

**CHERWELL DISTRICT COUNCIL
PLANNING COMMITTEE**

11 January 2024

WRITTEN UPDATES

Agenda Item 8

23/01771/F Former Pakefield House to Fortescue House, St John's Street, Bicester, OX26 6SL

Additional Information Received:

A report was received on 5th January 2024 from the applicant's agent which assesses the affordable housing and viability of the scheme. Due to the nature of its contents, this is confidential.

Officer Response:

The matter was initially addressed in the original report from paragraph 9.35. The Recommendation is subject to provision of 30% affordable housing, payment of a financial contribution towards sports and recreation provision in the locality of £139,000 (index-linked) and payment of the Council's monitoring costs.

The agent's submission acknowledges that a total financial sum of £8,824 is available for affordable housing and all other planning obligations.

This submission needs to be independently reviewed and the procurement process for that review process has commenced.

At present, the applicants have agreed an extension of time to 31st January to enable the viability to be reviewed, and would consider a further extension of time beyond that date if Committee resolve to approve the application (subject to resolution of the viability) to enable more time for that to be concluded.

As such both recommendations are amended, as below:

The first would allow the Assistant Director, under delegated powers, to secure a suitable S106 contribution following independent review of viability.

The second brings forward the deadline for agreement to an extension of time by the applicant or agent should the review deadline not be capable of being met. It also provides delegated powers to the Assistant Director to seek further extensions of time as required and continues to enable him to issue a decision of refusal should these be refused by the agent or applicant.

Amended Recommendation:

DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND 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, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY), SUBJECT TO INDEPENDENTLY REVIEWING THE VIABILITY OF THE SCHEME :

- a) Provision of a contribution towards affordable housing off site**
- b) Payment of a financial contribution towards sports and recreation provision (index linked)**
- c) Payment of the Council's monitoring costs.**

FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION EXPIRES ON 31.01.2024. IF THE SECTION 106 AGREEMENT/UNDERTAKING IS NOT COMPLETED AND/OR THE PERMISSION IS NOT ABLE TO BE ISSUED BY THIS DATE AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES BY MIDDAY ON 29.01.2024 NOR BY SUBSEQUENT DEADLINES AS REQUIRED, TO ENABLE COMPLETION OF THE VIABILITY REVIEW, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:

- 1. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate affordable housing, sport and recreation provision required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and contrary to Policies INF1, ESD3 and ESD10 of the CLP (2015) and the Developer Contributions SPD (Feb 2018).**

Agenda Item 9 Appeals Progress Report

An update is provided below on the progress of the appeal on the site known as PR9 (21/03522/OUT - OS Parcel 3673 Adjoining And West Of 161 Rutten Lane Yarnton OX5 1LT – up to 540 dwellings, 9000sqm of C2 and associated infrastructure and open space)

The application was appealed against non-determination and members resolved at the planning committee meeting on the 2nd November 2023 that they would have refused the application for five reasons, but noting that the reasons were capable of being addressed through negotiation and discussion as part of the appeal process. Details of that meeting can be found here:

<https://modgov.cherwell.gov.uk/ieListDocuments.aspx?CId=117&MId=3855&Ver=4> Below is an update on progress of those discussions

Reason 1 Informal Parkland – following a meeting and subsequent revised submission by the appellants we have now reached agreement on this matter. The revised proposals now provide 23.52ha of publicly accessible informal parkland in the location indicated in the policy together with an area of land between the proposed community woodland and Begbroke village which was previously identified as retained agricultural land, (policy requires 24.8 ha), but this is not a significant shortfall and is now considered acceptable. The revised proposals for this area also seek to address BNG and as a consequence it is likely to result in some areas of the parkland being temporarily fenced off for a period of 3-4 months to allow a hay cut during early summer. It was suggested that this would be done on a rotational basis so that only parts would be temporarily unavailable at any one time. It was

also agreed that the erection of information boards about the benefits of nature conservation/habitats created/flora and fauna for the site would be beneficial. The finer detail would be agreed at reserved matters stage through the submission of a LEMP.

Reason 2 BNG and Nature Reserve – further to the meeting above and in accordance with the proposals above for the publicly accessible informal parkland, the appellants have submitted a Biodiversity Note (Technical Note 9) and revised biodiversity metric which demonstrates that a net gain of around 14% in both hedgerow and area habitats could be achievable on the site and this has been agreed by our Ecologist. The appellant has also agreed to add further net biodiversity gain by exploring opportunities for biodiversity enhancement, including farmland birds and skylarks within an area of retained agricultural land outside the red line site but within the appellants ownership. This would be secured through the Section 106 Agreement.

The above revised submissions are currently the subject of re-advertisement and re-consultation as part of the appeal process with any comments sent directly to the appellant and PINS.

Reason 3 School Access – this has not been resolved to date but OCC are continuing to discuss the issue with the appellants.

Reason 4 Viability – a report has not yet been finalised and it remains unclear what the affordable housing offer will be. We are continuing to discuss the matter with the viability consultants to reach an acceptable position.

Reason 5 Section 106 – a draft Section 106 has been produced by the appellants and we are continuing to work with them to produce a final draft, it is hoped that a draft can be agreed prior to the inquiry.