

Cherwell District Council

Executive

2 November 2020

Amendments to the Graven Hill Phase 1 Local Development Order (Second Revision) 2017

Report of Assistant Director – Planning and Development

This report is public

Purpose of report

The purpose of this report is twofold:

- a) To inform Executive of the proposed revisions to the adopted Graven Hill Phase 1 Local Development Order (Second Revision) 2017 and;
- b) To seek authorisation for the adoption of the draft Graven Hill Phase 1 Local Development Order (Third Revision) 2020 subject to consideration of consultation responses with the Lead Member for Planning.

1.0 Recommendations

The meeting is recommended:

- 1.1 To note the proposed revisions to the Graven Hill Phase 1 Local Development Order (Second Revision) 2017.
- 1.2 To note the draft Graven Hill Phase 1 Local Development Order (Third Revision) 2020 (Appendix A).
- 1.3 To note the consultation process undertaken in respect of the draft LDO (Third Revision) 2020 and any comments raised to date.
- 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.
- 1.5 To authorise the Council's adoption of the draft Graven Hill Phase 1 Local Development Order (Third Revision) 2020 subject to the Assistant Director – Planning and Development being satisfied that no substantive objections have been received in consultation with the Lead Member for Planning.

2.0 Introduction

- 2.1 The Graven Hill Phase 1 Local Development Order 2015 was originally adopted on 15 December 2015. Following the LDOs initial adoption and a Lead Member report in December 2016, the LDO was formally revised. The Graven Hill Phase 1 Local Development Order (Revision) 2017 was adopted on 18 January 2017. The 2017 revision covers 198 plots. It provided further clarity and addressed some minor design and neighbour amenity changes identified as a result of applying the LDO to the first 10 plots.
- 2.2 Towards the end of 2017, further revisions were necessary. Following a report to the Executive in November 2017, the LDO was formally revised and The Graven Hill Phase 1 Local Development Order (Second Revision) 2017 was adopted on 19 December 2017. The second revision incorporated an amended plan (at Schedule 2) to extend the land to which the Order applies to cover 276 plots. A number of changes were included regarding a 'Confirmation of Compliance' process set out within Schedule 3 of the LDO.
- 2.3 The main reason for preparing an LDO 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 approved under the outline planning permission (ref: 11/01494/OUT). The Masterplan and Design Code have since been amended under subsequent outline planning permissions (16/01802/OUT, 18/00325/OUT and 19/00937/OUT).
- 2.4 The current LDO is due to expire on 15 December 2020. A revised draft LDO has therefore been prepared and incorporates an extended expiry date, a new definition for 'principal elevation' and amendments relating to requirements for hard surfaces (Schedule 2, Class A – Condition A.2(g)).
- 2.5 The revised draft LDO does not make any substantive changes to the number of dwellings included, the scale of development or the design parameters for the site. The changes that have been made are detailed below and within the attached Statement of Reasons at Appendix B. The draft LDO 2017 is attached at Appendix A.
- 2.6 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 giving a period of not less than 28 days for representations to be made. The draft LDO is being consulted on; the consultation period has been extended to include some additional consultees and expires on the 12th November 2020.
- 2.7 The draft LDO 2020 has been publicised in the Bicester Advertiser and by way of site notices displayed at the site. Notification letters have been 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.
- 2.8 When considering the proposed amendments set out in 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

Consultation Responses

- 3.1 No consultation responses have been received so far during the consultation period. Members will be updated at the Executive's meeting.

Proposed Revisions

Extension of time period – Additional 3 years

- 3.2 It is proposed to extend the expiry date by three years to allow time for the remaining plots in phase 1 to benefit from the provisions of the Local Development Order.

Interpretation at 2. (1) – New definition for principal elevation

- 3.3 The following definition has been included:

“principal elevation” means the elevation containing the main architectural features such as main bay windows or a porch serving the main entrance. It is not required to contain the ‘front entrance’ but it should be the most architecturally dominant elevation and appear as the most important/interesting elevation.

- 3.4 There have been a small number of ‘Confirmation of Compliance’ applications which have been refused because the principal elevation of the dwelling was not considered to front the highway and therefore did not comply with the provisions of the LDO. This caused some disagreement with applicant as there was no definition of principal elevation. This definition has been included to provide clarity on expectations regarding Schedule 2, Class A, Condition A.2(c) of the LDO.

Drainage requirements for hard surfaces to the front of dwellings (Schedule 2, Class A – Condition A.2 (g))

- 3.5 The current requirements specify that any hard surface to be provided on land between a wall forming a principal elevation of the dwellinghouse and the highway must be either made of porous materials, or provision made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse.
- 3.6 Graven Hill Development Company (the developer for the site) has raised concerns that on some plots, this is not the appropriate solution due to the ground conditions/soil type and it is resulting in drainage issues with neighbouring plots especially where there are significant differences in ground levels.
- 3.7 A site wide sustainable urban drainage scheme (SUDS) was approved (Condition 57 of permission 19/00937/OUT) prior to the commencement of development on the site and it is considered appropriate that where porous/permeable surfacing is not practical, alternative provision could be made with conforms with the site wide sustainable drainage.
- 3.8 The proposed wording of condition A.2 (g) has been to allow greater scope in this regard. The proposed wording reflects wording set out in The Town and Country Planning (General Permitted Development) (England) Order 2015. (GPDO, 2015).

3.9 The proposed wording states:

'In so far as practicable, any hard surface to be provided on land between a wall forming the principal elevation of the dwellinghouse and the highway must either be made of porous materials, or provision made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse'.

3.10 It should also be noted, that once complete and occupied, dwellings on the Graven Hill site would benefit from the provisions of the GPDO 2015 (as amended) and any future areas of hard surfacing could be constructed by complying with these provisions. Therefore, it is reasonable for the LDO to offer the same provisions at the point of construction of the dwelling-house.

Environmental Impact Assessment (EIA) Regulations

3.11 There is a requirement for the Council to adopt a screening opinion prior to making a LDO under Regulation 6(6) of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations).

3.12 The Council adopted a screening opinion on 16 October 2020 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.

3.13 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.

3.14 The proposed modifications to the draft LDO cover plots within phase 1 of the development 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.

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

Adoption

3.16 To enable continuation of the LDO, the proposed revision needs come into effect by 15 December 2020. The Executive is asked to authorise the adoption of the proposed LDO revision subject to there being no substantive objections received by the close of consultation on 12 November 2020 and in agreement with the Lead Member for Planning.

4.0 Conclusion and Reasons for Recommendations

- 4.1 The draft Graven Hill Phase 1 Local Development Order (Third Revision) 2020, would continue to 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 already approved under the outline planning permission. The draft LDO 2020 is considered to remain effective in facilitating the delivery of custom build and self- build development at Graven Hill.
- 4.2 The consultation period is yet to expire, and Executive will be provided with an update of the consultation responses received to date at the meeting on 2 November. It is therefore recommended that providing that no substantive objections are received to the revision set out in this report and within the draft LDO 2020, that the proposed revision is adopted. The Secretary of State would be notified of the Executive's decision to adopt the LDO revision in accordance with Article 38(11) of the Town and Country Planning (Development Management Procedure) Order 2015.

5.0 Consultation

- 5.1 Councillor Colin Clarke - Lead Member for Planning
- 5.2 Statutory consultation as detailed in paragraphs 2.6, 2.7 and 3.1 of this report.

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.

Option 1: Not to adopt the revised LDO

This option would mean that the existing LDO remains in place until 15th December 2020 when it expires. After this date the development would no longer benefit from an LDO and all future plots in Phase 1 would require a reserved matters application or individual planning permissions. This could impact on the rate of delivery of custom build and self-build units at Graven Hill.

Option 2: Further revisions to the LDO

Officers consider that the proposed revisions address the changes required (subject to consideration of any substantive objections received by 12 November 2020).

7.0 Implications

Financial and Resource Implications

- 7.1 There are no financial implications identified. The work on the LDO is being completed using existing budget.

Comments checked by:

Karen Dickson, Strategic Business Partner, karen.dickson@cherwell-dc.gov.uk

Legal Implications

- 7.2 The Council has followed the required process for amending the LDO.
- 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 an LDO no later than 28 days after the Local Planning Authority has adopted the Order.

Comments checked by:

Matthew Barrett, Planning Solicitor, Matthew.barrett@cherwell-dc.gov.uk

Risk Implications

- 7.4 Failure to adopt a revised LDO would result in future development plots (after 15 December 2020) in Phase 1 requiring a reserved matters application or individual planning permission. This could impact on the rate of delivery of custom build and self-build units at Graven Hill.

Comments checked by:

Louise Tustian, Head of Insight and Corporate Programmes, louise.tustian@cherwell-dc.gov.uk

Equality & Diversity Implications

- 7.5 As set out in the report, the revision to the LDO does not make any substantive changes to the number of dwellings included, the scale of development or the design parameters for the site. Therefore, the recommendations of this report, including the proposed change to drainage requirements for hard surfaces, will not have adverse impact on any individuals or protected groups. Access to buildings would be unaffected by the change.

Comments checked by:

Robin Rogers, Head of Strategy, robin.rogers@cherwell-dc.gov.uk

8.0 Decision Information

Key Decision

Financial Threshold Met: No

Community Impact Threshold Met: Yes

Wards Affected

Bicester South and Ambrosden
Launton and Otmoor

Fringford and Heyford

Links to Corporate Plan and Policy Framework

Business Plan 2020-21

- Housing that meets your needs
- Leading on environmental sustainability
- An enterprising economy with strong and vibrant local centres
- Healthy, resilient and engaged communities

Lead Councillor

Councillor Colin Clarke – Lead Member for Planning

Document Information

Appendix number and title

- Appendix A: Draft Graven Hill Phase 1 LDO (Third Revision) 2020
- Appendix B: Statement of Reasons

Background papers

None

Reference papers

- Report to Executive 2 November 2015: Graven Hill: MOD Bicester Sites D & E, Ambrosden Road Upper Arcott
<http://modgov.cherwell.gov.uk/documents/s30436/Report%20to%20Executive%20NOV%20FINAL.pdf>
- Lead Member Report 16 December 2016 – Amendments to Graven Hill Phase 1 Local Development Order
<http://modgov.cherwell.gov.uk/mglIssueHistoryHome.aspx?lId=16668&Opt=0>
- Report to Executive 6 November 2017: Amendments to Graven Hill Phase 1 Local Development Order (Revision) 2017
<http://modgov.cherwell.gov.uk/mgConvert2PDF.aspx?ID=36416>
- Graven Hill Local Development Order (Second Revision) 2017
<https://www.cherwell.gov.uk/info/115/planning/309/graven-hill-local-development-order-second-revision-2017>

Report Author and contact details

Rebekah Morgan - Principal Planning Officer

01295 227937, rebekah.morgan@cherwell-dc.gov.uk