

Case Officer: James Kirkham

Applicant: Richborough Estates

Proposal: Outline application for the erection of up to 65 dwellings, including up to 8 live-work dwellings (use class *sui generis*), public open space, access, infrastructure and demolition of existing buildings (all matters reserved except principal means of access from Station Road)

Ward: Launton and Otmoor

Councillors: Cllr Coton, Cllr Holland, and Cllr Patrick

Reason for Referral: Seeking further delegated authority

Expiry Date: Not applicable

Committee Date: 11 August 2022

1. REASON FOR REFERRAL

1.1. The above application was reported to the Planning Committee on the 7 April 2022 with an officer recommendation for approval. A copy of the report is available at: <https://bit.ly/3bni0TT>

1.2. Councillors considered the application and resolved to refuse it for the following reasons:

- 1) *Notwithstanding the Council's inability to demonstrate a 5 year land supply the proposals would result in the development of greenfield land forming part of the open countryside which would result in an unacceptable extension of the village and which would harm the character and rural setting of the village to the detriment of the built, natural and historic environment. The proposal is therefore contrary to policies Villages 2 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved policy C28 of the Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework.*
- 2) *The application site is located some distance from the centre of the village; the proposal would create a new community isolated from existing services in the village and would place heavy reliance on car use to reach even local services within the village such as the school and shop. This lack of connectivity within the existing settlement would result in an isolated form of unsustainable development which would be contrary to policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 as well as Government guidance within the National Planning Policy Framework.*
- 3) *In the absence of the completion of a satisfactory Planning Obligation, it cannot be demonstrated that the necessary infrastructure directly required both on and off site as a result of the development can be provided in the interests of safeguarding public infrastructure, delivering mixed and balanced communities through the provision of affordable housing and securing on site future*

maintenance arrangements. The development is therefore contrary to policies INF1, BSC3, BSC4, BSC9, BSC10, BSC11 and BSC12 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

- 1.3. The decision was issued on the 22 April 2022. Subsequently the applicant has appealed the Council's decision to refuse the application which will be considered by the Planning Inspectorate (PINS). PINS have confirmed the appeal is valid and they are waiting for a suitable Inspector to become available to provide a start date. The appeal will be heard as an Informal Hearing.
- 1.4. On the basis of legal advice received, the application is being reported back to Planning Committee to seek delegated authority to negotiate a legal agreement to secure the relevant infrastructure requirements to address reason for refusal reason 3.

2. REASON FOR REFUSAL 3 – LEGAL AGREEMENT

- 2.1 The third reason for refusal relates to the absence of a legal agreement to secure infrastructure to mitigate the impacts of the development and also to ensure it complies with the relevant policies in the development plan.
- 2.2 As reported in the original officer report the applicant had agreed to the Heads of Terms for the legal agreement which are set out in paragraph 9.131 – 9.134 and Appendix 1 of the original officer report.
- 2.3 Legal advice has indicated that officers require additional powers to be delegated from the Planning Committee to allow them to deal with any S106 issues within an appeal. This is important because should that appeal be allowed, the requirement for a S106 would be a matter that would be necessary to ensure the development is acceptable by mitigating its impacts.

3. RECOMMENDATION

THAT POWERS BE DELEGATED TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT, HAVING REGARD TO THE HEADS OF TERMS SET OUT WITHIN THE ORIGINAL PLANNING COMMITTEE REPORT, ADDENDUMS AND PLANNING COMMITTEE MINUTES (AND ANY AMENDMENTS AS DEEMED NECESSARY), TO NEGOTIATE AND COMPLETE AN AGREEMENT CONTAINING OBLIGATIONS PURSUANT TO S106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) RELATING TO THE PLANNING APPEAL IN ORDER TO MEET THE REQUIREMENTS OF THE PLANNING INSPECTOR