

**STATEMENT OF COMMON GROUND-**

Dated: 25 July 2011

**APPEAL REFERENCE:** APP/C3105/A/11/2154300/NWF

**DATES OF INQUIRY:** 28 and 29 September 2011

**APPEAL SITE ADDRESS:**

Land adjoining Oxford Road and Middleton Stoney Road, Bicester

**DESCRIPTION OF DEVELOPMENT:**

Construction of up to 46 dwellings with associated amenity space, car parking, access roads and public open space

**APPELLANT:**

Countryside Properties (Bicester) Limited

**LOCAL PLANNING AUTHORITY:**

Cherwell District Council

This statement addresses areas of common ground between the following parties to the Appeal:

A) the Appellant;

B) Cherwell District Council as Local Planning Authority (CDC)

## **1 INTRODUCTION**

1.1 This Statement of Common Ground is a statement of agreement between the Appellant and CDC in relation to the following areas:

1.1.1 Description of the Appeal Site.

1.1.2 Description of the Area

1.1.3 Description of the Application which is the subject of the Appeal

1.1.4 Planning History of the Appeal Site.

1.1.5 Development plan (including relevant policies) and any draft development plan (including stage reached and weight to be attached).

1.1.6 Matters in agreement not relating to the reasons for refusal.

1.1.7 Section 106 Agreement

1.1.8 Suggested Planning Conditions

1.1.9 Agreed core documents, policies, plans and statements relevant to the determination of the Appeal

## **2 DESCRIPTION OF THE APPEAL SITE.**

2.1 The Appellant and CDC agree that the description of the Appeal Site as set out in paragraph 1.1 of the Planning Committee Report of the 24 March 2011 is accurate and is agreed.

## **3 DESCRIPTION OF THE AREA**

3.1 The Appellant and CDC agree that the description of the Area in which the Appeal Site is located is as set out in paragraphs 1.2 and 1.3 of the Planning Committee Report of the 24 March 2011 is accurate and is agreed.

## **4 DESCRIPTION OF THE APPLICATION WHICH IS THE SUBJECT OF THE APPEAL**

4.1 The Appellant and CDC agree that the proposed development is for the construction of up to 46 dwellings with associated amenity space, car parking, access roads and public open space. It is further agreed that the proposed development will result in a density of approximately 33 dwellings per hectare.

**5 PLANNING HISTORY OF THE APPEAL SITE.**

5.1 The Appellant and CDC agree that the Planning History is accurately recited in Section 3 of the Planning, Design and Access Statement November 2010 produced by Terence O'Rourke Limited in support of the Application.

**6 DEVELOPMENT PLAN (INCLUDING RELEVANT POLICIES) AND ANY DRAFT DEVELOPMENT PLAN (INCLUDING STAGE REACHED AND WEIGHT TO BE ATTACHED).**

6.1 The Appellant and CDC agree that the statutory Development Plan consists of the saved policies within the Cherwell District Local Plan (adopted 1996) and the South East Plan.

6.2 The Appellant and CDC agree that the following policies are relevant to the Application:

6.2.1 the Cherwell District Local Plan policies, South East Plan policies and National Planning Policy Statements recited in Section 4 of the Committee Report dated 24 March 2011 and

6.2.2 the polices referred to in Section 5 of the Planning, Design and Access Statement November 2010 produced by Terence O'Rourke Limited in support of the Application under the headings "Cherwell District Local Plan (adopted 1996)" and "Non-Statutory Cherwell Local Plan 2011"; and

6.2.3 the South East Plan polices referred to in paragraph 4.3 of the Committee Report dated 24 March 2011

6.3 The Appellant and CDC agree that whilst the Non-Statutory Cherwell Local Plan 2011 is not part of the statutory Development Plan, it has been approved by CDC for development control purposes. The Appellant and CDC agree it should be considered a material consideration and given significant weight.

**7 MATTERS IN AGREEMENT NOT RELATING TO THE REASONS FOR REFUSAL.**

7.1 The Appellant and CDC are in agreement that there are no other grounds apart from those listed in the Decision Notice of the 29<sup>th</sup> March 2011 that would prevent the Secretary of State favourably determining this Appeal. Further, the Appellant and the CDC agree that the appraisals of the proposed development as set out in Sections 5.2, 5.4, 5.5, 5.6, 5.7 and 5.8 of the Committee Report dated 24 March 2011 are agreed.

## 8 EDUCATION

8.1 The Appellant and CDC agree that the following guidance and statute is relevant in determining the Application:

8.1.1 Sections 14, 530 and 531 of the Education Act 1996 (as amended)

8.1.2 The documents and information referred to in paragraphs 11.1.10 to 1.1.12 inclusive below

8.2 CDC, in consultation with Oxfordshire County Council (OCC), and the Appellant agree that the proposed development<sup>1</sup> is likely to generate an average peak increase of 14<sup>2</sup> primary school-aged pupils (aged 4-11 years inclusive).

8.3 The site falls within the strategic planning housing allocation known as South West Bicester -Kingsmere Development. That includes provision for a proposed new two-form entry primary school to accommodate most of the needs arising from that development of 1,585 dwellings. When permitted, the mitigation of the impact of the proposal in terms of primary school places was that primary school place needs arising from the Kings mere Development which could not be met on-site would have to be addressed at other existing off-site schools. At the time of consideration of the Kingsmere Development application there was forecast to be spare capacity in existing schools which could be used, in addition to the proposed new 2FE school to meet the development's needs.

8.4 The planning obligation associated with the Kingsmere Development additionally provides for further primary school place impacts, arising from changes of dwelling mix, to be addressed where the dwelling mix changes would lead to the number of bedrooms of the 1,585 dwellings exceeding 4,040. Such marginal impact is addressed by additional payments (marginal payments) provision in the S106 Agreement for the Kingsmere Development.

8.5 The primary pupil generation from the Appeal Site would if the appeal is allowed be additional to that of the Kingsmere Development and would need to be addressed at either the new proposed primary school on the neighbouring Kingsmere Development or at other facilities

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<sup>1</sup> Assuming a dwelling mix of 23No. x 2-bed units, 13No. x 3-bed units and 10No. x 4-bed units with 30% affordable housing.

<sup>2</sup> Actually 14.01primary (plus secondary, sixth form and pupils with special educational needs).

8.6 The OCC's Pupil Place Plan 2010 – 2016 sets out the issues OCC will face in meeting its statutory duty for providing school places to 2016. The document (published February 2011) sets out OCC's policies on school organisation and the statutory framework for making changes such as opening, closing or enlarging schools. The Pupil Place Plan sets out the School Place Planning Data school by school and by town by town. It also sets OCC's medium term forecasts for child numbers (based on 4 year olds) taking identified housing developments into account. CDC, in consultation with OCC, and the Appellant agree that the Pupil Place Plan is a key document in identifying surplus and shortfalls in capacities of education infrastructure in Bicester

8.7 The Appellant and CDC agree that the Appeal Site is not reserved or otherwise allocated for educational purposes in the Cherwell District Local Plan (adopted 1996) nor in the Non-Statutory Cherwell Local Plan 2011 nor emerging Core Strategy. Further the Appellant and CDC agree that the Appeal Site is not set aside nor reserved in any way for educational use in the Section 106 Agreement dated 27 June 2008.

## **9 SECTION 106 AGREEMENT**

9.1 The Appellant and CDC are working on preparation of relevant planning obligations and a document dealing with such obligations will be submitted in advance of the Inquiry.

9.2 At the time of preparation of this Statement of Common Ground, discussions are ongoing with CDC and Oxfordshire County Council as regards obligations sought and whether all of those obligations are in principle compliant and can lawfully be required in the context of Regulation 122 of the Community Infrastructure Regulations.

## **10 SUGGESTED PLANNING CONDITIONS**

10.1 The Appellant and CDC have reviewed the draft conditions appended to the Committee Report dated 24 March 2011 at Section 6 headed "Recommendations". The Appellant and CDC are in the process of producing a set of revised draft conditions which both parties agree to. Unfortunately this was not ready for the date this Statement was submitted but the parties shortly expect to be able to lodge a separate Statement of Common Ground dealing purely with conditions.

## **11 AGREED CORE DOCUMENTS, POLICIES, PLANS AND STATEMENTS RELEVANT TO THE DETERMINATION OF THE APPEAL**

11.1 The Appellant and CDC agree that the following are core documents as regards the determination of this Appeal:

11.1.1 The Application documents (which were lodged with the Appeal Form) notably:

- (a) The Application Form including ownership certificates
- (b) The Site Location Plan;
- (c) Indicative Layout Plan NTS, August 2010
- (d) Reflection on Flood Risk, September 2010
- (e) Planning Design and Access Statement, September 2010 with appendices to the extent it is not superseded by the Planning Design and Access Statement, November 2010
- (f) Transport Assessment with Appendices, September 2010
- (g) Letter dated 10 September 2010 from Terence O' Rourke Limited to CDC by way of a covering letter seeking to submit the Application referring to previous screening opinions. Enclosed is a copy of a letter dated 19 August 2010 from Countryside Properties (Bicester) Limited to CDC dealing content and documents for the future outline application.
- (h) Copy of Screening Request dated 26 August 2010 submitted by Terence O' Rourke Limited
- (i) Screening Opinion issued by CDC dated 15 September 2010
- (j) Revised Layout Plan, September 2010
- (k) Letter dated 2 September 2010 from Terence O'Rourke Limited setting out ecology details

11.1.2 The Committee Report dated 24 March 2011

11.1.3 The Decision Notice dated 29 March 2011

11.1.4 Planning Permission Reference 06/00976/OUT dated 27 June 2008 for the development of 1585 dwellings

11.1.5 Section 106 Agreement dated 27 June 2008 relating to the Planning Permission reference 06/00976/OUT

11.1.6 The Cherwell District Local Plan (adopted 1996) saved policies;

11.1.7 South East Plan policies.

- 11.1.8 The Non-Statutory Cherwell Local Plan 2011 which has been approved by CDC for development control purposes.
  - 11.1.9 Cherwell LDF Draft Core Strategy
  - 11.1.10 Annual Monitoring Reports.
  - 11.1.11 Sections 14, 530 and 531 of the Education Act 1996 (as amended)
  - 11.1.12 Oxfordshire County Council Pupil Place Plan 2010-2016 (February 2011)
  - 11.1.13 "Interim Planning Guidance-Section 106 Planning Obligations" (2007) published by CDC
  - 11.1.14 "Planning Obligations –Draft Supplementary Planning Document" (May 2011) published by CDC
- 11.2 Both the Appellant and CDC reserve the right to refer to relevant cases, appeal decisions, correspondence as appropriate in their Proofs of Evidence which may be in addition to those documents referred to above. Where possible the Appellant and CDC will seek to identify if any such documents can be agreed and where relevant the weight to be attached to such documents.

**Signed:**

**Position:**

**Date:**

For Countryside Properties (Bicester) Limited

**Signed:** *L. J. Griffiths*

**Position:** *Senior Planning Officer*

**Date:** *25.7.11*

For Cherwell District Council