

Cherwell District Council

Executive

6 July 2015

Graven Hill Local Development Order

Report of Head of Development Management

This report is public

Purpose of report

To seek the agreement of Executive to consult on the draft Local Development Order (LDO) prepared by officers in respect of Phase 0 and part of Phase 1 of the redevelopment of Graven Hill

1.0 Recommendations

- 1.1 To agree the draft LDO attached at Appendix A to this report for the purpose of public consultation.
- 1.2 To agree the statement of reasons for preparing the LDO attached at Appendix B to this report.
- 1.3 To agree to carry out consultation on the draft LDO as required by Article 38 of The Town and Country Planning (Development Management Procedure) Order 2015.
- 1.4 To note that the Head of Development Management will adopt a screening opinion in respect of the LDO as required by Regulation 29 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended)
- 1.5 To agree to receive a report back to a future meeting on the outcome of the consultation process.

2.0 Introduction

- 2.1 Executive previously considered a report setting out the benefits and disadvantages of LDOs, and giving the reasons why officers recommended that an LDO should be prepared in respect of the redevelopment of Graven Hill, at its meeting on 2 March 2015.
- 2.2 The main reason given for preparing a LDO in respect of Graven Hill was to facilitate the delivery of self-build dwellings on the site. It was envisaged that a LDO would achieve this by simplifying the planning process whilst providing certainty that individuality and variety in design would be supported within the parameters set by the Masterplan and Design Code, to be approved under the outline planning permission (ref: 11/01494/OUT).

- 2.3 Executive resolved to agree the principle of preparing a LDO in respect of Phase 0 and Phase 1a.

3.0 Report Details

The Draft LDO

- 3.1 In response to the resolution of Executive to agree the principle of preparing a LDO, officers have prepared a draft for consultation which is attached at Appendix A to this report.
- 3.2 The draft LDO permits the following classes of development:
- Class A:* The erection or construction of a dwellinghouse that is either a custom build or self build dwellinghouse, pursuant to the outline planning permission for the redevelopment of the site (ref: 11/01494/OUT).
- Class B:* The enlargement, extension or alteration of a dwellinghouse that has been erected or constructed under the Order
- Class C:* The provision of buildings etc. incidental to the enjoyment of a dwellinghouse that is being erected or constructed under the Order
- 3.3 The development which would be permitted by the Order would be subject to limitations and conditions as detailed under Schedule 2 of the draft Order, including a requirement to apply for confirmation as to whether the development complies with the Masterplan and Design Code approved under the outline planning permission.
- 3.4 The procedure for applying for confirmation of compliance with the Masterplan and Design Code is detailed at Schedule 3 of the draft Order. A formal 'confirmation of compliance' procedure is considered essential to provide certainty for plot purchasers, the Council, and the general public that development proposals comply with and so can proceed under the LDO. Without formal confirmation, there is a higher risk of development proceeding that at a later date is found not to comply with the LDO. Such development would be unauthorised and would be liable to planning enforcement action.
- 3.5 It is important to note that 'confirmation of compliance' does not mean the Council would be assessing and critiquing the design quality *per se* of development proposals. Rather the Council would be checking and verifying that development proposals comply with the limitations and conditions of the LDO and so would be permitted by the LDO.
- 3.6 Officers recognise that it is important the 'confirmation of compliance' procedure is made as simple as possible for self builders to use. To this end officers are in discussions with the Graven Hill Development Company to agree arrangements for applications and decisions to be administered and communicated via the Development Company's site office.
- 3.7 Other limitations and conditions include restrictions to ensure new development does not cause undue harm to the amenities of existing residents, for example by restricting side facing windows overlooking neighbouring properties and restricting the depth of buildings projecting beyond the rear of existing buildings.

- 3.8 Self builders would also be required to complete developments within 3 years of receiving confirmation of compliance, to ensure developments are completed in a timely fashion and to avoid prolonged construction work blighting the development as a whole and the amenity of other residents.
- 3.9 The LDO would be time limited and would be in force for a period of 5 years from the date of adoption. This is in accordance with the Government's Planning Practice Guidance which advises that: *Local Development Orders in fast-developing areas may be time-limited so that they can be easily revised and updated in the future.* A time limit is particularly important in this case because of the large scale and phased delivery of the development and because there are no existing examples of LDOs for large scale self build developments nationally in the U.K from which to learn best practice.
- 3.10 Five years is considered reasonable to provide certainty for prospective plot purchasers that development proposals can be implemented under the LDO, whilst providing a timely opportunity for the Council to review the implementation of the LDO in practice.
- 3.11 Officers have prepared the draft LDO having regard to the restrictions on adopting a LDO contained in The Town and Country Planning (Development Management Procedure) Order 2015, The Town and Country Planning Act 1990 (as amended), and The Conservation of Habitats and Species Regulations 2010 (as amended), and are satisfied that those restrictions do not apply in this case.

Statement of Reasons

- 3.12 A statement of reasons for making the Order, as required by Article 38 of The Town and Country Planning (Development Management Procedure) Order 2015, is attached as Appendix B to this report.

Consultation on the draft LDO

- 3.13 Under Article 38 of The Town and Country Planning (Development Management Procedure) Order 2015, where a Local Planning Authority has prepared a draft LDO it must consult on that draft LDO giving a period of not less than 28 days for representations to be made.
- 3.14 When considering what modifications should be made to the draft Order or whether it should be adopted, the Local Planning Authority must take into account all representations made in relation to the draft Order.
- 3.15 If Executive agrees the draft LDO and statement of reasons attached as Appendices A and B to this report, subject to adopting a screening opinion as detailed at paragraphs 3.16 to 3.18 of this report, officers will proceed to consult on the draft LDO, as required under Article 38.

EIA Regulations

- 3.16 The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 ('the EIA Regulations') set out the procedure for assessing the likely environmental impacts of major development. The EIA Regulations set out the types of development that are caught by the assessment procedures. If development is caught by the EIA Regulations, planning permission cannot be granted until the environmental impacts have been assessed in an Environmental Statement, consulted upon and taken into account in reaching a decision.

- 3.17 The outline planning permission for Graven Hill (ref: 11/01494/OUT) was EIA development and the application was accompanied by an Environmental Statement.
- 3.18 There is a requirement for the Council to adopt a screening opinion prior to making a LDO under Regulation 29 of The Town and Country Planning (Environmental Impact Assessment) the EIA Regulations. The Council will likely adopt a screening opinion to the effect that the Graven Hill development is EIA development as defined by the EIA Regulations. With any subsequent applications for EIA development, the original Environmental Statement can be updated and refreshed with any new evidence, rather than preparing a whole new Environmental Statement. This must then be consulted upon and taken into account when deciding to adopt the LDO and this process can be undertaken in parallel.
- 3.19 The consultation process in respect of LDOs is set out in articles 38 and 41 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A local planning authority must consult on the draft LDO and reasons for making the order with relevant interested parties such as Parish Councils, Natural England, Historic England, Environment Agency and Thames Water for a period not less than 28 days. The outcome of the consultation process will be reported to Executive in September. It is expected that the Design Code and Masterplan will be submitted to discharge the conditions attached to the outline planning permission by the 30th June 2015. It is intended that the Design Code and Masterplan will be reported to a special Planning Committee at the end of July.

4.0 Conclusion and Reasons for Recommendations

- 4.1 The draft Local Development Order would facilitate and encourage self build and custom build housing at Graven Hill by simplifying the planning process whilst providing certainty that individuality and variety in design would be supported within the parameters set by the Masterplan and Design Code to be approved under the outline planning permission.
- 4.2 It is therefore recommended that Executive agree the draft LDO and the statement of reasons for making the LDO. Officers can then proceed to preparing and adopting a screening opinion in respect of the LDO, before carrying out consultation on the draft LDO as required by legislation.

5.0 Consultation

- 5.1. Councillor Michael Gibbard (Lead Member for Planning)
- 5.2. EC Harris and JP Planning on behalf of the Graven Hill Development Company

6.0 Alternative Options and Reasons for Rejection

- 6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Not to agree the draft LDO. Delivering the development through the traditional reserved matters route would not facilitate the desired level of individuality and variety in design.

7.0 Implications

Financial and Resource Implications

- 7.1 The Council has entered into a Planning Performance Agreement (PPA) with the Graven Hill Development Company to ensure that the Council is adequately resourced to carry out the work necessary to prepare and consult on the LDO.

Comments checked by: Paul Sutton

Legal Implications

- 7.2 The Council is required to consult on the draft LDO prior to adoption

Comments checked by: Nigel Bell

8.0 Decision Information

Key Decision

Financial Threshold Met? No

Community Impact Threshold Met? Yes

Wards Affected

All Bicester Wards, Launton

Links to Corporate Plan and Policy Framework

A District of Opportunity, in particular:

- Securing employment-generating development with necessary transport/other infrastructure
- Meeting local performance targets in terms of speed of determination of all forms of application

Lead Councillor

Councillor Michael Gibbard

Document Information

Appendix No	Title
A	Draft LDO
B	Draft Statement of Reasons

Background Papers	
None	
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