



For the attention of: Bob Duxbury  
Development Control Team Leader  
Development Management  
Cherwell District Council

Set by email only: [Bob.duxbury@cherwell-dc.gov.uk](mailto:Bob.duxbury@cherwell-dc.gov.uk)

Date: 27<sup>th</sup> October 2017

LPA Ref: 17/01428/F  
GLD Ref: GLD16-06

Dear Bob,

**Re: Determination of Planning Application 17/01428/F at Planning Committee on 26<sup>th</sup> October 2017**

It is with regret that we have to write to you on this basis, but after yesterday's extremely disappointing Planning Committee resolution on planning application P17/01428/F, we are unfortunately left with no other alternative.

We have serious concerns about the manner in which the decision was taken by Members in deciding upon this application.

Following the Planning Committee, we have watched back and reviewed the televised recording of the meeting, and in turn have sought the advice of Counsel, particularly so on the manner in which Members decided to overturn the Officers' recommendation and refuse the application.

Members voted on a proposal to refuse the application based on no specific reasons for refusal.

The failure to consider any reasons to refuse this application, was compounded by the actions of the Committee post resolution. Just as the next item on the agenda was about to be presented, the Council's solicitor had to attract the attention of the Chairman, in order for the Committee to revisit the previous item on the agenda, i.e. this application; this was so some actual reasons could be cited as to why planning permission had just been resolved to be refused. This was not discussed again with the Members who had just voted, but the Officer simply stated that from the discussions the application was refused on the basis it was contrary to Policy R1, and Policy ESD10 ecological impact. Crucially, the vote previously taken by Members was not taken on this basis (no reasons for refusal had been proposed to inform that motion), it was simply proposed to refuse the application.

It is clear from reviewing the televised recording of the meeting that the determination of the application failed to consider two key material considerations.

Firstly, the site is open space and that it contributes to Bicester's recreational provision. This is factually incorrect; the site has only ever been reserved for recreational use under Policy R1 of the 1996 Local Plan, a policy ambition that has not been realised for in excess of 20 years, and never will be as the site is private land with no formal public access. It does not contribute to the open space provision for the District, but through the application scheme would do so, by delivering a linear park around on the urban edge of Bicester; meaning that it is actually in accordance with Policy Bicester 7 of the far more recently adopted Local Plan Part 1.



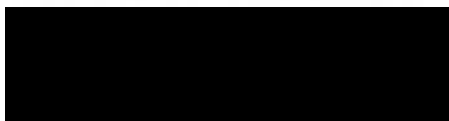
Secondly, the site was a District Wildlife Site and that it has high ecological value. This is factually incorrect; the site is not designated as a District Wildlife Site. The only ecological survey work on the site before the Committee was that of the applicants, with this survey work confirming that the site has limited ecological value. In fact, the application scheme not only delivers appropriate and proportionate mitigation, but will deliver a net gain for biodiversity in the local area, and this is confirmed by the Council's ecologist.

If these were in fact the two reasons that the Members were voting on in order to refuse the application, and we simply do not know this at the time of the vote, then Officers needed to have confirmed the facts of this application to the Committee, and advised Members that these are not substantive and justifiable reasons to refuse planning permission, particularly if the applicant were to appeal the decision, with there being a strong likelihood that costs could be awarded against the Council. The vote would then have been taken with this knowledge available to Members, but because of the series of events that took place, this was not the case.

As matters currently stand, it is wholly apparent that the determination of the application failed to consider two key material considerations, and that Members were not clear on the correct planning facts of the application, and in turn were unaware of the consequences of their actions, i.e. in the case of a subsequent appeal and associated costs. As things stand the current rationale for the refusal of this application could not be substantiated at appeal.

Given the severity of this situation, we would be grateful if you could reply back to me as a matter of some urgency, confirming that the Council, due to the reasons stated above, will be taking this planning application back to the next available Planning Committee for it be re-determined in the correct manner.

Yours sincerely



**Philip Rawle BSc(Hons) MA DipTP MRTPI  
Director**

Cc Alistair Wood – LNT Care Developments Ltd

