new

bridleway within the northern buffer planting providing a route around the top half of the site connecting back to the link road (which will also contain a pedestrian/cycle route).

Accordingly, we do not consider that there is any basis, for the committee to delay or refuse this application given the clear conformity with the recently Adopted Local Plan and very significant contribution that sites like this make towards meeting the housing needs and contributing towards the Council's housing trajectory. It also delivers one of the components of the link road, which is a requirement of the Local Plan and the OCC Transport Plan that offers significant improvements to accessibility around Banbury and will deliver improved routes for public transport.

- **Officers' Response to Late Representations**

Notwithstanding officers' amended recommendation to defer consideration of the application, the comments raised in the late representations have been duly considered.

Officers are satisfied with the content of the report and believe it accurately sets out the position with respect to pedestrian/cycle links between the application site and the Salt Way. A section of the Salt Way along the north of the application site is in private ownership and the landowners are not a party to the application. As the Salt Way is not part of the application site as shown on the submitted site location plan, there is no suggestion that notice of the application was incorrectly served by the applicant. Based on the information available to the Council it appears likely that any further connections onto the Salt Way from the application site would require the consent of the landowners of the Salt Way as it would necessitate works cutting across a boundary that neither forms part of the public right of way nor is within the control of the applicant. Officers have therefore considered the proposals on a worst case scenario basis – namely that only the one existing footpath connection onto the Salt Way from the application site would be available.

However, for reasons set out in paragraph 6.27 of the Committee Report, officers have concluded that this is acceptable and in accordance with the requirements of Policy Banbury 17 given the improvements proposed to the existing public footpath through the site (recommended to be secured by condition), the forthcoming new bridleway and spine road connections (to be secured via conditions and legal agreement) that would link the wider Banbury 17 allocated site as well as the numerous other connections to the Salt Way being proposed as part of the live application by Gallagher Estates on the remainder of the Banbury 17 site (application ref: 14/01932/OUT). The section of the Salt Way to the north of the rest of the allocated Banbury 17 site does not have the same private ownership constraints and as such there should be no barrier to providing them as has been the case on the Victoria Park development. Given that the application by Gallagher Estates is a live application on an allocated site it is highly likely that the site will be developed during the plan period and

officers therefore consider it reasonable to afford the links facilitated by it substantial weight.

Officers agree that any widening of the existing footpath connection where it meets the neighbouring landowners boundary along Salt Way would require the consent of those landowners. However, this is not being proposed. Works to a footpath/bridleway can however be carried out by Oxfordshire County Council or Cherwell District Council as part of maintaining the footpath and bridleway network so that it is suitable for the type and level of use that it sustains which is likely to increase as a result of the development. This would not require the cooperation of the landowner. A financial contribution has been recommended to be secured from the developer through a legal agreement to cover the costs of any necessary works to mitigate impact on local services.

Notwithstanding the above, it should also be noted that under provisions in the Highways Act 1980, Cherwell District Council would have the later ability to consider making a public path creation order that would compulsorily create a footpath or bridleway connection between the site and the Salt Way if it is for the convenience of people resident in the new development and/or wider area. The developer has indicated that they are prepared to provide a bridleway route along the northern boundary of the site (which is shown illustratively in the framework plan) to facilitate this future possibility in the event that it would ever become necessary. Details of this bridleway have been recommended to be secured by planning condition.

Officers are therefore satisfied that there is nothing contained within the letter submitted by Hill Hofstetter that presents a barrier to resolving to approve the application subject to imposing the safeguards provided by the conditions/covenants as originally recommended in the Committee Report.

Agenda Item 9 16/00023/F The George and Dragon, Fritwell

- Following the publication of the report comments have been received from the Strategic Housing Officer. These have confirmed that based on the information submitted they are satisfied with the construction costs relating to the replacement village hall building. They are therefore satisfied sufficient evidence has been provided to support the applicants viability position that Affordable Housing cannot be delivered on the site as well as the replacement village hall building.
- The recommendation therefore remains to grant permission as outlined in the officers report.

Agenda Item 11 16/00367/F The Plough Inn, Wardington

- Two additional comments have been received from members of the public, one objecting to the application. These comments are not considered to raise any additional issues to those already outlined and considered in the Committee report, and so the officer recommendation remains unchanged.

Agenda Items 12 and 13 Land off Warwick Road, Banbury

- Comments have been received from OCC Highways in relation to the amended plans, raising concerns in relation to the safety of users of proposed parking spaces and potential conflict with other road users. In the view of planning officers, these concerns are not significant or rather that the proposal would not cause harm to the extent that warrants refusal of either application or which could be substantiated at appeal. Other concerns in relation to surfacing and cycle parking provision are addressed through conditions as recommended.

Notwithstanding, the applicant has sought to address OCC Highways' concerns through the submission of minor revisions to the layout, in plan references to be reported to Members at Planning Committee. These minor amendments would make significant improvements in relation to OCC Highways' concerns, but do not raise no issues or represent a significant change to the development and therefore do not require further consultation.

- The applicant has also sought to address the outstanding concerns of the Council's urban design officer regarding the entrance to the southern building (Building A), and the changes made – which are sought by conditions as recommended – are considered to provide for improvement to the scheme.
- Condition 2 of each recommendation is **amended** to reflect those amended plans.
Condition 8 of each recommendation is **amended** to read “Notwithstanding the details submitted, no development shall take place above slab level until...”

Agenda Item 14 16/00585/F 44 Croft Ave. Kidlington

- Following the publication of the report a further 3 letters of objection have been received. These have raised the following concerns:
 - Adequacy of the proposed parking spaces with vehicles overhanging the pavement
 - Inadequate level of parking to serve the development.
 - Increase in traffic will be a danger to pedestrian and cyclists on an already dangerous corner.
 - Poor visibility from parking spaces

- Out of keeping with the existing housing mix and density in an established family area.
 - Impact on the local drainage network
 - If granted the proposal will set a precedent for other similar applications.
 - Level of consultation is not sufficient
- These issues are covered in the officer report and the recommendation remains as outlined in the report.

Date: 17 May 2016

Your ref: 15/01326/OUT

Jon Westerman
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Bodicote
Banbury
OX15 4AA

**Environment & Economy
Speedwell House
Speedwell Street
Oxford OX1 1NE**

**Sue Scane
Director for Environment &
Economy**

Sent by e-mail to
jon.westerman@cherwell-dc.gov.uk

Dear Jon,

Objection to Salt Way Application Ref 15/01326/OUT

I understand you intend to take the above application to Planning Committee on 19th May 2016. I am writing to reiterate the County's position on this application and request that you share this letter in full with your Planning Committee. OCC consider that in isolation and without a masterplan agreed between all parties, it is premature to determine this planning application.

OCC maintain an objection to the application on the basis that, contrary to the requirements of policy Banbury 17, no masterplan for the wider allocation site has been produced. Policy Banbury 17 recognises that the allocated development area is in separate ownership, but emphasises that it forms "a coherent whole" and requires that "an integrated, co-ordinated and comprehensive planning approach will be taken with a link road between the sites in separate ownership". The policy clearly stipulates that the site allocation "will require a masterplan to ensure this is delivered". As stressed at the meeting between Gladman, Gallagher, CDC, OCC, landowners, other stakeholders and chaired by Cllr Mallon on 12th January 2016, this policy requirement should be fulfilled prior to the determination of the applications within the allocation site in order to ensure that the necessary infrastructure to mitigate the allocation is deliverable.

It would be logical for both the live Banbury 17 applications (15/01326/OUT and 14/01932/OUT) to be determined at the same Planning Committee once a masterplan is in place. The risks of approving this application in isolation and without an agreed masterplan that includes triggers for the phasing and delivery of infrastructure across the Banbury 17 site include:

- 1) Uncertainty in securing the spine road across the wider Banbury 17 site, as required by the Cherwell Local Plan as well as OCC's Local Transport Plan 4. The spine road is essential for:
 - a. access to the proposed primary school on the adjacent application site
 - b. access to the local centre on the adjacent application site
 - c. provision of a bus service through the site

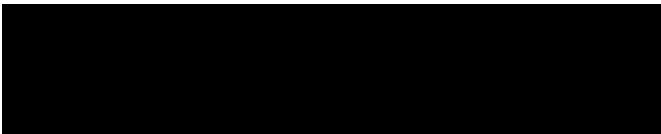
To date there has been a failure to negotiate the western section of the spine road through the Gallagher site and there is no evidence (e.g. a legal agreement between the parties of the two sites) that both developers will work together to deliver it. The submitted "Illustrative Framework Plan" provides insufficient detail on delivery and is not binding.

- 2) Mitigation of this application's education impact is dependent on the delivery of the primary school proposed on the adjacent application site, which is outside of the applicant's control;
- 3) Uncertainty in securing adequate pedestrian/cycle links across the wider Banbury 17 site, as required by the Cherwell Local Plan;
- 4) Setting a precedent for contravening masterplan policy requirements on allocations with multiple application sites.

Whilst it is appreciated that proposed condition 7 requires the details of the spine road to be in place prior to the submission of Reserved Matters applications and that condition 49 aims to ensure its delivery within the Gladman site, there is no certainty that the road can be delivered across the Gallagher site. This is an essential infrastructure requirement for the mitigation of Banbury 17, as is the primary school.

In summary, OCC consider that in isolation and without a masterplan for the whole of Banbury 17, it is premature to determine this planning application, particularly as its mitigation is dependent on infrastructure to be delivered by the adjacent application site. In order to inform an integrated, co-ordinated and comprehensive planning decision, OCC recommend the application is deferred until such time as the masterplan requirement of policy Banbury 17 is complied with and, preferably, when the other live application for the remainder of Banbury 17 (14/01932/OUT) can be taken to the same planning committee.

Yours sincerely



Bev Hindle
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Cc Cllr Kieron Mallon
Cllr George Reynolds
Matthew Parry