

**CHERWELL DISTRICT COUNCIL  
PLANNING COMMITTEE**

**14 March 2019**

**WRITTEN UPDATES**

**Agenda Item 7**

**Proposed Pre-Committee Site Visits**

Officers would like to recommend that the Committee agrees to hold a pre-committee site visit for the following applications, which is expected to be brought before the Committee for determination at the next meeting.

**Application No.:** 18/01894/OUT

**Proposal:** Outline planning permission with all matters reserved for up to 25 dwellings with associated open space, parking and sustainable drainage

**Location:** OS Parcel 4300 North of Shortlands and South of High Rock, Hook Norton Road, Sibford Ferris

**Reason for the visit:** Major development

If the Committee accepts these recommendations, the site visit will be held on Thursday 17<sup>th</sup> April 2019, along with any other site visits agreed at today's meeting.

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**Agenda Item 8**

**18/01614/F – Hardwick Hill Southam Road Banbury**

**Additional representations received**

OCC LOCAL HIGHWAYS AUTHORITY (LHA): Is now broadly happy with the information but have an outstanding objection on the forward visibility splay at the sharp bend in the access road at the LAP. The plan submitted shows the splay obstructed by parking, planting around the edge of the LAP and a tree. The LHA requests this is reviewed on highway safety grounds.

Other than that issue, the LHA now raises no objections to the proposals subject to conditions (for cycle parking and bin collection points) and to financial contributions towards bus services secured through a legal agreement.

With regard to comments made at para 9.45 of your report including a condition sought by the LHA in relation to provision of a bus service at the site, the LHA now comments:

“The bus route issue has now been resolved and buses are now able to route through part of the site, entering and exiting between the two [accesses] onto Southam Road.”

#### THAMES WATER

Has confirmed to the applicant that there is sufficient capacity in the system for the 23 additional houses

#### **Officer comment**

##### Consultation dates

As noted at paras 9.17 and 9.40 of your report, amended plans have been received which seek to address the concerns of CDC and OCC officers.

Full re-consultation has been undertaken on the application. This is not captured at Section 6 of the report. Due to delays in the publication of the press notice, the final date for comments is 4<sup>th</sup> April 2019. The recommendation needs to be amended to reflect this.

##### Outstanding OCC Highways concerns

While officers note the LHA's outstanding concern, this element of the proposed development is identical to that approved and which could be implemented. It is therefore not reasonable to object to the application on this basis.

In the absence of any other objection from the LHA, the recommendation to Planning Committee is amended accordingly.

##### Affordable housing

Officers would wish to clarify comments made at para 9.68 of your report in relation to affordable housing provision. There is a net uplift of 23 dwellings proposed, which necessitates 7 additional Affordable Dwellings. The applicant proposes these 7 to be comprised of 3x 2 bed flats and 4x 3 bed houses.

Although noting the Housing Officer's comments including the lack of demand for flats and the desire for additional affordable houses even if it means fewer affordable units overall, the alternative to this proposal is no additional affordable units, and therefore this application would provide four additional 3 bed houses as Affordable Dwellings, which is a benefit arising from this application.

##### Infrastructure provision

Full Heads of Terms are still being discussed with consultees and the applicant but are likely to include the following:

Affordable housing-

3x 2 bed flats and 4x 3 bed houses

Financial contribution towards-

Off-site outdoor sports provision, of approx. £46,391.69  
Off-site indoor sports provision, of approx. £19,203.77  
Off-site community hall facilities (i.e. enhancement of existing facilities in the area), of approx. £31,000  
Off-site public open space provision (£TBC, under discussion)  
Public transport services of £32,857.11 indexed from Nov 2014 using RPI-x  
Waste and recycling services (£TBC, under discussion)

### **Change to recommendation**

**DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY TO GRANT PERMISSION SUBJECT TO**

**1. NO ADDITIONAL CONSULTATION RESPONSES BEING RECEIVED BY 4<sup>TH</sup> APRIL 2019 WHICH RAISE SUBSTANTIVE NEW ISSUES NOT ALREADY ADDRESSED IN THE OFFICER'S REPORT**

**2. CONDITIONS TO BE AGREED IN CONSULTATION WITH THE CHAIR OF PLANNING COMMITTEE**

**3. THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991**

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### **Agenda Item 9**

**18/01707/F – OS Parcel 4278 North West of Lessor Grange Milcombe**

No update

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### **Agenda Item 10**

**18/01724/F – OS Parcel 4278 North West of Lessor Grange Milcombe**

No update

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### **Agenda Item 11**

**18/01708/OUT – OS Parcel 4278 North West Of Lessor Grange Milcombe**

### **Additional representations received**

#### **APPLICANT'S AGENT**

An email/letter was received (13/03/2019) by officers and which was copied to members. The letter sets out the applicant's opinion that the case officer's

assessment against the policy context is incorrect and that the planning balance should fall on the side of approval.

#### COUNCIL'S AGRICULTURAL ADVISOR

Officers have sought and received (14/03/2019) further clarification from the Council's agricultural advisor in relation to the proposed permanent dwelling. He reaffirms his view that there is no essential need for a permanent dwelling, making the follow further comments:

- *'The business at Lessor Grange has the benefit of Lessor Grange House occupied by the applicant who whilst doing some work on the farm derives his income mainly off farm. Associated with Lessor Grange House is staff accommodation associated with the running of the house. This is currently occupied on a temporary basis by the applicant's stockman who looks after the stock at Lessor Grange and the stock at Painters Farm Bloxham'.*
- *'Both farm units due to TB are being restocked'.*
- *'The proposal at Lessor Grange for the embryo and IVF unit is a new enterprise and in my opinion must be seen to [be] successful and consequentially a temporary dwelling is the answer to allow the proposed development to reach fruition. The current level of stock at Lessor Grange does not give rise to a permanent essential need'.*

#### **Officer comment**

Both the national (NPPF) and local (saved Policy H18 of the Cherwell Local Plan 1996) policy seeks to resist isolated new residential development in the open countryside unless *"there is an essential need for a rural worker....to live permanently at or near their place of work in the countryside"*.

At various places in his submission, the applicant contends that the dwelling would serve a new enterprise **and** that the enterprise is not new but an expansion of existing operations.

Based on the information submitted with the application, even if the proposed activities were be considered to be an expansion of existing operations, the proposals are of such a scale they would effectively result in a new commercial enterprise. Either way, the proposals would result in significant new activity, which requires new purpose built facilities. Officers consider the proposals a new enterprise, and the applicant in his submission says the same.

#### If the dwelling is to serve the existing enterprise

The Council's agricultural advisor clearly states that the existing enterprise does not give rise to an essential need for a permanent dwelling. In any case, the existing business has the benefit of Lesser Grange House occupied by the applicant. Further, the applicant has not demonstrated that there are no dwellings of a suitable size available in the local area, e.g. at Milcombe or Wigginton or Bloxham.

#### If the dwelling is to serve a new enterprise

It is fundamental principle of planning, as set out in the NPPF, that development must be sustainable economically, socially and environmentally in order to be

found acceptable. With regard to proposed agricultural worker's dwellings, it is a well-established principle that applicants must demonstrate the proposed dwelling is economically sustainable.

Applications for permanent dwellings must be accompanied by evidence that the enterprise and the activity:

- Have been established for more than three years (during which time the essential worker may have to live in a temporary dwelling on the unit)
- Have been profitable for at least one of the last three years
- Are currently financially sound
- Have a clear prospect of remaining so

In addition, applicants must demonstrate through that evidence that the proposed dwelling is of a proportionate size to the unit, and can be funded by the profits of the business, and that the business can support a permanent worker.

Reflecting these tests, the supporting text to saved Policy H18 states:

*'Sufficient details should be provided to enable an assessment of the size, nature and viability of the existing or proposed enterprise together with details of the number and tenure of existing dwellings related to the holding or estate. Where there is any doubt that a dwelling is required for the proper functioning of an enterprise, or where a new business is being proposed, it will be necessary to supply adequate financial information to demonstrate that the proposals are sound. In particular the Council will wish to be satisfied that such need as might exist could not be reasonably secured in a nearby settlement'.*

At the national level, these tests formed part of Annex A to PPS7. Whilst not explicit within the NPPF, they have been applied countless times by Councils and Planning Inspectors since the NPPF's publication in 2012, including in Cherwell district, as a means of assessing whether a development proposal is economically sustainable. It is also worth noting that the Council is currently defending an appeal against the refusal of a permanent agricultural worker's dwelling elsewhere in the district. At the appeal hearing the Planning Inspector asked the same questions as set out above.

It is plainly the case that a new enterprise cannot provide this evidence. A new enterprise will not already have been established for three years. A new enterprise cannot provide three years of actual accounts to show that it is profitable. And a new business has no profits with which to fund the construction of a dwelling, or to pay the wages of a permanently resident agricultural worker.

This is why new agricultural enterprises planned on a sound financial basis and with a sound business plan may be granted permission for a **temporary dwelling**, usually for 3 years. This allows for any business enterprise to establish and grow, with a view to – after 3 years – being able to show that it has been profitable, with a clear prospect of remaining so, and has built up sufficient profit to be able to fund the construction of a permanent new dwelling.

Officers consider that if the applicant is genuine in his approach to the proposed new enterprise, and it follows the business plan put forward within this

application, then after three years it is unlikely there would be a reason not to support the principle of developing a modest permanent agricultural workers dwelling in this location.

To grant permission for a permanent agricultural worker's dwelling for a new enterprise away from any settlement is akin to granting permission for a new market dwelling, because the essential need for that permanent dwelling cannot be demonstrated. Therefore to grant planning permission in this case would be wholly at odds with the aims and provisions of local and national planning policy and would set a dangerous and unwelcome precedent for similar development proposals in the future.

Lastly, there are two points of clarification required in respect of the officer's report.

Re para 7.3 (Page 67), the Council's agricultural advisor does in fact raise objections to the principle of a permanent dwelling at this site.

Re para 9.28 (Page 72), these movements relate to the proposed business enterprise as a whole rather than specifically to the proposed dwelling itself.

#### **Change to recommendation**

None

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#### **Agenda item 12**

#### **19/00055/F - Meadow Barn Merton Road Ambrosden OX25 2LZ**

#### **Additional representations received**

None

#### **Officer comment**

Officers note the separation distance between the proposed dwellings and those approved to the west of the site (five dwellings, application 18/01755/F) is approx. 17 metres, and it is therefore considered necessary for an additional condition to be added to require SW-facing rooflights to be obscurely glazed.

In addition, officers note a typographical error in the recommended Condition 11 – “dwelling” should instead read “dwellings”.

#### **Change to recommendation**

#### **Condition 11**

Notwithstanding the provisions of Classes A to E (inc.) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, the approved dwellings shall not be

extended or enlarged, nor shall any structures be erected within the curtilage of the said dwellings, without the grant of further specific planning permission from the Local Planning Authority.

Reason - To ensure and retain the satisfactory appearance of the completed development and to ensure a satisfactory amenity for the future occupants of the dwelling, and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

#### Condition 19

Before the respective dwelling is first occupied the first floor openings on the south-western elevation of the southern-most of the three dwellings shall be glazed with obscure glass (at least Level 3) only and, unless fixed shut, fixed with a ventilation stay restricting the opening of the window to no more than 30 degrees from the elevation in question, and must be permanently maintained as such at all times thereafter.

Reason - To safeguard the living conditions of neighbouring residents and future occupiers of the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

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#### **Agenda Item 13**

##### **19/00244/F – The Old Rectory Stoke Lyne Bicester OX27 8RU**

#### **Additional representations received**

CDC ENVIRONMENTAL HEALTH: Has now responded to the consultation but has no comments to make on the application.

#### **Officer comment**

The consultation period for this application is due to end on March 21<sup>st</sup> 2019. While Section 6 of the report refers to this being the end date for consultation period, the recommendation did not reflect this.

#### **Change to recommendation**

**DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY TO GRANT PERMISSION, SUBJECT TO (i) NO ADDITIONAL CONSULTATION RESPONSES BEING RECEIVED WHICH RAISE SUBSTANTIVE NEW ISSUES NOT ALREADY ADDRESSED IN THE OFFICER'S REPORT AND (ii) THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)**

Conditions as per Page 105 of your agenda

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**Agenda Item 14**

**18/02150/F – Evelyns Farm Brill Road Horton Cum Studley OX33 1BZ**

No update

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**Agenda Items 15 and 16**

**19/00014/F and 19/00015/LB – Land North West Of Fabis House  
Rattlecombe Road Shenington**

**Additional representations received**

The applicant has submitted a drawing to address the comments of the Building Control Officer.

**Officer comment**

The Building Control Officer has not commented on this drawing but, as stated in the officer's report, this relates to meeting Building Regulations requirements and is separate to the planning process.

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**Agenda Item 17**

**19/00014/NMA – The Hill Dover Avenue Banbury OX16 0JE**

No update

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**Agenda Item 18**

**Appeals Progress Report**

The headings for Item 3 (Page 162) and Item 5 (Page 163) have been switched. That is, the text on Page 162 instead relates to the appeal at Glen Meadows House, Chacombe Road, Wardington, and the text on Pages 163-164 for Item 5 relates to the proposal for up to 10 dwellings at Fringford Cottage, Main St, Fringford.