

**SUPPLEMENTARY INFORMATION****Planning Committee****19 May 2022**

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If you need any further information about the meeting please contact Lesley Farrell / Aaron Hetherington, Democratic and Elections democracy@cherwell-dc.gov.uk, 01295 221534

Agenda Item 17

Cherwell District Council

Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, Oxon OX15 4AA, on 18 May 2022 at 7.58 pm

Present:

Councillor George Reynolds (Chairman)
Councillor Maurice Billington (Vice-Chairman)
Councillor Andrew Beere
Councillor Rebecca Biegel
Councillor John Broad
Councillor Hugo Brown
Councillor Jean Conway
Councillor Ian Corkin
Councillor Ian Harwood
Councillor Simon Holland
Councillor Fiona Mawson
Councillor Richard Mould
Councillor Lynn Pratt
Councillor Les Sibley
Councillor Dorothy Walker
Councillor Amanda Watkins
Councillor Barry Wood

Apologies for absence:

Councillor Sean Woodcock

1 Appointment of Chairman for the municipal year 2022/2023

Resolved

- (1) That Councillor George Reynolds be appointed Chairman of the Planning Committee for the municipal year 2022/2023.

2 Appointment of Vice-Chairman for the municipal year 2022/2023

Resolved

- (2) That Councillor Maurice Billington be appointed Vice-Chairman of the Planning Committee for the municipal year 2022/2023.

The meeting ended at 7.59 pm

Chairman:

Date:

Planning Committee 19 May 2022 – Public Speakers

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Agenda Item	Application Number	Application Address	Ward Member	Speaker – Objector	Speaker - Support
8	21/00922/OUT	Land West Of Foxden Way Great Bourton OX17 1QY	Cllr Phil Chapman- local ward member	Sue Upton & Tim Brooks Bourtons Parish Council	Russell Crow – Fernhill Estates
9	21/02286/F	Land North West of Launton Road Roundabout Adjoining Skimmingdish Lane, Caversfield	NO PUBLIC SPEAKING		
10	21/03639/F	Os Parcels 6741 and 5426, West Cricket Field North, Wykham Lane, Bodicote	None	Tom Hockaday – local resident	Sam Silcocks – Agent
11	21/03913/F	Unit 5B, Oxford Technology Park, Langford Lane, Kidlington	None	None	Angus Bates – Oxford Technology Park
12	21/04202/F	Former Buzz Bingo, Bolton Road, Banbury, OX16 UL	None	None	None

13	21/04216/F	HM Prison Bullingdon, Patrick Haugh Road, Upper Arncott, Bicester, OX25 1PZ	None	None	Chris Hays – Agent
14	22/00539/F	94 The Moors, Kidlington, Oxfordshire, OX5 2AG	None	Stephen Clark – local resident	Nik Lyzba - Henaud Developments
15	22/00601/CDC	2, 4 and 6 Priory Mews, Old Place Yard, Bicester, OX26 6AU	None	None	None

**CHERWELL DISTRICT COUNCIL
PLANNING COMMITTEE**

19 May 2022

WRITTEN UPDATES

Agenda Item 8

21/00922/OUT

Land West of Foxton Way, Great Bourton, OX17 1QY

Additional representations received

None

Officer comments

None

Recommendation

As per the published agenda report with the addition of the condition set out above.

Agenda Item 9

21/02286/F

**Land Northwest of Launton Road Roundabout, Adjoining Skimmingdish Lane,
Caversfield, Bicester**

Additional representations received

Environment Agency – Objection

The Environment Agency has provided a detailed technical response on the latest amended drawings/documents.

'The letter and submitted drawings reference above do not satisfactorily address our concerns. We therefore maintain our objection to this application.

The letter states that the consideration of future flood risk based on the most current climate change allowances has now been undertaken. Based on an expected lifespan of the development being less than 25 years, a reduced climate change allowance from 35% to 4% has been considered.

The applicant has now carried out their own modelling work to determine the expected flood level for this epoch. We will need to carry out a detailed review of the fluvial modelling in order to verify the results being relied upon to assess the risk of flooding and to design the flood mitigation scheme. Details of how to share the modelling with us has been provided separately.

The flood compensation being provided through tanked storage has now been reduced to less than 30m³. This will be acceptable providing we are able to accept the modelling that is being used.

However, in our previous response, we requested additional details in relation to the proposed flood compensation area being proposed through alterations of ground levels.

The detail provided in drawing number 220029/FV100 (version P4, dated 23 December 2021) identifies some ground level changes but does not show floodplain compensation storage areas. A site plan that shows the proposed changes for the whole site, not just certain points, should be provided. This is often demonstrated by

shading in areas of the site where land is being raised and lowered, as well as showing the final ground levels. This should demonstrate that the compensation scheme is hydraulically connected to the floodplain and that flows are not impeded.

In addition, the submitted letter sets out that the floodplain storage compensation required for levels above 69.55m AOD has been reduced to 17.58m³ following a revision in the climate change allowance. However, it is not clear how this was calculated. Whilst there is some information in the three 'Flood Volumes Sections' drawings, it would be helpful for this to be summarised within the FRA. The tables provided in the submitted letter seem to only show the change in flood volume once compensation (through ground level changes) has been provided. For clarity, a table should be included that clearly shows for each 0.1m slice the total: volume of flood storage lost, the volume of flood storage gained, and the volume difference (this appears to have been provided in the first table within the submitted letter).

Further, if the highest climate change flood level is agreed to be 69.66m AOD as stated in the submitted letter from RSK (dated 24 December 2021), then the tables within the letter should be updated to include this flood level (currently the tables only go up to 69.65mAOD).

Overcoming our objection: To overcome our objection, the applicant should submit a revised FRA which addresses the points highlighted above. If this cannot be achieved, we are likely to maintain our objection.

Please re-consult us on any revised FRA submitted and we'll respond within 21 days of receiving it.

Level for Level Floodplain Compensation Storage (Preferable): Level for level compensation is the matching of volumes lost from the floodplain due to increases in built footprint or raised ground levels, with new floodplain volume by reducing ground levels elsewhere. Analysis should be presented in the FRA as a table showing the volumes lost to the development in approximately 100mm increments of level and the volumes gained by the mitigation proposed in the same level increments. It should be demonstrated that there is no loss of floodplain volume in any increment of level, and preferably a net gain (see attached diagram).

Please note for this to be achievable, it requires land on the edge of the floodplain and above the 1% AEP, including an appropriate allowance for climate change, flood extent.

The FRA should consider whether level for level compensation is possible and if not explain why and detail how any associated risks from the chosen form of mitigation can be minimised.

Undercroft (To be used only when level for level floodplain compensation storage has been demonstrated not to be possible): If the applicant proposes voids under the building to mitigate the loss of floodplain storage, the design of the voids should adhere to the following guidance: If voids under the dwelling are proposed, they should extend from the ground level, with the underside of the void (soffit) at or above the 1% annual probability (1 in 100 year) flood level with a 35% allowance for climate change. There should be a 1 metre wide void opening in every 5 metre length of wall on all sides of the building. Void openings should extend vertically from existing ground level to at least the 1% annual probability (1 in 100 year) flood level with a 35% allowance for climate change. The void should be open and maintained as such in perpetuity. If the void openings are a security risk, then vertical steel bars placed at 100mm centres can be installed. Louvres or slats, as an alternative to bars, are not permitted over the openings due to the increased risk of debris blockage.

Officer response

The applicant has advised that they are working to provide further information/amendments in response to the latest comments received from the Environment Agency and are confident they can overcome the objections. Therefore, the recommendation remains to delegate to officers to resolve.

OCC Highways and Bicester Bike Users Group (BBUG)

Recent further correspondence has taken place regarding cycle access to the proposed Drive-thru facility and whether it would be appropriate to require either shared-use or segregated cycle access to the site from Skimmingdish Lane/Launton Road.

BBUG has been seeking support from OCC Highways for a requirement from the local highway authority that a segregated cycle access be provided to the proposed development. Despite repeated requests from BBUG that OCC should insist upon segregated access, OCC have concluded that it would be unreasonable for the Highway Authority to insist upon segregated access in this instance. They have concluded that:

“In our view segregated facilities would involve unjustified extra cost for limited benefit and for a development that will generate little cyclist traffic so increasing provision to segregated facilities would not be ‘fairly and reasonably related in scale and kind’ or ‘fairly and reasonably related to the proposals’.

Rather than the courts, the consideration for the Councils in making a decision/ recommendation is that the applicant has a right of appeal for the overall decision and any conditions/obligations applied/requested. We need to have a level of confidence that our recommendation could be defended in that circumstance, which we do not have in relation to the need for segregated cycle facilities.

In terms of the NPPF paragraphs 110 to 113 should be read together and as a whole. In that context providing for sustainable travel modes is an important part of the transport considerations and OCC will and do object if we believe the requirements of 110, 112 and related Local Plan policies are not being met.”

In response, BBUG have reluctantly accepted the conclusions reached by OCC in respect to this proposed development and have thus written:

“Thank you for taking the time to respond and for the clarification regarding OCC’s interpretation of the NPPF. Subject to one outstanding practical issue, I don’t propose to correspond further on this particular application given you have already responded to the planning authority (though the underlying issue will arise again on future applications).

In relation to the practical issue, could you please ensure that when the street lights are moved to accommodate the proposed shared path, that they are moved sufficiently far back so that there is space to install segregated paths in the future without requiring the street lights to be moved again?

In relation to future applications, we feel that the ultra-cautious zero-risk approach that OCC highways are taking in relation to asking for safe and inviting walking and cycling infrastructure provision is a real false economy. OCC highways is repeatedly missing out on opportunities for developers to make realistic contributions. Given the cost, delay, risk, limited benefit, and difficulties of challenging what a highways authority considers reasonable provision, it seems highly unlikely a developer would ever go to court to save the modest cost of installing a segregated rather than shared path and crossing. I would hope that we could begin to foster a more proactive culture within

development control. You know we will always back you and your officers to the hilt where you ask for reasonable provision.

I look forward to continuing this conversation constructively on future applications, and thank you for engaging with us, despite our differences of opinion."

Officer response

The Highway Authority guidance is that the improved shared cycle/pedestrian access to the site proposed by the applicant would be sufficient in this instance, and OCC would therefore support conditional approval. BBUG has now accepted (reluctantly) that guidance and from a planning balance perspective, the improvements proposed appear '*fairly and reasonably related in scale and kind*' to the proposals, as stipulated in the NPPF.

Other Matters:

Requirement to enter into a Section 278 (highways) agreement

Oxfordshire County Council's Solicitor has advised that recommendation (iv) is not required. Recommendation (iii) will secure the highways works needed prior to the grant of planning permission via a Section 106 agreement. A Section 278 agreement is not required until commencement of the development and therefore does not need to be agreed prior to the granting of planning permission.

On the basis of the above legal advice, it is recommended that point (iv) is deleted.

Conditions:

A duplication has been identified with Condition 5 and Condition 12 relating to the same matter – requirement for a landscape and ecology management plan (LEMP). For clarity, it is proposed that Condition 5 is amended to require 'pre-commencement' agreement of the details. This is required to ensure the LEMP considers the construction phase and post-occupation phases of the proposed development.

Condition 12 is to be deleted and planning note 1 updated to make reference to the correct condition number.

Recommendation

As per the published agenda report with:

- The deletion of recommendation (iv)
- amendments to the following conditions and planning notes:

Condition 5 to read:

Prior to commencement of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall include a schedule of landscape maintenance for a minimum period of 10 years starting from first occupation or completion of the development (whichever is sooner). Thereafter, the LEMP shall be carried out in accordance with the approved details.

Reason – To protect habitats of importance to biodiversity conservation from any loss or damage and to ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity, in accordance with Policies ESD10 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Condition 12 – to be deleted

Planning Note 1 to read:

Condition 5 – In respect of condition 5 above, the LEMP will be expected to clearly demonstrate a minimum 10% net biodiversity gain for the site.

Agenda Item 10

21/03639/F

OS Parcels 6741 & 5426, West Cricket Field North, Wykham Lane, Bodicote

Additional representations received

None.

Officer response

N/A.

Recommendation

As per the published agenda report

Agenda Item 11

21/03913/F

Units 5A & 5B, Plot 4, Oxford Technology Park, Langford Lane, Kidlington

Additional representations received

OCC – Highways – Following clarification that the requested cycleway and footway had already been constructed in connection with earlier developments on Plots 1 and 3, I can confirm the S106 contributions for the new separated on-road cycle route (cost of £160,000) plus the cost for the continuous footway (£15,000) entering the new access from Langford Lane requested in January are no longer required.

Correction

In para 3.2 of the report on page 123 reference is made to a named future occupier. This should be disregarded and the identity treated as redacted.

Officer comments

The new cycleway and footways sought by OCC had previously been requested by OCC in respect to the earlier commercial developments on Plots 1 and 3 at the Technology Park. The 160m-lengths of cycleway and footways necessary to access the Plot 4 site for Units 5A and 5B from Langford Lane have already been delivered, so it is no longer necessary to seek the requested contributions as part of this application.

Recommendation

As per the published agenda report.

Agenda Item 12

21/04202/F

Former Buzz Bingo site, Bolton Road, Banbury, OX16 5UL

Additional representations received

The County Highways authority wrote this morning to confirm that as a result of recent discussions with the applicant/appellant, OCC no longer wish to support a highway reason for refusal, and they are happy that their previous concerns can be addressed through an appropriate condition(s).

"In terms of the primary reason for refusal of safe and suitable access I am not confident that this could be sufficiently evidenced and recommend that it is not taken forward. I note that a request for visibility splays at the access be provided however there is no suggestion to me that they would be insufficient and it is recognised that there would be a reduction in vehicle movements relative to the extant land use. Likewise in terms of the on-site manoeuvring the main concern is the refuse vehicle, the revised submitted drawing 536.0037.003 Rev D shows that the movement can be done in theory albeit that the vehicle is effectively touching some of the boundaries and would likely be very difficult in reality. I think this could be overcome by dropping the end of the footway (and access gate) back slightly. This would have the added benefit of allowing the adjacent 1.8m fence to be lowered or removed to provide visibility of pedestrians entering the car park area. This would be one example but I am sure there are other minor amendments that could be made to accommodate it.

In terms of the off site works these only extend to some works to provide dropped kerb crossing points on the pedestrian desire lines and I am satisfied that the details of these could be provided under a planning condition

For the other matters that are flagged in the report these identify some potentially negative elements of the proposals/submission however agree that they would not materially change the assessment

For the related appeal we are intending on providing a statement that covers the points that we think are in need of a planning condition and explaining the rationale/reasoning for those conditions along with an indication of what we would consider suitable to satisfy the conditions where needed"

Officer comments:

The officer report at paragraph 9.8 makes reference to inappropriate piecemeal development that failed to include the adjacent tyre depot site, but this was not reflected in the suggested reasons for refusal. Accordingly therefore, an additional reason for refusal is now proposed.

In light of the County Council's latest highway guidance, the suggested highway reason for refusal should be deleted and a condition(s) should be added to any approval in the event that the appeal is allowed and planning permission granted.

Recommendation

As per the published agenda report except for removal of the highway reason and the following additional refusal reason:

The application proposal which seeks permission on only part of the Policy Banbury 8 allocation, and more crucially fails to include the adjacent tyre depot fails to provide a coherent and integrated development on this part of Policy Banbury 8 site, resulting in an

inappropriate and potentially harmful piecemeal development. As such the application is not in accordance with Policy Banbury 8 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

Agenda Item 13

22/00425/F

HM Prison Bullingdon, Patrick Haugh Road, Upper Arcott, Bicester, OX25 1PZ

Additional representations received

Ministry of Deference confirm no safeguarding objection to this application.

Officer comments

Paragraph 9.22 states that the development will result in an increase in disabled parking provision from 6 to 123 spaces. This is an error in that the new provision should read as 12 spaces.

Recommendation

As per the published agenda report.

Agenda Item 14

22/00539/F

94 The Moors, Kidlington, Oxfordshire, OX5 2AG

Additional information or representations received

None.

Officer comments:

None.

Recommendation

As per the published agenda report

Agenda Item 15

22/00601/CDC

Nos.2, 4 & 6 Priory Mews, Old Place Yard, Bicester, OX26 6AU

Additional information or representations received

None.

Officer comments:

None.

Recommendation

As per the published agenda report.