

**Case Officer:** David Lowin

**Recommendation:** Approval

**Applicant:** Mr Cutler

**Proposal:** Variation of condition 16 (phasing plan) of 20/00293/OUT - To remove the requirement to deliver the mixed use co-working hub as part of the first residential phase.

**Expiry Date:** 5 November 2021

**Extension of Time:** N/A

## **1. APPLICATION SITE, PLANNING CONTEXT AND LOCALITY**

- 1.1 The application site is situated to the south of Bicester and forms a contained parcel of undeveloped land 3.18ha in area positioned to the east of the A41, west of Wendlebury Road, north of an unnamed road leading to Chesterton and south of Shouler Way which links Wendlebury Road to the A41/ Vendee Drive roundabout. The land is included within and adjacent to the allocated site Bicester 10: Bicester Gateway.
- 1.2 The land is included within and adjacent to the allocated site Bicester 10: Bicester Gateway. The allocation is for a knowledge economy employment development for B1 Business Uses (high tech knowledge industries which may include offices, light industrial, and research and development facilities). It anticipates the creation of approximately 3,500 jobs
- 1.3 The Policy Bicester 10 allocation has been brought forward in parts. The land to the west of Wendlebury Road (which includes the application site) comprises two parcels of land with outline permission having been granted; the northern parcel(Phase 1a) for a hotel (with reserved matters permission having been granted for it) and the southern parcel (Phase 1b) for B1 employment development including a small parcel of unallocated land to the south outside the land allocated, this latter site, Phase 1b together with the unallocated land is the subject of the current application to vary a condition on the extant outline consent (20/00293/OUT)
- 1.4 The application site is partially allocated by Policy Bicester 10 and partially unallocated. The site also benefits from a further extant planning permission for B1 employment uses, up to 14,972 sqm GEA (Gross External Area) on land falling both inside and outside of the Policy Bicester 10 allocation area.as well as the consent the subject of this application to vary a condition.
- 1.5 That proposed development of the consented scheme the subject of this report represented a departure from the Development Plan in respect of the principle of the development in two main ways. Firstly, the development of unallocated land for residential uses and secondly, alternative land uses proposed on an allocated site not in accordance with uses for which the site is allocated. The proposed alternative development would also result in the loss of employment floor space that has previously been approved.
- 1.6 However, that consented scheme proposed an 'innovation community' which was intended to be a catalyst to attract 'inward innovators' (people) to Bicester who would work in the High-Tech Knowledge industries thereby increasing the profile of

the town for such uses as well as providing some B1 commercial floorspace on the site itself. The vision presented was to achieve a high-quality modern development that would provide an attractive environment for co-living, co-working space. Linked to this are flexible and complimentary spaces such as a hub providing for co-work type space and a café. If achieved, this would contribute to the ambitions set out in the Local Plan which seek to develop a sustainable economy in Bicester.

## 2. DESCRIPTION OF PROPOSED DEVELOPMENT

2.1. The application seeks to vary condition 16 of the outline planning permission granted under reference 20/00293/OUT on 1<sup>st</sup> April 2021 for the above site for a mixed use development comprising (Phase 1B) including access (all other matters reserved) for up to 4,413sqm B1 office space (47,502sqft) GIA, up to 273 residential units (Use Class C3) including ancillary gym, approximately 177sqm GIA of café space (Use Class A3), with an ancillary, mixed use co-working hub (794sqm/ 8,550sqft GIA), multi-storey car park, multi-use games area (MUGA), amenity space, associated infrastructure, parking and marketing boards. The applicant seeks as set out in the currently applicable condition set out in full below to separate the requirement in the first phase of the overall development to build the mixed use co-working hub. The applicants reasoning and argument behind this change is summarised below and is set out fully in the applicants covering letter to the application.

2.2. Condition 16 as set out in the 1<sup>st</sup> April decision referred to above requires:

*'No development shall take place until a phasing plan covering the entire application site has been submitted to and approved in writing by the Local Planning Authority identifying the phases by which development will take place. The phasing plan shall demonstrate the delivery of the approximately 794sqm (GIA) mixed-use co-working hub to be delivered as part of the first residential phase. Thereafter the development shall be carried out in accordance with the approved phasing plan and applications for approval of reserved matters shall be submitted in accordance with the terms of the approved phasing plan and refer to the phase (or phases) to which they relate.'*

The Reason as set out on the Notice of Decision is:

*'To ensure the proper phased implementation of the development and associated infrastructure in accordance with Policies ESD15, Bicester 10 and INF1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.'*

2.3 The application as initially submitted sought to revise Condition 16 to read:

*'No development on any phase shall take place until a phasing plan covering the entire application site has been submitted to and approved in writing by the Local Planning Authority identifying the phases by which development will take place. The phasing plan shall demonstrate the delivery of the approximately 794sqm (GIA) mixed-use co-working hub. Thereafter the development shall be carried out in accordance with the approved phasing plan and applications for approval of reserved matters shall be submitted in accordance with the terms of the approved phasing plan and refer to the phase (or phases) to which they relate.'*

*Reason: To ensure the proper phased implementation of the development and associated infrastructure in accordance with Policies ESD15, Bicester 10 and INF1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained*

*within the National Planning Policy Framework. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.'*

- 2.4 Following discussions with the case officer who considered that the initial revised wording of the condition as proposed by the applicant did not provide to the satisfaction of the Council sufficient certainty that the mixed use co-working hub would be built to serve the development, the applicant submitted an amendment to the application with revised wording to seek to deal with the concerns of the officer.
- 2.5 The revised wording submitted by email on 9<sup>th</sup> September 2021 that is the subject of this report is as follows, with the changed wording from the originally proposed variation of condition 16 highlighted in red:

'No development on any phase shall take place until a phasing plan covering the entire application site has been submitted to and approved in writing by the Local Planning Authority identifying the phases by which development will take place. The phasing plan shall demonstrate the delivery of the approximately 794sqm (GIA) mixed-use co-working hub to be delivered either as part of the first residential phase or as part of the occupation of any B1a or B1b development. Thereafter the development shall be carried out in accordance with the approved phasing plan and applications for approval of reserved matters shall be submitted in accordance with the terms of the approved phasing plan and refer to the phase (or phases) to which they relate'.

- 2.6 The agents covering letter for the application as mentioned above set out the reasoning behind the applicant's desire to amend the original condition 16 on the Notice of decision of 1<sup>st</sup> April 2021. The difficulty with Condition 16 as identified by the applicant is the direct linkage it draws between residential development and the requirement to deliver approximately 794sqm of mixed-use space as part of The Hub with the first phase of residential development. This was raised as a serious concern during the original outline application process (based on the discussions the applicant had been having with funders since 2018). The difficulty identified by the applicant being funding (and therefore delivery) are:

1. The proposals for the innovation community are innovative/untried and therefore high risk. To the best of the applicant's knowledge, Bicester Gateway is a new concept for the UK, certainly outside London and the major metropolitan cities. This makes fund-raising for the whole development difficult/challenging. But funding for the individual residential element on a standalone basis is possible (which is how the applicant has designed the development – i.e., as three separate demisable entities, comprising residential, the mixed use Hub, and employment). This funding is available now and, consequently, there are no delivery issues associated with the residential.
2. There are according to the applicant very few (if any) mixed use funders and lenders in the UK outside the metropolitan cities. Funders need to match their investment returns with the risks, within strict regulatory guidelines, meaning they predominantly offer finance for specific and discrete asset classes – e.g. residential, retail, industrial etc. Published investor research reflects this, with fund performance being matched to the asset class benchmark in each case. This means that according to the applicants that mixed use investment is rare, especially outside core or established markets. In addition, they claim, regrettably, that the Bicester business space market is pretty much non-existent, despite various planning and public sector interventions over many years. Bicester remains a 'shed' location, and it is common ground that this sort of development offers lower density employment and less GVA. Bicester Gateway

is aiming to 'up-value' the town's employment profile by attracting B1a and B1b uses.

3. It follows the applicants consider that presently there are no mixed-use funders for Bicester Gateway as a whole and no funder wants to pool the residential risk with the risk of delivering the commercial components of The Hub. This is now evidenced by the five months the applicant has taken in the open market actively seeking funders for the project, including through a specific and targeted marketing campaign undertaken since March 2021.
4. The applicant states that they can fund the residential component of the innovation community now, on a standalone basis, but not when mixed with the commercial. In contrast, no planning purpose is served by delaying the first phase of development at Bicester Gateway. It presents another step in building the profile and attractiveness of Bicester for further inward investment
5. The success of the Hub the applicants consider is linked from the outset to its successful operation and occupation. As a separate building, it is likely to be built more quickly than the residential. It would then face seeking to become operational while the rest of the site is a building site. Furthermore, there will at that time be a nascent market on site for the services that the Hub offers. This is a central pillar of the innovation community and arises from the key element of "inward innovators "(people). People need to be present on site first, reaching a critical mass living in the development, before the Hub can successfully deliver its services and offer an attractive and innovative place to work from.

### **3. RELEVANT PLANNING HISTORY**

- 3.1. The following planning history is considered relevant to the current proposal:

The outline consent (referred to above) for the Bicester Gateway site under reference 20/00293/OUT as described in section 2.1 of this report. In particular Condition 16, set out in full at section 2.2.

### **4. PRE-APPLICATION DISCUSSIONS**

- 4.1 No pre-application discussions have taken place with regard to this proposal.

### **5. RESPONSE TO PUBLICITY**

- 5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **24 September 2021**, although comments received after this date and before finalising this report have also been taken into account.

- 5.2. No comments have been raised by third parties.

### **6. RESPONSE TO CONSULTATION**

- 6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

## PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 6.2 Bicester Town Council are concerned that the developer is removing the need to deliver mixed use.

### STATUTORY CONSULTEES

- 6.1. Oxfordshire County Council:

No objection to vary condition 16 of 20/00293/OUT

The Highway Authority has considered the likely effect of varying condition 16. The application if granted would see the removal of the requirement to deliver the mixed use co-working hub as part of the first residential phase. In light of that, the co-working hub will be delivered at latter phases rather than at the outset.

While the co-working hub element of development is not proposed to generate additional traffic on the network, its late delivery on the other hand would delay deliver on its objectives - containing outward trips by providing a workplace environment on site. That said, those trips are not quantifiable, and their impact is likely to be insignificant to be felt on the network.

### NON-STATUTORY CONSULTEES

- 6.2. Historic England, CDC Environmental Health, CDC Land Drainage and CDC planning Policy all raise no objections or have made no comments.

## **7. RELEVANT PLANNING POLICY AND GUIDANCE**

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

### CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

SLE1 – Employment Development  
SLE2 – Securing Dynamic Town Centres  
SLE4 – Improved Transport and Connections  
BSC1 – District Wide Housing Distribution  
BSC3 – Affordable Housing  
BSC7 – Meeting Education Needs  
BSC8 – Securing Health and Wellbeing  
BSC10 – Open Space, Outdoor Sport and Recreation Provision  
BSC11 – Local Standards of Provision – Outdoor Recreation  
BSC12 – Indoor Sport, Recreation and Community Facilities  
ESD1 – Mitigating and Adapting to Climate Change  
ESD2 – Energy Hierarchy  
ESD3 – Sustainable Construction

ESD4 – Decentralised Energy Systems  
ESD5 – Renewable Energy  
ESD6 – Sustainable Flood Risk Management  
ESD7 – Sustainable Drainage Systems (SuDS)  
ESD8 – Water Resources  
ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment  
ESD13 – Local Landscape Protection and Enhancement  
ESD15 – The Character of the Built Environment  
ESD17 – Green Infrastructure  
BICESTER 10 – Bicester Gateway  
INF1 – Infrastructure

#### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

C8 – Sporadic development in the open countryside  
C28 – Layout, design and external appearance of new development  
ENV1 – Development likely to cause detrimental levels of pollution  
ENV12 – Development on contaminated land

### 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)

## **8. APPRAISAL**

### 8.1. The key issue for consideration in this case is:

- Principle of the development sought

8.2 The application seeks to vary a condition which as originally set out in the approved outline consent for the application site sought to ensure that the mixed-use hub element of the scheme should be constructed concurrently with the residential element of the proposal.

8.3 The wording of the condition as now put forward to vary the original condition 16, as set out partially de-couples the development of the residential part of the overall scheme from the creation of the co-working 'Hub'. The revised condition as submitted to CDC on 9<sup>th</sup> September and as set out in full at section 2.5 of this report continues to link the creation of 'The Hub' to the overall scheme but not necessarily to the creation of the residential accommodation in the first phase of development.

8.4 The justification for this change is twofold: i) that the developers have over a significant period found it difficult to obtain funding for a residential scheme which includes a non-residential element; and ii) that in part the use of 'The Hub' would be severely limited whilst the residential element was being constructed as 'The Hub' is at least partly intended to act as a workspace resource for the new residential occupiers.

8.5 The principle of this mixed-use development was established in the granting of the original outline consent, as discussed in the initial section of this report, partially on land not allocated in the development plan for any use and partially on the Bicester 10 allocation site. The justification for that consent is that it marked an innovative form of development in its' entirety, and not so materially inconsistent with the

requirements of the development plan when considering the planning balance to merit refusal.

- 8.6 The current application reduces to an extent the innovative nature of the scheme as a whole by weakening the direct link between the residential elements and the creation of the co-working 'Hub' such that a potential outcome might be that 'The Hub' could be delayed or even not delivered should further phases of the development not subsequently be delivered.
- 8.7 However, the current situation is that due to difficulties of access to finance, the scheme is currently not proceeding and is unlikely to soon. The applicant's research over a significant period of funding sources is persuasive, as evidenced in the covering letter submitted with the application. Clearly the scheme is dependent upon the residential component to fund the remaining parts and provide a catalyst to the achievement of Bicester Gateway as a whole. The refusal of this current S73 application would continue to halt the development of this site due to both practical consequences and the difficulties of obtaining funding to commence the residential element. That residential element is an important consideration given CDC's current position with respect to a less than 5-year housing land supply. A further positive consideration is the overall policy compliant requirements to encourage economic growth and jobs.

## **9. PLANNING BALANCE AND CONCLUSION**

- 9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 9.2. The application whilst it weakens the connection between the constituent parts of the approved scheme which was considered to be acceptable in terms of both sustainable development principles as set out in the NPPF and the adopted policy for Bicester 1 in the Development Plan.
- 9.3. The application produces some positive elements by providing an avenue for the developer to commence development of the site, providing a catalyst for further approved development and enhancing employment and growth and not totally reducing the potential at a later date to achieve the co working 'Hub'.
- 9.4. On balance Officers consider that the partial diminution of the linkage between component parts of the overall approved development in order to produce the conditions for a commencement on site and the positive effects that flow from that are acceptable.

## **10. RECOMMENDATION**

That permission is granted, subject to the following conditions

1. Except where otherwise stipulated by condition attached to this permission, the development shall be carried out strictly in accordance with the forty-two conditions imposed on the grant of outline permission dated 1<sup>st</sup> April 2021 under Reference 20/00293/OUT.

Reason: For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

2. No development on any phase shall take place until a phasing plan covering the entire application site has been submitted to and approved in writing by the Local Planning Authority identifying the phases by which development will take place. The phasing plan shall demonstrate the delivery of the approximately 794sqm (GIA) mixed-use co-working hub to be delivered either as part of the first residential phase or as part of the occupation of any B1a or B1b development. Thereafter the development shall be carried out in accordance with the approved phasing plan and applications for approval of reserved matters shall be submitted in accordance with the terms of the approved phasing plan and refer to the phase (or phases) to which they relate.

Reason: Variation of condition 16 of the Outline consent dated 1<sup>st</sup> April under Reference 20/00293/OUT as sought by this S73 application. To ensure the proper phased implementation of the development and associated infrastructure in accordance with Policies ESD15, Bicester 10 and INF1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development on any phase of the development as it is fundamental to the acceptability of this mixed use scheme.

Case Officer: David Lowin

DATE: 4<sup>th</sup> October 2021

Checked By: Andy Bateson

DATE: 12<sup>th</sup> October 2021

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