

# **Cherwell District Council**

## **Executive**

**2 November 2015**

<p><b>Graven Hill: MOD Bicester Sites D &amp; E Ambrosden Road Upper Arccott</b></p>
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### **Report of Head of Development Management**

This report is public

#### **Purpose of report**

To inform Executive of the outcome of the consultation process in respect of the draft Local Development Order (LDO) previously agreed by Executive for Phase 0 and part of Phase 1 of the redevelopment of Graven Hill, and;

To seek a decision by Executive on whether to adopt the LDO, subject to the minor modifications outlined in this report.

#### **1.0 Recommendations**

The meeting is recommended:

- 1.1 To note the outcome of the consultation process undertaken in respect of the draft LDO
- 1.2 To agree the proposed modifications to the draft LDO.
- 1.3 To adopt the modified LDO attached at Appendix B to this report.
- 1.4 To note the requirement to notify the Secretary of State of a decision to adopt a LDO as soon as practicable, and no later than 28 days after the Local Planning Authority has adopted the Order.

#### **2.0 Introduction**

- 2.1 Executive 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 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, which has subsequently been approved under the outline planning permission (ref: 11/01494/OUT).

- 2.3 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. Executive agreed a draft LDO for consultation purposes at its meeting on 6 July 2015; a copy of the draft LDO is attached at Appendix A to this report.
- 2.4 The draft LDO was publicised in the Bicester Advertiser and by way of site notice on the 17 September 2015. Notification letters were also sent to Ambrosden Parish Council and Bicester Town Council, all relevant consultees, and to those with an interest in the land that would be affected by the LDO. The 28 day consultation period ended on 15 October 2015.
- 2.5 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.

### **3.0 Report Details**

#### The consultation responses

- 3.1 AMBROSDEN PARISH COUNCIL: **no comments** received
- 3.2 BICESTER TOWN COUNCIL: **no comments** received
- 3.3 HISTORIC ENGLAND: **no comments** and advise that the proposal should be determined in accordance with national and local policy guidance, and on the basis of the Council's specialist conservation advice.
- 3.4 ENVIRONMENT AGENCY: **no objections** but note that some of the conditions on the outline permission will need to be discharged before any of the plots can be developed. The conditions are in relation to surface water drainage and foul drainage infrastructure.
- 3.5 HIGHWAYS ENGLAND: **no objections**
- 3.6 NATURAL ENGLAND: **no comments**
- 3.7 CDC LANDSCAPE: **no objections** but comments that on-plot landscaping should be provided to the front gardens in "a consistent and planned format" to tie the different building styles together.
- 3.8 OXFORDSHIRE COUNTY COUNCIL: **no objections**, commenting that the outline planning permission and the associated s106 legal agreement should ensure that the necessary controls are in place to ensure the transport and highways impacts of the development are acceptable.

- 3.9 THAMES WATER: **no objections** on the understanding that no development will be allowed contrary to the conditions of the outline planning permission, and that no dwellings will be occupied until the approved drainage scheme is implemented.
- 3.10 CDC CONSERVATION AND URBAN DESIGN: **no objections**, but advises that it would be useful to have the flexibility to provide further design guidance, if required, in the future. It is suggested this could be achieved through a review of the plot passports, and it is recommended that a Design Panel is set up made up of design experts, local stakeholders and representatives from the development company and the Local Planning Authority. The Design Panel would meet regularly to assess any critical design issues that arise in the process, with expert design guidance provided to developers/householders throughout the build process. With regard to conservation matters, the development that would be permitted by the LDO is not considered to give rise to any significant or different impacts on nearby listed buildings (e.g. Langford Park Farm) to that considered at outline stage.
- 3.11 NATIONAL SELF AND CUSTOM BUILD ASSOCIATION (NaSCBA): **supportive of the overall approach** but makes the following comments:
- Specific design requirements should be kept out of the LDO and instead should be contained in the Design Code and Masterplan, which can be kept under review to deal with any irregularities.
  - The interpretations being used for “custom build” and “self-build” could be strengthened (e.g. refer specifically to residential, specify a minimum length of time of occupation).
  - Thought needs to be given to how the requirement for self-build and custom build will be policed (e.g. avoid plots being sold on).
  - A standard application form for confirmation of compliance should be provided, to make it easier for applicants. Consideration should be given to charging a fee for confirmation of compliance.
  - The plot passport needs to contain all the rules that apply to the plot.
- (N.B: these comments were received before the formal consultation).

### Proposed Modifications

- 3.12 The consultation response has not raised any significant issues or objections to the draft LDO. However, having regard to the comments received and following discussions with the Development Company, it is recommended that the following minor modifications are made:
- Insert section 1(4) under “Citation, commencement and application”, making provision for development that has commenced under the LDO to be completed in the event that the LDO is either revoked or revised.
  - Amend the definition of “custom build” and “self build” to reflect the definition used in the Housing and Planning Bill 2015, and amend the definition of “developer” to mean a custom builder or self builder.
  - Add a definition of “occupation”, to be consistent with that used in the s106 legal agreement and so that it is clear when a self build or custom build dwelling is to be treated as occupied.
  - Delete definition of “original dwellinghouse” as this term is not used elsewhere in the LDO.
  - Amend section 3(1) and 3(4) under “Permitted development” to clarify the scope of the LDO and in particular its status as a reserved matters approval pursuant to the outline planning permission.

- In Schedule 2, amend A.2(c) and A.2(d)(ii), to refer to a neighbouring dwellinghouse that has received either confirmation of compliance or planning permission. This is consistent with the terms used elsewhere in the LDO, and reflects the point at which the design for the neighbouring dwelling will have been agreed.
- In Schedule 2, amend A.2(c)(i) and B.2(b)(i) to allow for side windows above 1.7 metres to be clear glazed. This is because the potential for overlooking/loss of privacy is minimal at this height.
- In Schedule 3, amend paragraph (2)(a) to only require a written description of the proposed development. This is because the plans required to be submitted under paragraph (2)(b) will show the building or other operations proposed.

3.13 With regard to the suggestion made by CDC Urban Design of a Design Review Panel to monitor progress and assess any critical design issues, officers consider this could prove useful to evaluating the effectiveness of the LDO and Design Code, and will explore this possibility further with the development company.

3.14 With regard to the date the LDO would come into force, a date of 15 December 2015 is considered appropriate. This is because it allows for the potential for a legal challenge to be submitted in the six week period following the Council's decision whether to adopt the LDO.

### EIA Regulations

3.15 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) Regulations 2011 (as amended).

3.16 The Council adopted a screening opinion on 16 September 2015 to the effect that the Environmental Statement submitted to support the outline planning application 11/01494/OUT remains adequate to assess the environmental effects of the development that would be permitted by the LDO, and so a new Environment Impact Assessment is not required.

3.17 The development that would be permitted by the LDO is not considered to be materially different in scale or use to that which is permitted by the outline planning permission, and is not considered to give rise to materially different or significant greater impacts than the approved development.

3.18 The proposed modifications to the draft LDO are minor and relate to procedural matters and points of clarification, and do not alter or amend the nature, scale or type of development that would be permitted or the likely environmental impacts that will result.

3.19 Therefore, and having regard to the environmental information submitted with the outline planning application, the draft LDO as modified (attached as Appendix B to this report) is not considered to give rise to significant environmental effects above and beyond those which have already been assessed in the outline planning application.

## **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 The consultation response has not raised any significant issues or objections to the draft LDO, and only minor modifications are proposed in response to the comments received, to clarify the requirements of the LDO and to ensure that it is effective in facilitating the delivery of custom build and self-build development.
- 4.3 It is therefore recommended that Executive agree to adopt the modified LDO as attached at Appendix B to this report, and that the Secretary of State is notified of the decision to adopt the LDO in accordance with Article 38(11) of the Town and Country Planning (Development Management Procedure) Order 2015.

## **5.0 Consultation**

- 5.1. Full details of the consultation on the draft LDO are set out in sections 2 and 3 of this report.
- 5.2. Consultation in respect of the content of this report was with:
  - Councillor Michael Gibbard (Lead Member for Planning)
  - 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.
  - (a) 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.
  - (b) To adopt the LDO without modifications. This would not address the issues raised in the consultation response and would fail to take the opportunity to clarify the requirements of the LDO and safeguard the delivery of custom and self-build development.

## **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, Head of Finance and Procurement, 0300 003 0106,  
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### **Legal Implications**

- 7.2 The s106 Agreement entered into in respect of the outline planning permission (ref: 11/01494/OUT) will need to be varied to amend the definition of a Qualifying Permission to include reference to a Local Development Order.
- 7.3 There is a requirement under Article 38(11) of the Town and Country Planning (Development Management Procedure) Order 2015 to notify the Secretary of State of a decision to adopt a LDO no later than 28 days after the Local Planning Authority has adopted the Order.

Comments checked by:  
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## **8.0 Decision Information**

### **Key Decision**

Financial Threshold Met? No

Community Impact Threshold Met? No

### **Wards Affected**

All Bicester Wards, Ambrosden

### **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  
Lead Member for Planning

## Document Information

Appendix No	Title
A	Draft LDO used for consultation
B	Modified LDO proposed for adoption
<b>Background Papers</b>	
None	
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