

WEST OXFORDSHIRE DISTRICT COUNCIL
UPLANDS AREA PLANNING SUB-COMMITTEE
6 DECEMBER 2017

LAND EAST OF WOODSTOCK

OUTLINE PLANNING APPLICATION (ALL MATTERS RESERVED EXCEPT FOR MEANS OF ACCESS IN RESPECT OF NEW JUNCTION ARRANGEMENTS) COMPRISING UP TO A MAXIMUM OF 300 RESIDENTIAL DWELLINGS, UP TO 1100SQM OF A1/A2/B1/D1 FLOORSPACE; ASSOCIATED INFRASTRUCTURE, ENGINEERING AND ANCILLARY WORKS; PROVISION OF PUBLIC OPEN SPACE; FORMATION OF VEHICULAR ACCESSES; AND FULL PLANNING APPLICATION FOR THE DEVELOPMENT OF PHASE I COMPRISING 46 RESIDENTIAL DWELLINGS (46 OF THE 300 DESCRIBED ABOVE) WITH ASSOCIATED INFRASTRUCTURE AND ENGINEERING WORKS.

REF: 16/01364/OUT

REPORT OF THE HEAD OF PLANNING AND STRATEGIC HOUSING

(Contact: Catherine Tetlow, Tel: (01993) 861655)

(The decision on this matter will be a resolution.)

I. PURPOSE

To consider the implications of material considerations that have arisen since the Uplands Area Planning Sub-Committee meeting resolved to approve the above application (subject to legal agreement) on 6th February 2017.

The Chris Blandford Associates report October 2017 (CBA Report) commissioned by the Council assesses the proposed emerging Local Plan housing allocations within the AONB and Woodstock in terms of landscape and heritage considerations. The report forms part of the evidence base for the emerging Local Plan and makes certain recommendations as to the appropriateness of the sites for residential development.

To update Members on the implications for the decision arising from a Supreme Court judgment [2017] UKSC 37 dated 10th May 2017.

To consider further correspondence from Woodstock Town Council via their solicitor.

To consider amendments to conditions and an additional condition dealing with the transfer of funds to the WHS.

To inform Members of one additional representation from a local resident, Charlotte Gibbs. This does not raise any matters not covered in the Officer report and does not require further Officer comment.

2. **RECOMMENDATION:** That, having regard to the information set out below, the Sub-Committee resolves to restate the resolution to approve the application subject to the applicants entering into a legal agreement and to the amended conditions as set out in the report.

3. **DETAILS:**

The CBA report states that:

“Its conclusions and recommendations address potential landscape and heritage matters only; other factors such as transport, access, ecology are not addressed by this report and may remain as considerations for WODC depending on site circumstances. The recommendations relating to dwelling numbers, site layout and extent of development described in the text and shown on the opportunities and constraints plans are illustrative only and represent only one potential approach to providing development on the sites in a manner that addresses the various issues identified through the landscape and heritage appraisal.”

It is necessary to consider whether the findings of the report would have a significant bearing on the Officer assessment of planning application 16/01364/OUT, and whether such an assessment would lead to a different recommendation to Committee.

The CBA recommendations for Woodstock east are as follows, and under each recommendation is the Officer advice in italics:

Landscape:

1) Strengthen all existing hedgerow boundaries with a minimum of c.15m width structure planting except for that along Oxford Road which should be at least c.30m wide allowing for woodland structure or large parkland tree planting. All to be provided as advance planting.

The north and east boundaries, as well as the hedgerow running east-west across the middle of the site, are shown on the submitted plans with 15m buffering, or more in some places. The west boundary is formed by the existing urban edge and boundary treatments vary. This is not considered to be a boundary requiring 15m buffering, however landscape enhancements are shown along the line of the public right of way.

In relation to Phase 1 (full planning permission) as proposed, which includes the landscaping to the southern boundary, the depth of the landscape buffer varies between 17m and 85m. This area includes extensive open space and large numbers of new trees. It is designed to incorporate a large drainage detention basin which accounts for very significant depth of buffer at the south east corner of the site. Although the landscaping is not uniformly 30m in depth, it is considered that the quantum of open space and its arrangement on this part of the site addresses the CBA concerns about the treatment to the southern boundary. Such landscaping would be instituted early in the development programme.

2) Ensure a highway signage design is provided as an integral part of a planning application for the access, rather than by condition, to encourage a very sensitive approach to be taken.

Officers were mindful of the potentially urbanising effect of the new access onto the A44 and this is referred to in the Committee report. The Highway Authority has control over the design and position of signage on the highway but a suitable arrangement is possible to reduce street clutter and ensure a sympathetic solution. This would be for future consideration.

3) Retain and manage existing site boundary hedgerows/hedgerow trees outside of private garden plots secured by S106 legal agreement, separated from estate access roads by broad verges 5m width verges.

The application is primarily outline, with Phase I proposed for full permission. In Phase I no garden plots lie within the proposed landscape buffers. All plots are separated from buffers by the roads/drives/footpaths provided, ensuring that there would be no encroachment from gardens adjoining open space. Subsequent phases can be similarly designed.

4) Incorporate substantial areas of semi-natural green space and well- designed SuDS.

Substantial areas of semi-natural green space are proposed and the drainage features incorporate well designed swales and detention basin as part of this.

5) Restrict residential development to mostly 2 storeys (maximum c.8m roof ridge height), or 2.5 storeys (maximum c.9m roof ridge height), taking the opportunity to include some 1.5 storey development in the southern parts of the Site and towards the eastern boundary of the Site.

The recommendation to Committee did not include a condition specifying maximum ridge heights. This is because the most sensitive southern portion of the site has been subject to the Phase I proposal and Officers have been able to reach a view about the acceptability of the scale of buildings proposed. This Phase is predominantly 2 storey with some subservient elements at 1.5 storey. The local vernacular and design approach, taking account of local building traditions and architectural conventions, results in roof pitches at 45 degrees which makes ridges higher than those that might be found on many post-war suburban developments. The maximum ridge height in this phase is 10.5m. Although this exceeds the CBA recommended 9m, the details provided have allowed a judgement to be made on the effect of the layout, density, scale and external appearance in combination. Officers are content that the heights and arrangement of development in Phase I are appropriate. Subsequent phases would be assessed on a similar basis.

6) Design of development to be generally landscape dominated in accordance with the design principles/considerations set out in the 2017 Design Guide, Section II, Development and Context; but with reference to the New Rural Form illustrated in West Oxfordshire Design Guide (2006) in the eastern parts of the site and the new Urban form of development towards the west and north of the site.

Officers have had regard to the Council's Design Guide.

7) Ensure predominantly local limestone building materials, a planting palette appropriate to local context, and that any lighting is of a cut off lantern type.

Conditions 25 and 26 as contained in the Committee report deal with the submission and agreement of materials. Condition 28 refers to the submitted Design Code for the site. Condition 30 requires external lighting to be agreed.

Heritage

1) Development of the Site would not have an impact of note on the setting of the Woodstock Conservation Area or any of the listed buildings within the conservation area. It could however affect the setting of the Blenheim Palace WHS and Registered Historic Park and Garden, the setting of the listed Cowyard buildings and the setting of the Blenheim Villa Scheduled Monument. These potential issues are discussed below.

2) In relation to the Blenheim Villa Scheduled Monument, development of the Site could significantly change the open rural character of the monument's setting, this would have only a limited impact on the significance of the asset given the limited contribution the setting of the asset makes to its significance. This is not considered to be a major issue for the allocation of the Site.

Noted – no implications

3) With the Cowyard listed buildings the issue is predominantly one of potential visibility and visual encroachment into their rural / parkland setting. The intervening vegetation between the complex and allocation site should reduce the risk of significant visual intrusion, but it is recommended that should development be promoted on the Site then significant additional planting should be included along the frontage with the A44 to minimise potential visual issues; this would also help reduce visual impacts on the setting of the Registered Historic Park and Garden / WHS.

Noted – see advice above regarding landscape buffers.

4) In terms of the potential impact on the WHS and hence Registered Historic Park and Garden the development of the Site has the potential to notably alter the wider rural setting of the WHS and to affect the approach along the A44. At 17ha the Site is a substantial allocation and development of the Site in total would represent a significant encroachment into the rural setting of the WHS / Registered Park and Garden, assuming densities in the order of 30 units/ha total development would be c. 510 units. The proposed allocation of 300 homes would still result in a significant new development in the Site. The risk to the setting of the WHS is further exacerbated by potential cumulative / combined impacts associated with the two other allocation sites around Woodstock.

Noted – see next comment

5) To address the potential risk it is recommended that the overall scale of the Site is reduced and / or a reduced capacity is allocated for the Site as this would reduce the loss of rural landscape and reduce potential impacts on the WHS and its OUV.

There is no change to the Officer advice contained in the Committee report. One of the purposes of addressing Phase I as a detailed application at the outset was to ensure that the most sensitive part of the site at the southern end had an appropriate layout, density, scale and external appearance. Reducing capacity on this site as a whole would not necessarily bring any heritage benefit as regards

the relationship with the WHS and its OUV. Members will recall the advice of Historic England and ICOMOS which was taken into account in assessing the level of harm.

The CBA report recommends that the site capacity is reduced to 270 units. Nevertheless, the application has been subject to detailed assessment and the “up to 300” units proposed is acceptable on its merits for the reasons set out in the original Officer report and as expressed in the commentary here.

6) It is recommended that the focus for any future development should be in the northern part of the allocation Site i.e. away from the A44 and WHS. This would need to be accompanied by an appropriate landscaping scheme to reduce visual intrusion. This approach would leave a rural buffer alongside this part of the WHS reducing perceptions of encroachment into its rural setting.

Noted – see advice above.

Supreme Court Judgment

This was concerned with a re-consideration of previous High Court cases and the proper interpretation of paragraph 49 of the NPPF and its interaction with paragraph 14 of the NPPF in engaging the tilted balance, i.e. if policies for the supply of housing are out of date then permission should be granted unless –

- “any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted”

The Court considered whether the interpretation of a policy for the supply of housing is: “narrow” and is limited only to policies dealing with the numbers and distribution of new housing; “wider” including both policies providing positively for the supply of new housing or counterpart policies whose effect is to restrain supply by restricting housing development in certain parts of the authority’s area; or “intermediate”, as under the “wider” interpretation, but excluding policies designed to protect specific areas or features.

Ultimately, the ruling found that the “narrow” interpretation is to be preferred.

With reference to the Officer report 6th February 2017, there are no references to policies, other than those narrowly for the supply of housing, which were noted to be out of date. Therefore, there is no effect on the application of paragraph 14 of the NPPF in this case, and the Officer conclusions reached.

Woodstock Town Council

Three letters have been received from Woodstock Town Council dated 18th September, 24th October and 10th November 2017. These refer to a potential legal challenge should the Council determine the application without taking account of the points they raise. These points will be summarised below and the Officer advice set out in italics.

1) A decision would be premature in the context of the Local Plan process.

Paragraph 014 Reference ID: 21b-014-20140306 of the National Planning Practice Guidance (NPPG) provides this guidance –

“Annex 1 of the National Planning Policy Framework explains how weight may be given to policies in emerging plans. However in the context of the Framework and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:

(a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or neighbourhood planning; and

(b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process.”

The saved policies of the Local Plan 2011 are not up to date as regards housing land supply matters and therefore paragraph 14 of the NPPF is engaged. The emerging Local Plan 2031 is a material consideration but does not yet have full weight. Additional evidence prepared to support the plan is to be subject to further consultation before the examining Inspector reports on his findings. The weight to be attached to material considerations is a matter for the decision maker but decision making must be rational and reasonable. All planning applications cannot be put on hold simply because a new plan has not been finalised. However, equally, the grant of permission in a particular application might have the potential for pre-empting or prejudicing the emerging development plan.

There are circumstances where large scale development could prejudice an emerging plan because its effect could be to pre-determine decisions about the scale, location or phasing of new developments. In this case, whilst it is acknowledged that the allocation of the site in the emerging Plan is subject to objection, the site forms part of the strategic intentions of the Council and its scale, location and likely timeframe for delivery have been considered. Should permission be forthcoming, it is envisaged that a proportion of the units proposed would contribute to 5 year housing land supply requirements. Meeting these requirements is key to sound plan making.

To grant permission in this case would be consistent with the emerging Plan, rather than in conflict with it.

Whilst it cannot yet be known what the examining Inspector's view will be on the merits of the allocation of this site, there is a live application before the Council that must be determined in a timely manner in the context of the relevant Local Plan 2011 provisions (according to degree of consistency with the NPPF) and other material considerations. Officers set out the key matters arising from the application, identified material considerations and came to a reasoned view as to the recommendation in the Committee report 6th February 2017. This current update report seeks to incorporate material considerations that have arisen in the meantime so that Members can be fully informed.

It is considered that a decision in advance of the adoption of the emerging Local Plan would not be premature in this case.

- 2) Members were not informed about Objectively Assessed Housing Need (OAN) and the new Government approach on OAN will result in a significantly lower requirement. It would be inappropriate for the resolved approval to go forward without re-assessment of a reduced OAN.

The Officer report included a section on housing land supply matters. It is acknowledged that this did not explicitly refer to OAN. At that stage there was considerable uncertainty as to whether the Council could demonstrate a 5 year supply. As things stand now, whilst the emerging Plan has progressed it is still not possible to say definitively that a 5 year supply can be demonstrated.

In the submission version of the emerging Local Plan the Council has taken forward the Oxfordshire Strategic Housing Market Assessment mid-point figure of 660 dwellings per year. This has informed housing supply requirements as set out in the Plan.

The Government has carried out consultation on further measures set out in the housing white paper to boost housing supply in England. This ended on 9th November 2017. It sets out a number of proposals to reform the planning system to increase the supply of new homes and increase local authority capacity to manage growth.

Proposals include:

- a standard method for calculating local authorities' housing need*
- how neighbourhood planning groups can have greater certainty on the level of housing need to plan for*
- a statement of common ground to improve how local authorities work together to meet housing and other needs across boundaries*
- making the use of viability assessments simpler, quicker and more transparent*
- increased planning application fees in those areas where local planning authorities are delivering the homes their communities need.*

However, there is no certainty at this stage as to what the outcome of this consultation will be and what the implications for housing delivery will be for individual local planning authorities. There are therefore no grounds to seek to delay the decision based on this matter.

Amendments to conditions.

Condition 4 is recommended to be amended to introduce flexibility with regard to phasing and allow for the possibility for the phases currently envisaged to be re-ordered, with the exception of Phase I.

The development shall be carried out in accordance with: all of the plans listed on the Drawing Register and Issue Sheet - Project Reference 5903U dated 02/09/16 and phasing plan 5903/21A received 12.01.2017 (unless an alternative phasing subsequent to Phase I is agreed in writing by the Local Planning Authority) ; 226402B/LA-P-001 REV A; 226402B/LA-P-002 REV A; 226402B/LA-P-003 REV A; 226402B/LA-P-004 REV A; 226402B/LA-P-005 REV A; 226402B/LA-P-006 REV A; 226402B/LA-P-007 REV A; 226402B/LA-P-008 REV A; 226402B/LA-P-009 REV A; 226402B/LA-P-010 REV A; 226402B/LA-P-011 REV A; 226402B/LA-P-012 REV A; and 226402B/LA-P-013 REV A.

REASON: For the avoidance of doubt as to what is permitted.

Condition 32 is recommended to be amended to allow for the possibility that a phase might not include dwellings, for example if a phase dealt only with the construction of the spine road.

The development hereby approved shall provide 50% of the dwellings as affordable housing unless a lower percentage is agreed in writing by the local planning authority following a review of development viability after the completion of Phase I and prior to the commencement of any subsequent phases delivering dwellings. The review shall include robust and detailed benchmarking data for values and construction costs on Phase I that has been verified by external independent audit. Notwithstanding the outcome of this review the affordable housing percentage shall be not less than 37%.

REASON: To ensure the delivery of a wide choice of quality homes and to create sustainable, mixed and inclusive communities in accordance with paragraph 50 of the NPPF.

A further condition is recommended to address the relationship between the development and WHS funding which was outlined in the Stewardship and Procurement document (April 2016), which formed part of the application. Further, a letter was submitted by the Blenheim Estate on 23rd January 2017 which sets out that the application site is owned by a Trust, and that the transfer of funds from the Trust to the Blenheim Heritage Foundation, whose sole purpose is to repair and maintain the WHS, will be secured through a Deed of Covenant whereby the trustees would irrevocably commit to paying the Net Relevant Proceeds to the Blenheim Heritage Foundation. Such funds would be held by the Foundation on restricted terms to be used solely for the repair and restoration of the Blenheim Palace WHS.

The proposed condition reads as follows:

Prior to the commencement of the development hereby approved, details of the legally binding mechanism to secure the contribution of relevant proceeds from the development to the conservation, maintenance and restoration of the Blenheim Palace World Heritage Site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

REASON: To ensure that the benefit attached to the transfer of these funds in the planning balance is delivered.

4. BACKGROUND

The emerging Local Plan 2031, the Officer report to Committee 6th February 2017, the Chris Blandford Associates report (together with other documents published for consultation on 22nd November 2017), and Supreme Court judgment [2017] UKSC 37.

5. FINANCIAL IMPLICATIONS

None

6. ALTERNATIVES/OPTIONS

None

7. REASONS

See section 2

The Officer advice remains:

“The consideration of material factors in this case results in a finely balanced recommendation. The delivery of 300 dwellings, including affordable housing provision, to contribute to identified housing needs, and use of proceeds from the development to fund repair and restoration of the WHS would represent significant planning benefits. On the other hand, there remains significant, although less than substantial, harm to the significance of designated heritage assets, visual and landscape impact, and the social disbenefit of the relocation of the children's nursery. Assessing the scheme in the round, the benefits would outweigh the harms and therefore with reference to paragraphs 134 and 14 of the NPPF the proposal in this case is considered on balance to represent sustainable development. The application is accordingly recommended for approval.”

Members are recommended to restate their resolution to approve the application subject to legal agreement, and amendments to conditions as set out above.

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Date: 22nd November 2017.

Background Papers:

The emerging Local Plan 2031, the Officer report to Committee 6th February 2017, the Chris Blandford Associates report (together with other documents published for consultation on 22nd November 2017), and Supreme Court judgment [2017] UKSC 37.