

SUPPLEMENTARY INFORMATION

Planning Committee

15 February 2018

Agenda Item Number	Page	Title
13.	(Pages 1 - 8)	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

15 February 2018

WRITTEN UPDATES

Agenda Item 8 17/01962/F Widnell Lane. Piddington

Piddington Parish Council Response

Piddington Parish Council has provided further comments in relation to this application since the committee report was published. These comments are provided in full below:

“Piddington Parish Council have had grave concerns regarding the planning application's provision of basic utilities at the site on Widnell Lane. We have thoroughly investigated each of the major services and advised the planning officer accordingly. We have been disappointed by his reception of our findings. I have therefore decided that I must bring your attention to these discrepancies. Planning Policy BSC6 (i) has been specifically put in place to ensure that those living in G/T sites have access to those services the rest of us take for granted. PPC believe that this should be considered one of the most important criteria (along with a site's sustainability) when making a decision on a its suitability and contend that insufficient research has been undertaken with regards the application on Widnell Lane.

Clean Water Supply

The applicant's agent has maintained throughout that they have a water supply at the site and this has been taken at face value by the planning officer without investigation although PPC advised of written evidence from Thames Water that: 'We can confirm no legal access to a water supply is currently available for this site' and that 'We have no records of any applications for a new water supply to this site, not received any enquiries about a new water supply'. Their conclusion is that 'we assume that any water supply to the site is likely to have been taken illegally from the water main approximately 100m away or via an old trough supply.' (Quotes from Tim McMahon, Head of Water Networks, Thames Water (email to Francesca Darby dated 17/10/2017))

The Parish Council contend that the water is in fact being accessed illegally from the MoD pipe that runs across this land. The MoD maintain they will not sanction this. However, the planning officer has not seen fit to investigate the matter further. PPC have written evidence from Thames Water that connecting to the mains pipeline (approx. 100m away) to supply fresh drinking water for the site would cost in the region of £130,000 subject to site survey. Should the supply come from a water trough it is not acceptable for human consumption and new pipework will be required. This has not been investigated further.

NB. With all these discrepancies there are NO conditions in place for the supply of fresh water in the planning officer's recommendation.

Foul water supply

The Environment Agency, from the start, have maintained their preferred option is for connection to mains sewage due to the nature of the site which is prone to flooding

and whose surface water flows directly to nearby ditches, this was backed by porosity testing. The applicant is looking to install 6 septic tanks with the latest application. PPC believe that the planning officer has not requested sufficient information from the applicant regarding investigating the former option. As far as PPC are aware the EA were not asked whether they objected or not to the application. This has consequently been held as a reason for not pursuing the mains option fully. Conditions have been attached to the planning officer's recommendation that that PPC believe will not be monitored or controlled meaning that the countryside around the site will be at risk of pollution. Furthermore, legislation governing the use of septic tanks will be tightened in 2020 and we are concerned this has not been addressed. Most importantly, if the site does not have a mains water supply how are toilets to be flushed and people and clothing to be washed?

Electricity supply

PPC received confirmation from SSE regarding the previous application that there was no electricity supply at the site although the applicant's agent maintained otherwise! They have finally admitted that there is no supply and would request a connection. This is easier said than done as the nearest connection point is not easily accessible and 1/2 km from the site. The council requested details of what connection would entail and an estimate on costs to the developer. Please see below:

'In order to provide the electricity supply to the site we would need to run the High Voltage (11,000 Volt) cable from "P1 Widnell Lane" to the site. This is approximately 475 meters along Widnell lane. We would then need to install a transformer and Low voltage supply for the site to use. On the assumption that all of the works will be in the highway I would anticipate a cost in the region of £120,000.00 plus VAT.' (Andy Brown, Network Planning Manager, SSE Electricity Networks (email to Francesca Darby dated 9/2/2018)

Conclusion of Piddington PC

Policy BSC6 (i) makes the provision of utility services of the utmost importance in the consideration of a locations validity for approval for development as a Gypsy/Traveller site. PPC are concerned that the planning officer's recommendation has not given sufficient weight to this issue particularly as we have proven that the applicant has been somewhat disingenuous in his responses. The planning officer has said that the supply of utilities is not the jurisdiction of planning but PPC wholeheartedly disagree as its provision has been written into planning policy. Bearing in mind a previous application was unanimously rejected by the planning committee we would have expected a more thorough investigation. Due to the nature of the application planning conditions will not suffice. PPC estimate that costs for the provision of services alone will be more than £300,000 based on the work it believes must be done to make the site fit for purpose. This is before landscaping and surfaces have been taken into consideration. This is for a site accommodating only 6 families. PPC contend that this application is not financially viable and have concerns that these services will ever be put in. Most importantly, Policy BSC6 was put in place not only for the protection of the environment from speculative applications but most importantly for the protection of the health and welfare of those likely to live on these sites. PPC contend that this has not been evidenced in the planning officer's recommendation and would urge you to question these findings."

Ministry of Defence Response

The Ministry of Defence has submitted comments since the publication of the committee report and these comments are provided in full below:

"I act as the MOD Land Management Services representative for Bicester Garrison.

Unfortunately representatives of the Ministry of Defence (MOD) are unable to attend the Planning Committee in person on 15th February but we would be grateful for this communication to be presented to the Committee at the meeting.

In the first instance, we fully support the representations made by the Local Parish Council, and believe this application should be refused.

In addition following publication of the Planning Officer's report we take the opportunity to add and clarify our earlier objections.

Noise and Vibration on this type of dwelling.

The concerns of the MoD remain extant. The applicant's representative has indicated that training activity has not taken place on the Piddington Training area over the last year. This is incorrect; it is used on an almost daily basis including weekends for Regular, Reserve and Cadet Forces. The nature of the training is varied and could include training explosives and blank ammunition. We believe that as MOD is reducing its Estate elsewhere there is strong likelihood that training on this site will intensify with resultant increase in noise and vibration.

It is clear from the Planning Officers report (Para 8.53-8.65) that further research should be undertaken to determine the impact of the potential noise arising from the site. A specialist report has not been undertaken, and it is Defence's view that any decision on this application should be deferred until an appropriate report, specifically taking into account the nature of the proposed dwellings, is conducted and commented upon by all parties.

Provision of Utilities.

We have not received assurances from the applicant that our concerns as raised previously have been addressed. The concerns are replicated below.

The applicant has indicated that there is access to mains water and an application for the supply of electricity will be placed with the relevant supplier. We disagree:

- Access to Electricity. The nearest electrical conduit access point for mains supply electric is ½ kilometre distance. The MoD would seek assurances that a formal application has been obtained for an electrical supply conduit.*
- Access to Mains Water. The national utilities supply map shows a mains supply to Bullingdon Prison but not in the vicinity of the proposed application site. MoD requires assurances that a formal application is in place for a connection. Although an MOD water-pipe passes through the site, MOD cannot be considered as a provider. Unfortunately we are not obligated to, or are in a position, to provide a water connection.*

Further development of the MoD estate area.

As referred in our earlier objection, MOD is reducing its Estate, and as there is a significantly large estate area to the North of the application site known as 'A' Site, it is a possibility that this site could be utilised for additional Military requirements and it would be inappropriate of the MoD not to point out the possibility of future military development and resultant unknown type of training activity that could be undertaken on the Piddington Training Area.

In this regard, I refer to the comments made today from the Garrison Commander:-

"The planning application should be either refused or deferred until Defence has a detailed understanding of how the Defence Estates Optimisation Programme and the Government's Defence Engagement and Prosperity Agenda will impact on the quality of life of those folk who would as a consequence be living in caravans off Widnell Lane. To approve the application could either compromise Defence or Government intent and or make the lives of those living there untenable. To approve for the travelling community such a site in light of this knowledge could be construed by a hostile audience as having legal implications and may more obviously create reputational, presentational, financial and media challenges for Defence."

In conclusion we respectfully request that this application is refused."

Lieutenant Colonel Robinson has also noted:

"Further clarity on military planning suggests that military activity in the adjacent training areas will increase; possibly substantially. This may increase the harm caused by noise pollution to the proposed occupants to an untenable extent for the inhabitants of caravans.

In my view the Council might be minded to either stop or delay the application until there is clarity on the Defence intent for its estate and therefore a true understanding of the potential harm that could be caused to the travellers. What we should perhaps avoid is an approved planning application leading to subsequent complaints as to why planning was given before the impact on the traveller community was fully understood which I guess would be problematical."

The comments raised by the MoD are not too dissimilar to an e-mail submitted by the MoD to the Local Planning Authority on 29th November 2017. However, the MoD has now stated that the application should be refused or deferred until there is clarity in relation noise levels on the application site. The concerns of the MOD are understood by Officers, but as noted in paragraphs 8.62 and 8.63 of the committee report, it is extremely difficult to accurately measure noise levels on the site given the varying frequency of activities and the varying nature of activities that take place on the site. Thus, such information has not been requested by officers before making a recommendation as it is considered that it would unlikely be an accurate reflection of the level of noise that could be experienced at the application site. However, as it cannot be adequately demonstrated that the proposal would not be adversely affected by the activities at the training facility, officers consider that this weighs against the proposal.

Response from Councillor Sames

Councillor Sames has submitted comments since the publication of the committee report and these comments are provided in full below:

“As County Councillor for Othmoor and District Councillor for the neighbouring village of Ambrosden I would like to add my objections to the application before you.

Although planning officers’ have made a recommendation to grant the application based on their application of weight towards the planning balance the determination of weight is a matter for the decision makers.

You have received very strong arguments from the MOD, Arncott and Piddington Parish Councils outlining reasons for refusal. Very little has changed since the previous application apart from the scale of the development. The sustainability of the development is therefore extremely limited and the fact that there are 6 pitches rather than 16 does not materially change this.

I would like to draw attention to paragraphs 32, 34 and 55 of the NPPF. 32 and 34 relate to sustainable travel requiring safe and suitable access and minimising the need to travel and maximising sustainable transport methods. The rural location of this site renders this impossible. It is located on a dangerous road for pedestrians and cyclist. Access to local schools, health facilities and shops by walking is in effect 0. Walkscore.com gives Widnell Lane a score of 7 meaning that all journeys will be undertaken by car.

Paragraph 55 says that to promote sustainable development in rural areas housing should be locate where it will enhance or maintain the vitality of rural communities. This application does neither. Local authorities should avoid new isolated homes in rural areas unless there are special circumstances. The special circumstances outlined in the NPPF have not been met.

In terms of our own local plan there are many policies that have not been met that outweigh the policy related to gypsy and traveller site. In particular there is poor access to health, education and welfare facilities and that it is far from sustainable as reasonably possible.

I urge you to refuse this application as an unsustainable speculative development.”

Third Party Responses

48 third party responses have also been received since the committee report was published. These additional comments can be viewed in full on the Council's website, via the online Planning Register.

A number of these concerns are similar to those that have already been raised before the publication of the committee report and such comments have been taken into account when officers made their recommendation.

It is worth noting that some of these third party responses do not agree with the level of need specified in the committee report. The committee report, especially paragraphs 8.17– 8.29, provides comprehensive reasoning to why Officers consider that there is a significant need for new gypsy and traveller pitches in the District.

Change to recommendation

Piddington Parish Council and a number of third parties responses have commented on the water supply and electricity supply and whether the proposal meets criteria i) within Policy BSC6 of the Cherwell Local Plan Part 1, which relates to the deliverability of the site. Officers understand concerns in relation to these matters and the applicant's agent has provided inconclusive evidence regarding these matters, therefore the recommendation of the application has been altered to:

That permission is **granted**, subject to:

- a) Receipt of acceptable additional information in relation to water supply and electricity supply; and
- b) Subject to the conditions outlined in pages 50-54 of the committee report.

Agenda Items 9 and 10 17/02167/F and 17/02168/LB The Old Malthouse, St. Johns Road, Banbury

Additional planning officers comment

Since the report was drafted that applicant has submitted addition information. In summary they argue that the building was marketed at a competitive price when compared to other buildings in Banbury. They have provided the following to evidence of other sites which have sold.

For Sale	Asking price	Floor Area	PSF	Days on the market
Bridge Street	£3,650,000	31322	£116.53	49
Southam Road	£2,000,000	5356	£373.00	199
Somerville Court	£560,000	3283	£170.58	
13-14 South Bar	£450,000	3965	£113.49	
<i>Old Malt House</i>	<i>£1,000,000</i>	<i>11151</i>	<i>£89.68</i>	<i>240 Days</i>
	<i>£815,000</i>	<i>11151</i>	<i>£73.09</i>	
<i>Mercia House</i>	<i>£600,000</i>	<i>7648</i>	<i>£78.45</i>	

However each of these site is significantly different to the application site which affects the individual values of the site. For example the sites at Mercia House and 13-14 South Bar both have consent for residential conversions. The relevant conditions of each building and site also affect the value of each site. In this case it is considered that the Valuation Report that the applicants has submitted is the most robust evidence. This has been undertaken in accordance with the RICS guidance and fully considers the individual constraints and condition of application site. This provides a market value of the site at £785,000. Given the building was marketed for offers in excess of £1 million the analysis in the committee report remains relevant.

The applicant has also sought to argue that the refurbishment costs of the building would mean it would not be viable to use as an office. However this is not backed up by robust analysis or evidence so is therefore not considered capable of carrying significant weight in determining that planning application. It also appears to contradict earlier submissions from the applicant. For example the valuation report estimated that the building would require £55k of investment for refurbishment but the new information from the applicants include it would be at least £1 million.

Clarification has been sought from one of the Councillors regarding the use of the term 'less than substantial harm' in the Committee report. This term derives from the NPPF. In applying the policies of the NPPF the Council has to consider whether the harm to heritage asset (listed buildings, conservation areas etc) falls within the category 'substantial harm' or 'less than substantial harm'. Depending on the category a proposal falls within there are different policy tests to be applied.

Both of these terms recognise there is harm to the heritage asset and this should be avoided unless there is clear and convincing justification. Significant weight has to be attached to any harm to heritage assets in accordance with the statutory duties which requires that special regard is had to preserving and enhancing heritage assets.

Reaching the conclusion that a development leads to less than substantial harm to a listed building in no way means the development is acceptable or less than objectionable. This is supported by many planning appeals. In such cases paragraph 134 of the NPPF requires that the public benefits of the scheme be weighed against the harm to the heritage asset in reaching a planning decision ensuring significant weight is applied to this harm. In this case officers have undertaken this balancing exercise and do not considered that there is clear and convincing justification or public benefits which would outweigh the harm to the heritage assets as outlined in the report.

Further comments have been received as outlined below:

Georgian Group – Whilst they note the removal of the proposed roof terraces and the bottom hung windows from the application, they still have concerns over the large number of rooflights proposed and recommend that the number of rooflights, their size and their dimensions do not exceed the minimum necessary particularly in light of the main significance of the building lying within the external shell and roof structure. Inserting the suggested number of rooflights further erodes the remaining historic fabric.

Banbury Town Council - Having considered the amended plans submitted, Banbury Town Council do not wish to alter their previous comments on this application. However, the Council do wish to reiterate that this is based on the belief that this development offers the best opportunity to insure the future this building. The Town Council also wish that any alterations that are carried out do not cause substantial harm to the fabric of the building.

OCC Highways - They have removed their objection to the scheme. They raise some concerns over the parking space in front of the bin store however this could be resolved with a planning condition. They have also requested further details of the pedestrian and vehicle access gates and bin collection area. These matters could also be addressed with appropriately worked conditions.

The recommendation for refusal remains as outlined in the Officer report.