

SUPPLEMENTARY INFORMATION

Planning Committee

29 September 2016

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16.	(Pages 1 - 21)	Written Update

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

29 September 2016

WRITTEN UPDATES

Agenda Item 7 15/02314/F Pool Farm, Stratton Audley

- Letter received from Ken and Wendy Smith attached as appendix 1
- In response to the letter from Ken and Wendy Smith (dated 27.09.16), officers would comment as follows:
 1. The letter requests that the application be deferred again, on the grounds that neighbours have not been given adequate time to consider and comment on the most recent noise information. As noted at Paragraph 5.3 of the Committee report, neighbours were given a further opportunity to comment on the application following the submission of the Acoustic Report. The comments received were taken into account when officers decided to request further noise information, and have been taken into account when preparing the Committee report. Government Guidance is clear that “it is up to the Local Planning Authority to decide whether further publicity and consultation is necessary” following receipt of additional information. In this case officers are of the opinion that neighbours have been given fair opportunity to comment on the application, including a second opportunity to address the Planning Committee, and so do not consider it justified to defer the application again to allow for further consultation.
 2. The letter queries the enforceability/adequacy of the recommended conditions. Officers have reviewed the draft conditions in light of the letter, and remain of the opinion that with the exception of condition 10, the suggested conditions are reasonable, enforceable and compliant with Government policy in other respects. With regard to condition 10, it has been agreed with the Council’s Environmental Protection Officer to amend condition 10 to use the wording suggested by the Smiths as follows:

The level of noise emissions from the use hereby permitted when measured in free field conditions at 1.2 to 1.5 metres height above the surrounding ground level at the boundary of the residential properties at Cose Cottages and Oldfields Farm shall not exceed 45dB LAEQ(5m).

Reason: In order to safeguard the rural character of the area and the amenities of the neighbouring properties from intrusive levels of noise, and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

3. With regard to condition 2, the Smith's letter suggests that the condition should require the use to cease until such time as a Noise and Dust Management Plan has been submitted and approved. Officers are of the opinion that such a requirement would be disproportionate and unreasonable, given the length of time the use has operated (in excess of 10 years) apparently without complaint, and given the other conditions that can be enforced from the date permission is granted.

The Council's Environmental Protection Officer will be present at the Committee Meeting to take any questions from Members regarding the noise issues. It should be noted that the Council's Environmental Protection Officer is satisfied that if the recommended conditions are adhered to, any noise resulting from the use would fall below statutory noise nuisance levels.

Therefore the recommendation remains to approve, subject to the conditions at section 9 of the report as amended by this written update.

Agenda Item 8 16/00861/Hybrid Land adj A41, London Road, Bicester/Ambrosden

- E-mail sent to all Members from local resident

I, as well as numerous residents of Bicester, Langford Village, Ambrosden, Blackthorn object to this hybrid application for warehousing and ask you to refuse it as it stands.

Throughout the process the developers have played a calculated and aggressive chess game with the council and the public. The latter have been very confused by the name change of the development, the withdrawing and resubmitting under a different planning number, so that numerous letters of objection and a large survey with residents' comments which applied to the Akeman Park 15/02316/OUT application do not register on the current application's document list.

Despite months of negotiations, the developers have reduced the built area by only 7%, have threatened to appeal, have bargained over financial contributions to essential infrastructure. Even now, their accepted contribution falls short of the OCC figure of £0.77 million by 47%. In addition, according to the planning officer's report, the latest application still falls short on adequate information about water supply, waste water, surface water, sewage and ecology.

The developer's statement that, "The traffic impacts of our development proposals are negligible in their own right" cannot be correct given the scale of this development and the constraints of the existing difficulties with the A41. If a warehouse house site's traffic has no impact then it won't be a busy successful business area. Maybe this is because the site is planned to have only 80 jobs within 12 months, with only 640 jobs later, far short of

the 1000 quoted in earlier planning documents. Such a large area for so few jobs compared with the 3,500 at Bicester Gateway and 6,000 at Bicester Business Park!

The report of the Planning Inspector to Local Plan Part 1 in discussing warehouses at M40 junctions, states in para 41 that: "... such schemes would be road based and likely to prove visually intrusive in the open countryside due to the size of buildings, as well as potentially difficult and/or expensive to cater for satisfactorily ... in highway capacity terms." If the M40 can't cope in highway capacity terms, how can the overburdened A41? In addition, this Symmetry Park development will indeed be visually intrusive as the tree planting scheme will not have grown sufficiently in the early decades. What an entrance for Bicester Garden Town! This development cannot be considered as 'sustainable'. It is the exact opposite.

The Inspector continues in Para 42 "... Nor does (warehousing at motorway junctions) take into account the availability of alternative locations, such as at DIRFT III near Daventry, where around 345 ha of land for such uses has recently been permitted under the national infrastructure regime, specifically to meet the national and regional need for such major facilities, with the great advantage of rail access availability in sustainability terms." It has been ignored by the planners that the Graven Hill site is located near a railhead and that permission for 90,000 sq metres of development floor space has already been granted there. Why does Bicester need this additional area of warehousing when Skimmingdish Lane warehousing has already been granted permission as well as at Graven Hill and there exist more warehouses at Banbury and Daventry?

Lastly, the Planning Officer's Report for this application states in Para 5.120: "It is considered that the proposed development would not have such a significant and unacceptable detrimental impact upon the residential amenities of the occupiers of these two cottages sufficient to justify refusal of the application proposal on these grounds." Yet elsewhere it states that: "Due to the nature and scale of the development, the proposal will result in some harm to existing residential properties".

The treatment of the residents of Wretchwick Farm Cottages is not morally acceptable. The increase in the distance between the cottage boundary and the nearest building to a mere 53 metres is still not adequate to protect residents from increased light levels, noise, landscape damage. The 15.5 metre height limit does not add in the increase due to raising up the land by 'profiling'. Residents' quality of life will certainly be negatively affected, as it already has been by the threat and strain of fighting this proposed development.

The only way forward is to heed the Planning Inspectors words in his report (Para 37) that greater flexibility should be introduced to Policy SLE1 to accept differing B class uses in particular locations. This Symmetry Park

site is not suited to large logistics buildings as outlined above. A solution to reduce all negative aspects of this development is to look at changing the use class to include B1/2 and siting these buildings so that the impact on Wretchwick Cottages, the entrance to Bicester Garden Town and the environment is much reduced.

- Further comments from OCC as lead local flood authority as follows

The county council's revised response to this application dated 15 September commented as follows on drainage implications of the latest revisions of the landscaping:

"We are waiting for confirmation from the applicant's drainage engineer with regard to the effect of the revised proposals for landscaping (made possible by the reduction in the quantum of development) on the drainage strategy."

We have now had the confirmation we were waiting for and we do not have any concerns from a drainage point of view.

- Comments from applicants agent

I thought it may be helpful to set out our observations/comments on the updated report that you may wish to pick up, if appropriate in your presentation at Committee tomorrow:

1. **Landscape** – 3.8 (page 47) lists 'old' landscape plans which have been updated for consistency with the final Drainage layout plan as we discussed yesterday. References should be updated to reflect the final plans submitted yesterday i.e. landscape drawings edp2606 82j, 83f, 84j, 85h and 86f.
2. **Sustainability** – 3.10 (Page 48 – September Update) and 5.125 refer to updated comments being provided at Committee. From our discussion yesterday I understand that you are happy to address any outstanding points by condition, and that nothing further is required from us at this time.
3. **OCC Drainage** – 3.11 (Page 50 – September Update) and 3.12 (Page 51) – formal OCC sign off is awaited (we have 'in principle' approval by email - copy provided yesterday together with relevant plan (32765-2006-001)). I note that 5.67 states that the revisions satisfactorily address these issues. 5.116 also refers to an update being provided at Committee. We understand therefore that nothing further is required from us in this respect.
4. **OCC Ecology** – 3.15 (Page 52) outstanding concerns remain from OCC, but 5.109 concludes that CDC Ecologist is satisfied so proposals are now considered to be acceptable. We understand therefore that nothing further is required from us in this respect.
5. **Environment Agency** – 3.18 (Page 52). I highlight that CDC have comments

from the EA on the application and who have advised that there was no need for their involvement (see attached correspondence).

6. **Bicester Technology Studio** – 5.16 (Page 57) refers to details still being awaited, but 5.28 (Page 60) subsequently confirms these details have been submitted. We understand therefore that nothing further is required from us in this respect.
7. **Comprehensive Masterplan Point** – references throughout that we have not submitted this (e.g. 5.32, 5.44, 5.45). However, clearly we have submitted a plan which shows the relationship to the Wretchwick Green application proposals and this has directly informed the proposed footpath/cycleway/GI corridor connections leading to the withdrawal of the OCC objection on this point.
8. **Job Numbers** –5.32 it is inappropriate to assume that the total job number for the entire development will be based upon the job levels on the confirmed occupier.
9. **Archaeological Trenching Report** – 5.76 states that this was not submitted, but this was issued to CDC on 27/05 (see attached email).
10. **Conditions** – – as discussed yesterday, hopefully you can issue a Draft Decision Notice listing these in full.
 - It is requested that if the recommendation of approval is accepted that delegated authority be given to the Development Control Team Leader, in conjunction with the Chairman of Planning Committee, to allow further adjustments and additions to the conditions proposed in the report if considered necessary.

Agenda Item 10 16/01078/F Orchard Way, Heyford Rd. Somerton

- No additional information has been received from objectors to contradict the service run drawing supplied by the applicant's agent.

Agenda Item 12 16/01684/CDC Land N of Broken Furrow, Warwick Rd. Banbury

- **Change to recommendation**: Officers now recommend approval of this application, subject to conditions.
- **Revised plans**: Revised plans (drawing refs. 0101 rev D, 0104 rev D and 0102 rev C) have been received, which satisfactorily address officers' concerns over the parking layouts to both sites.
Planning officers have been in conversation with OCC Highways officers in order to address the concerns with the plans originally submitted with these

- applications and have arrived at the solution now shown in the revised plans.
- Additional consultee comments: The local highway authority has confirmed in writing it has no objections to these revised plans.

Conditions recommended in respect of 16/01484/CDC

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents: Application forms, Design and Access Statement, Site Location Plan (except as amended by other plans listed in this condition), Ecological Appraisal (Willmott Dixon Housing Ltd, February 2016), Tree Survey Report (RGS, March 2016) and drawings numbered "16022-GNA-XX-ST-DR-A-0101-D", "16022-GNA-A-ST-DR-A-0102-C", "16022-GNA-A-00-DR-A-1100", "16022-GNA-A-E-DR-A-2100", "16022-GNA-A-E-DR-A-2101-A", and "16022-GNA-A-RF-DR-A-1101".

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government guidance contained within the National Planning Policy Framework.

3. Prior to the occupation of any dwellings an Energy Strategy shall be submitted to and approved by the Local Planning Authority. This strategy shall be in line with the mandatory requirements of Code 4 in respect of ENE1 2010 or otherwise agreed with the Local Planning Authority.

Reason – To ensure sustainable construction and reduce carbon emissions in accordance with Government guidance contained within the National Planning Policy Framework.

4. Prior to the commencement of the development hereby approved above slab level, samples of the brick to be used in the construction of the external walls of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

5. Prior to the commencement of the development hereby approved above slab level, samples of the tile to be used in the construction of the roof of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

6. Notwithstanding the details submitted, no development shall commence above slab level until amended design details for the front façade of the building and the entrance gates have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the Adopted Cherwell Local Plan and Government guidance

contained within the National Planning Policy Framework.

7. Prior to the construction of the development hereby approved above slab level, the proposed means of access between the land and the highway shall be improved to geometry as plans submitted, formed, laid out and constructed strictly in accordance with Oxfordshire County Council's specification and guidance.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework

8. Prior to the commencement of the development hereby approved above slab level, and notwithstanding the details submitted, full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework

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

(a) details of the proposed tree and shrub planting including their species (which shall be native species of UK provenance), number, sizes and positions, together with grass seeded/turfed areas,

(b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,

(c) the reinforcement of the existing hedgerow along the Western, Eastern and Southern boundaries

(d) details of the hard surface areas, pavements, pedestrian areas, crossing points and steps.

(e) Details of the minor artefacts/structures (ie. surfaces, benches, fencing, walling etc) which comprise public art works

The hard landscaping elements shall be carried out fully in accordance with the details approved and shall be retained as such thereafter.

Reason – In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to conserve and enhance biodiversity and prevent the spread of non-native species and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

10. All planting, seeding or turfing comprised in the approved details of landscaping on each phase identified in condition no. 6, shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner; and that any trees and shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for

any variation.

Reason – In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

11. a) No retained tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works.

b) If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority.

In this condition a “retained tree” is an existing tree which shall be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) shall have effect until the expiration of five years from the date of the decision.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

12. Prior to the commencement of the development above slab level, full details of existing and proposed ground and finished floor levels and all boundary treatments and means of enclosure shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason - To ensure that the proposed development is in scale and harmony with its neighbours and surroundings and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

13. Prior to the commencement of the development above slab level, an update to the mitigation strategy for badgers, which shall include details of a recent survey (no older than six months on the date of the submission to the Local Planning Authority), whether a development licence is required and the location and timing of the provision of any protective fencing around setts/commuting routes, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

Reason – To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

14. The development hereby approved shall be implemented fully in accordance with the Landscape and Ecology Management Plan (LEMP) approved pursuant to Condition 27 of 12/01789/OUT.

Reason – To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

15. Prior to the commencement of the development above slab level, a method statement for biodiversity enhancements on site together with the long term maintenance

shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

Reason –To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

16. Prior to the commencement of the development above slab level, details of the proposed street lighting scheme to be installed, which shall include column height, luminaire type, positions, aiming angles and cowl and deflectors to direct light sources, to demonstrate that there is no light spillage from the site, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and thereafter maintained in accordance with the approved details. Once installed the lighting scheme shall be inspected by a qualified lighting engineer and certified as being correctly installed prior to the first occupation of the development, the certificate shall then be submitted to the Local Planning Authority.

Reason – In order to safeguard the amenities of the area and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

17. Unless otherwise agreed in writing by the local planning authority, the development hereby approved shall be implemented fully in accordance with the Construction Environment Management Plan (CEMP) approved pursuant to Condition 42 of 12/01789/OUT.

Reason – To ensure the environment is protected during construction in accordance with Policy ENV1 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

18. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

Reason – In the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework.

Agenda Item 13 16/01485/CDC Land N of Broken Furrow, Warwick Rd. Banbury

- **Change to recommendation**: Officers now recommend approval of this application, subject to conditions.
- **Revised plans**: Revised plans (drawing refs. 0101 rev D, 0104 rev D and 0102 rev C) have been received, which satisfactorily address officers' concerns over the parking layouts to both sites.
Planning officers have been in conversation with OCC Highways officers in order to address the concerns with the plans originally submitted with these applications and have arrived at the solution now shown in the revised plans.
- **Additional consultee comments**: The local highway authority has confirmed in writing it has no objections to these revised plans

Conditions recommended in respect of 16/01485/CDC

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.
Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents: Application forms, Design and Access Statement, Site Location Plan (except as amended by other plans listed in this condition), Ecological Appraisal (Willmott Dixon Housing Ltd, February 2016), Tree Survey Report (RGS, March 2016) and drawings numbered "16022-GNA-XX-ST-DR-A-0101-D", "16022-GNA-B-ST-DR-A-0104-D", "16022-GNA-B-00-DR-A-1102", "16022-GNA-B-E-DR-A-2102-A", "16022-GNA-B-E-DR-A-2103-A", and "16022-GNA-B-RF-DR-A-1103".

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government guidance contained within the National Planning Policy Framework.

3. Prior to the occupation of any dwellings an Energy Strategy shall be submitted to and approved by the Local Planning Authority. This strategy shall be in line with the mandatory requirements of Code 4 in respect of ENE1 2010 or otherwise agreed with the Local Planning Authority.

Reason – To ensure sustainable construction and reduce carbon emissions in accordance with Government guidance contained within the National Planning Policy Framework.

4. Prior to the commencement of the development hereby approved above slab level, samples of the brick to be used in the construction of the external walls of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

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Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

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geometry as plans submitted, formed, laid out and constructed strictly in accordance with Oxfordshire County Council's specification and guidance.

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8. Prior to the commencement of the development hereby approved above slab level, and notwithstanding the details submitted, full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework

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

(a) details of the proposed tree and shrub planting including their species (which shall be native species of UK provenance), number, sizes and positions, together with grass seeded/turfed areas,

(b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,

(c) the reinforcement of the existing hedgerow along the Western, Eastern and Southern boundaries

(d) details of the hard surface areas, pavements, pedestrian areas, crossing points and steps.

(e) Details of the minor artefacts/structures (ie. surfaces, benches, fencing, walling etc) which comprise public art works

Reason – In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to conserve and enhance biodiversity and prevent the spread of non-native species and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

10. All planting, seeding or turfing comprised in the approved details of landscaping on each phase identified in condition no. 6, shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner; and that any trees and shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

Reason – In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

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than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works.

b) If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority.

In this condition a “retained tree” is an existing tree which shall be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) shall have effect until the expiration of five years from the date of the decision.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

12. Prior to the commencement of the development above slab level, full details of existing and proposed ground and finished floor levels and all boundary treatments and means of enclosure shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason - To ensure that the proposed development is in scale and harmony with its neighbours and surroundings and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

13. Prior to the commencement of the development above slab level, an update to the mitigation strategy for badgers, which shall include details of a recent survey (no older than six months on the date of the submission to the Local Planning Authority), whether a development licence is required and the location and timing of the provision of any protective fencing around setts/commuting routes, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

Reason – To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

14. The development hereby approved shall be implemented fully in accordance with the Landscape and Ecology Management Plan (LEMP) approved pursuant to Condition 27 of 12/01789/OUT.

Reason – To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

15. Prior to the commencement of the development above slab level, a method statement for biodiversity enhancements on site together with the long term maintenance shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

Reason –To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

16. Prior to the commencement of the development above slab level, details of the proposed street lighting scheme to be installed, which shall include column height, luminaire type, positions, aiming angles and cowl and deflectors to direct light sources, to demonstrate that there is no light spillage from the site, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and thereafter maintained in accordance with the approved details. Once installed the lighting scheme shall be inspected by a qualified lighting engineer and certified as being correctly installed prior to the first occupation of the development, the certificate shall then be submitted to the Local Planning Authority.

Reason – In order to safeguard the amenities of the area and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

17. The development hereby approved shall be implemented fully in accordance with the Construction Environment Management Plan (CEMP) approved pursuant to Condition 42 of 12/01789/OUT.

Reason – To ensure the environment is protected during construction in accordance with Policy ENV1 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

18. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

Reason – In the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework.

Agenda Item 14 Buildings 103 and 315 Heyford Park. Upper Heyford

Two additional comments have been received

- Historic England-No objection
- Upper Heyford PC-No objection

We have also received the script from the objector to the scheme who has registered to speak but may not be able to speak due to a prior engagement. The text in full states:

Upper Heyford heritage Centre 16/01545/F
Committee Presentation 29 September 2016-Daniel Scharf Oxford Trust for Contemporary History

“Due to an invitation to the formal opening of Cold War Frontier: The story of Little America, RAF Upper Heyford at Banbury Museum I am unlikely to be able to make this presentation to Committee.

Flawed/incomplete application

Plan has the dimensions wrong, specifies zero employment and the plan that

should show Listed Buildings and SAMs does not. No details of the pre-application advice that was provided to the applicant have been included.

The 2009 appeal decision

Yes, the appeal decision in 2009 did 'allow' for a different (larger or smaller) building to be used for this purpose but not without supporting evidence, as was at least partly provided to and discussed at the public inquiry.

Policy

'NPPF 137. Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.' Proposals that obscure or deny their significance should be resisted.

In approving the Structure Plan Policy H2 in 2005 the Examining Panel said that feasibility studies should be carried out including interested parties, but they never have been. Cherwell Local Plan policy V5 is the successor policy adopted in similar terms and requires the same evidence before it can be properly applied and implemented. The 'Development Framework' recently commissioned by the Council and Dorchester Group recommends that a heritage impact assessments and visitor study be carried out. English Heritage (as was) has been recommending the appointment of a project officer. None of this has happened and, apart from what amounts to very small private enterprise (to which the owners generously contribute a minibus), nothing has happened on the site – despite the obligations set out in the 2010 appeal decision. Since the removal of the exhibition and showing of an excellent video less is being offered to the visitor than before 2009.

The Proposal

The applicant claims that Building 103 is a, "...more appropriate size...for the scale of the potential collection available for display...". No evidence is being provided to support these claims. No conclusion on the potential is possible before extensive research and enquiries have been made; for example of the US Cold War Museum, the Strategic Air Command and Aerospace Museum, the Cold War International History Project (in Washington), about ten Presidential Libraries, Laing/Amey/Costains/ Heyfordian all involved in the hardening of the base and Northrop Grumman and General Dynamics whose heritage includes the F111. No reference has been made to Soviet archives or those in non-aligned countries. One positive reply would expose the folly of the proposed tenfold reduction in visitor/exhibition space.

Historic England recommend to CDC that it, "...takes specialist conservation advice...". The approval in 2011 was based on the advice of an officer responsible for the degradation of the heritage asset and there is no advice from the Council's Conservation officer or any other expert to support the officer

recommendation of approval. Is the Chief Planning Officer saying, without looking for or receiving any specialist conservation advice on the matter, that the importance of understanding the Cold War has become ten times less in the last 6 years?

It is generally accepted that Upper Heyford is the best preserved physical remains from the most important global 'event' in the last hundred years. The Council should have been made aware that the 2010 application to have RAF Upper Heyford help to fill the gap called "the Cold War" in the World Heritage Site list is in abeyance pending research into which transnational sites should be included? Meanwhile there are 4 international conventions intended to protect heritage assets of this importance – including securing public access. Cultural cleansing is defined as, "The intentional destruction of cultural property absent military necessity, and has long been explicitly banned by international treaties, as well as customary international law." In this case it is the deliberate physical limitation being placed on the interpretation of the Cold War heritage thereby making the site less attractive to those who might be interested in examining its aspects like nuclear deterrence, nuclear holocaust and international relations with the US, USSR (and now Russia) and the developing or non-aligned world.

The Local Enterprise Partnership (to which CDC subscribes) has looked into the tourism potential of Oxfordshire and its Creative Culture Heritage and Tourism Investment Plan 2016 recommends that visitors to Bicester Village continue their visit, not by going 5 miles and trying to find a way to visit the best preserved Cold War remains in the UK, but by calling in on ... Crocodile World near Witney 25 miles away! People are waking up the scale of the damage being done to the heritage asset and nearly 7000 people, many from abroad, have signed a petition asking the owners to save the Water Tower and stop 'destroying' history at Upper Heyford.

There is a private exhibition in the Banbury Museum being formally opened by Sir Tony Baldry at 6pm this evening. The collection made by just one person could fill up the proposed exhibition space in 103 before any efforts are made by the owners to develop the heritage asset. Sir Tony should be very interested to see how this application is determined; whether the Council wants to maintain or deliberately restrict the heritage and tourist potential of the site.

The Decision

Despite the very unfortunate delay in establishing a Heritage Centre at Upper Heyford, this application should be refused, the cultural cleansing should stop, and the necessary feasibility studies be carried out into how the potential of the heritage asset could be realized. The owners have always expressed interest in the site's heritage potential and we would be happy to help, as we have been trying to do for the last twenty years."

Oldfields House,
Stratton Audley,
BICESTER,
Oxon.
OX27 9AN

27.09.16

Mr A Preston,
Head of Public Protection and Development Management,
Cherwell District Council,
Bodicote House,
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CDC REFERENCE 15/02314/F
COMMENTS ON THE APPLICATION FOR THE LONDON RALLY SCHOOL (LRS) AND
THE REPORT FOR THE COMMITTEE ON 29.09.16

REPORT TO COMMITTEE

Our previous objection is maintained. Our letter of 23 May last deals with general concerns, the noise assessment and other noise-related matters, national noise policy, the need for additional conditions to protect residential amenity, the limited time in which to respond and we provided a list of additional planning conditions. For the forthcoming Committee, we have had less than a week's notice. The officer's report to Committee refers to additional noise information having been submitted but we have not seen it. For that reason we request that consideration of the application be deferred to enable us to properly consider and respond to that additional information.

Lisa Collins of Copse Cottages is in America and has asked us to respond on her behalf. You will recall that her property and her health are particularly affected by both noise and dust nuisance.

As stated in our last letter, and as the Environmental Protection Officer (EPO) now accepts, the Cass Allen report is fundamentally flawed. We are grateful to the EPO for his careful consideration of this matter. Therefore, reliance on it for the assessment of the noise impacts of the proposal is unsafe. The average (LAeq) figures in the report are meaningless without information on the time periods being used.

Moreover, while we have stated that the LRS has operated recently with less harmful environmental harm to residents, there is no evidence that this is because of the fitting of silencers to the vehicles, as is now being asserted by Council Officers. The LRS is not operating in the way that it has for so many years. In the past, in conflict with the conditions, the rally cars raced against the clock to see which driver was fastest and cars at the northern

end of the track performed 'doughnuts' (rapid circular turns). Indeed, this has not been denied and the applicant's own Cass Allen report refers in several places to the cars 'racing' on the track. And the LRS website demonstrates the speed of the cars! 'Doughnutting' should not be permitted.

The EPO states that the noise generated by the LRS is barely noticeable at Copse Cottages and Oldfields House. The Cass Allen report claims that the 'noise emissions from the cars are below background levels'. If that were so, why have we found the rallying noise disturbing **inside** our houses for so long?

In our letter to you of 23 May 2016, we agreed with our neighbour, Elizabeth Collins from Copse Cottages, that the rally car use on the day that the readings were taken was not typical of their normal use. Clearly, for the purposes of the assessment and determination of this application, the management and operation of the LRS has become more considerate and neighbourly. Since both the Cass Allen report and the Council's noise readings do not reflect our own personal experience, it is particularly important that the levels recorded are secured and enforced in the event that permission is granted. For that reason, there can be no possible objection to the imposition of a planning condition specifying noise levels which should not be exceeded at the relevant properties. Those levels should reflect the findings of the EPO upon which he has placed reliance.

The Motor Sports Association's Code of Conduct applies limits based on maximum noise levels (LAmax) at specified distances from the vehicles. The Council's EPO accepts that this approach should be used as guidance and 'best practice' in this case. However, while noise levels have been specified in the recommended conditions for the quads (75 dB(A)) and the Honda Pilots (100 dB(A)), the position for the rally cars, jeeps and buggies is left much more vague as no such limits are specified. Condition 10 simply requires that the vehicles be 'silenced to the manufacturer's standard specification'. Such a vague requirement would make enforcement very difficult; for example, the silencers might not be maintained properly or they could be altered in some way. In passing, and as we've said before, the specified noise levels for the quads and Pilots are too high.

While proposed Condition 2 refers to a Noise and Dust Management Plan, it is only in the Planning Notes that one finds reference to achieving the levels set down in the Cass Allen report. The Planning Notes do not have the same effect in law as planning conditions. Since it would seem that there is no draft Noise and Dust Management Plan at present to which the condition could refer, we believe that these matters referred to in the Planning Notes should also be specifically mentioned in the relevant condition as necessary for inclusion within the scheme.

All of the noise levels in Attachment 2 of the Cass Allen report are at different times. Therefore, it does not provide for any comparison between the noise generated at the track and a simultaneous reading for the level experienced at sites N1 (Copse Cottages) and N3 (Oldfields Farm). The vehicles might be being driven less or more competitively in each case.

Also, as the weather conditions are not provided in the noise report, it is unclear why the LAmax levels for the nearby Copse Cottages when the rally track is being used by the Mitsubishi Evo (52 dB(A)) and the Ford Escort (57 dB(A)) are approximately the same as the sole reading (i.e. without additional tractor and plane noise) for the noise from the Ford Escort (55 dB(A)) when measured at Oldfields Farm, which is much further away from the site.

The report to Committee indicates that the EPO 'would most likely recommend putting noise limits at a certain measurement distance from the exhaust so they are kept at a reasonable level for the neighbours'.

In addition, proposed Condition 2 seeks, 'Within 4 calendar months starting from the date of this decision, a Noise and Dust Management Plan shall be submitted to and approved in writing by the LPA'. This is a laudable aim but the condition as drafted is deficient in a number of respects and in its present form would not secure the required objective. Our concerns in this respect include:

- the requirement for the submission and approval of a Plan within 4 months has enforcement implications. The approval of the plan within 4 months would fall outside the control of the applicant and would thereby be deemed unreasonable.
- the submitted Plan might be deficient such that it would not be approved within the 4 month period. What would happen then? There would be no approved Plan with which the LRS would need to be in accord.
- The condition does not require that the use for rallying should cease until the Plan had been approved thus it could continue indefinitely without a Plan being in place.
- A more appropriate form of wording would be that the Plan shall be submitted to the LPA 'for approval in writing' (rather than approved by). But even this would not overcome the situation that would derive if the submitted Plan were unacceptable.

The officer's are therefore requested to review the drafting of proposed condition 2 to ensure that it would be sufficiently precise and enforceable in the event that permission is granted. As the report points out there is no extant permission for the development being sought. The rally school use temporary planning permission having expired some months ago. Therefore, the condition could and should be worded so as to prohibit any use taking place until the scheme has been approved by the Council. For example: **'The use hereby permitted shall not take place until a Noise and Dust Management Plan has been submitted to and approved in writing by the LPA. The Noise and Dust Management Plan shall make provision for the following:[specify key details of noise limits and monitoring to be included] Thereafter, the use hereby permitted shall only operate in strict accordance with the approved Noise and Dust Management Plan'**.

Alternatively, a condition that is retrospective in form could be imposed. We can provide a draft condition in that form in order to assist, if required. We would also point out that the Planning Notes at the end of the list of Conditions, which provide the minimum requirements for the Management Plan, aim to ensure that '...all rally vehicles using the track are achieving the levels set down in the Cass Allen Noise report...' and the Notes then specify where the measurements from the exhaust outlet are to be taken. But, while the LAmax

noise levels in Attachment 2 of the Cass Allen report are unambiguous, the LAeq levels are meaningless as no time period is specified. The requirement should relate specifically to LAmox noise levels measured near the exhaust outlets at the rally vehicles (as set out in the Planning Notes) and at the road frontage to Copse Cottages, at Oldfields House and at Oldfields Farm. All these dwellings need to be specified because, on any day, the properties most affected would be dependent on the weather, especially the wind direction.

Furthermore, the Planning Notes refer to arrangements for recording noise complaints. This appears to suggest that the complaints should be made to the applicant. It would be more appropriate if complaints were sent to the applicant and the Council simultaneously.

We fail to see why the maximum sound power level of the quads and Honda Pilots are specified in Condition 10 but there is no reference therein to the jeeps, buggies and rally cars. It is also of concern that there is only one LAmox reading which specifies the proximity of a Ford Escort when it was taken (i.e. 4 metres). The other readings at site N2 (the track) do not indicate how far away the vehicles were from the the noise meter.

There are no readings in the report that were taken 0.5m from the exhaust outlet and at an angle of 45 degrees to it. Therefore, it is unclear how the measurements referred to in the Planning Notes for the conditions are to be compared with the 'levels set down in the Cass Allen report': no such levels have been set down.

A water bowser would be needed to dampen down the rally track.

THE NEED FOR ADDITIONAL PLANNING CONDITIONS TO SAFEGUARD RESIDENTIAL AMENITY AND WHETHER THESE CAN REASONABLY BE IMPOSED

If, despite our concerns, the application is permitted, then additional conditions are suggested to control noise and dust in order to safeguard the amenities of neighbours and the character and tranquillity of the surrounding area so as to comply with Local Plan policies ENV1 and ESD13. These additional conditions are set out in full at the end of this letter.

The officer's report to the March 2016 committee suggested that it would not be reasonable to attach additional conditions but we are pleased to note that this stance has now changed.

We reiterate our request for the hours of operation to be more strictly controlled. This would not be unreasonable given the applicant's stated position that the use operates for no more than 6 hours per day. The proposed hours of use condition would permit activity for up to 8 hours each day which we find to be unacceptable, especially on a Saturday. The hours and days of use condition forms part of a package of measures which together would seek to control the activity and it has the advantage of being a condition that could be readily monitored and enforced without lengthy investigation. Thus it would be both reasonable and necessary to further restrict hours of operation.

CONCLUSION

There remain clear and obvious deficiencies in the acoustic assessment, such that no weight should be given to the conclusion reached that noise levels are unlikely to cause disturbance to nearby residents. We are disturbed to note that the application is still not supported by the submission of a comprehensive and satisfactory noise report.

Nevertheless if, contrary to our views, the Committee decides to grant permission, then the officer's suggested conditions 2 and 10 are inadequate as drafted and require amendment to ensure their enforceability. In addition, the conditions appended to this letter should be imposed. These conditions are all entirely reasonable and necessary and would place no undue burden upon the business. The business has caused significant disturbance in the past and has not yet operated subject to the conditions now proposed. For those reasons, if permission is granted, it should be for a trial period of 12 months to enable an assessment and monitoring of its effects on the living conditions of nearby residents.

KEN AND WENDY SMITH

List of additional or replacement planning conditions

1. The first ten words of Condition 10 should be replaced with: All vehicles to be used, including rally cars, quads, buggies, jeeps and Honda Pilots shall be fitted with silencers to their manufacturer's standard specification; the silencers shall thereafter be retained and maintained in accordance with the manufacturer's recommendations.
2. The level of noise emissions from the use hereby permitted when measured in free field conditions at 1.2 to 1.5 metres height above the surrounding ground level at the boundary of the residential properties at Copse Cottages and Oldfields Farm shall not exceed 45dB LAmax.
3. All rally cars using the rally track shall only do so by way of driving complete circuits¹. The turning area at the northern end of the track shall be used only for the turning of vehicles to enable their return journey towards the start and shall not be used for any vehicle to otherwise practise turns, 'doughnutting' or other manoeuvres.
4. The use hereby approved shall only operate between the hours of 10.00 and 16.00 hours on Mondays to Fridays, 10.00 and 14.00 hours on Saturdays and shall not operate at any time on Sundays or Bank or Public Holidays.

¹ The purpose of this condition is to avoid what has occurred in the past, namely vehicles going round and round performing turns in one part of the track, especially the turning area at the north end rather than proceeding all the way round in forward gear without stopping. **Alternatively, a prohibition on this activity could be included within the Noise and Dust Management Plan.**

5. A condition restricting the period of the permission granted to 12 months should be imposed to properly trial the effectiveness of the new conditions. Only then can the grant of a full permission be safely and fairly considered.

REASON FOR SEEKING THE ABOVE CONDITIONS: To safeguard the amenities of occupants of nearby residential properties and to protect the tranquillity and character of the surrounding area in accordance with Local Plan policies ESD13 and ENV1.