

Linda Griffiths

Principal Planning Officer (Major Developments)

Cherwell District Council

Bodicote House

Bodicote

Banbury

Oxon OX15 4AA



2 Crouch Cottages

Bloxham Road

Banbury

Oxon

OX16 9UN

CDC
26 JUN 2023
POST ROOM

23rd June 2023

Dear Linda,

COMMENTS AND CLARIFICATIONS REGARDING CDC PLANNING APPLICATION 22/03868/OUT

I am writing on behalf of the joint owners of 2 Crouch Cottages, Bloxham Road, Banbury, by way of commentary on the above planning application with specific reference to documents submitted by the landowner's agents, elements of which appear to contain material omissions, errors and non-sequiturs. As you are aware I have been in correspondence with you and your colleagues at Oxfordshire County Council at various times regarding this application to the extent that it impinges on the quiet enjoyment of our property. It seems from our most recent exchange of emails that there has, to put it mildly, been a breakdown of communication between Oxfordshire County Council and you, the unintentional effect of which will be prejudicial to our interests if left unchallenged. I would therefore be grateful for your acknowledgement of this letter and, as requested in my email to you of yesterday, an explanation for the apparent failure to act on a request by your colleague, Roger Plater, at Oxfordshire County Council.

The particular matters causing concern were raised with the parties making "official" comments (Roger Plater at Oxfordshire County Council, for example) and while the concerns about misleading or erroneous statements were acknowledged it seems that these have not been passed on to the agents for the applicant. Instead the agents appear to have relied only on the initial representations and suggestions made by Oxfordshire County Council (in February 2023), incorporating these unaltered, without the benefit of the further information provided to Oxfordshire County Council which (as Roger Plater confirms) would materially affect the proposals incorporated in their latest submissions (Design and Access Statement et al of May 2023). As such the position needs to be outlined to the agents in detail so that appropriate amendments can be made. I understand that Mr Horgan, the ultimate landowner, has spoken directly to the agents with regard to our concerns.

It should be noted, and I should make this clear, that we do not object to the proposed development per se, in the same way that we did not raise any objection to the Redrow or Gallagher/Persimmon developments that now surround our properties, being Number 1 and Number 2 Crouch Cottages. What is, however, being contested are specific elements of the proposals put forward by the agents

in their documents, and these are dealt with below. All references are to the Design and Access Statement (May 2023 Version) produced by bhb Architects on behalf of Barwood Land and/or Pegasus Group unless noted otherwise.

1. Footpaths

- a. Paragraph 16.1 includes a sketch map, helpfully described as being “derived from a series of internal design team reviews, alongside continued communications with the local authority” (which) “illustrate initial considerations which have taken into account key opportunities and constraints considerations” (including) “potential to reuse existing track to create new connections to Bloxham Road.” There are no references on the planning portal to these “continued communications with the local authority” to substantiate the veracity of this claim. The accompanying sketch makes reference to (sic) “Retain existing track for connections Crouch Farm create path to Bloxham Road.” This appears to manifest itself in the accompanying diagram in Paragraph 15.9 as “Proposed footpath link via disused track to Bloxham Road.” For the reasons set out below the route as proposed requires amendment.
- b. The existing footpath network (referred to at several points in the document) adjacent to the cottages is shown in the plan accompanying Paragraph 15.8 and comprises footpaths 120/49/10 (as amended following the works associated with the A361 alignment), and 120/33/40 (as amended following the construction of the Redrow Estate). Paragraph 15.8.5 asserts that “there’s an extensive network of PROWs (public rights of ways) which connect the site with surrounding amenities...” and “there are key connections between surrounding approved developments to the main bridleway....”
- c. Furthermore, Paragraph 9.1.6 states “to the east of the site is an area of greenspace including a footpath network laid out as part of the Redrow development.” This is illustrated by an accompanying plan which clearly shows (hatched in yellow) the routing of that footpath network as set out in the approved plans for the Redrow development which circles the attenuation pond and which (critically) shows the approved footpath route which traverses north east BEHIND the cottages and onto the Bloxham Road at the point at which footpath 120/33/40 intersects.
- d. It is our contention that the illustration in Paragraph 15.9 following on from the sketch in 16.1 (referred to in Paragraph a above) is therefore incorrect to the extent that the correct routing is as set out in Paragraph c above), ie the correct routing of any proposed footpath along the disused farm track must run BEHIND the curtilage of our cottages where it joins the “Redrow-approved footpath.” The footpath joins the Bloxham Road some 50 metres north east, adjacent to the bus shelter area. Put simply, there are existing public footpaths in front and behind our cottages parallel to the old A361 as set out above but there can be no footpath access through the curtilage of our property. We have unrestricted vehicular access and a footpath is entirely incompatible with vehicular traffic. This argument is further

developed in Section 2 below. We have already encountered people using a small copse maintained by us as a toilet after they access the area despite warning notices being posted.

- e. For the reasons set out later in this document it is not possible or practicable for any footpath and or construction traffic access to enter the curtilage of our cottage which, for the sake of simple illustration, is the area of driveway from the junction with the “old” Bloxham Road up to the “electric” metal gates and (newer) wooden gates. This area is, in effect, self-contained and bordered by our garage block, extensive beech hedging, gates, and fences. An alternative proposal is set out in 2I below.

2. Transportation and Access for Construction Traffic

- a. The Design and Access Statement originally submitted in January 2023 (dated December 2022) has been amended following consultee comments received as set out in the accompanying letter dated 31st May 2023 to Cherwell District Council from Keith Fenwick, Senior Director of Pegasus Group who are, presumably, another appointee of the landowner. Reference is made to the “information submitted responds to the comments made by Judith Ward, the district council’s Landscape Planning Officer, dated 27th February 2023.”
- b. This may well be the case in respect of Ms Ward but what is not mentioned is the fact that amendments have also been inserted following individual comments made by Roger Plater of Oxfordshire County Council on 1st February 2023 regarding (inter alia) construction vehicular access to the site. These comments were based on incomplete information in the possession of Mr Plater at the time he made those comments and, when pointed out to him in an email from me dated 23rd March 2023, he commented that the matters pointed out to him by me “may have significant implications for the determination of this application so I have asked the Case Officer (*presumably yourself*) to request the applicant to review their submission....” In an email to me on 14th June you advised me that “I have not written to the applicant/agent regarding their submission.” This is potentially a serious omission so this letter is intended to put the matter straight.
- c. The essence of Mr Plater’s comments dated 1st February 2023 on the planning portal regarding “Access arrangements” are that he has no objections to the proposed vehicular access route via Tyrell Road (through the Redrow Estate) but he asserts that “the construction route *must not* be via the existing roads through the adjacent residential site” and later that “a separate, safe construction access will be required and this must be demonstrated in a Construction Traffic Management Plan.... This route could *potentially* be via the east-west concrete track out to Bloxham Road” and, finally, “*Ideally*, the concrete track.... would be used for this purpose as it connects directly to the site” I have emphasised the words “must not”, “potentially” and “ideally” as they are particularly emotive terms

without any legal basis and when the further facts are taken into account can be considered both inaccurate and ill-considered given his acknowledgment to me of 24th March 2023 that he was unaware of the legal and practical issues surrounding that part of the concrete track in the curtilage of our cottage. Perhaps it would have been reasonable for an Officer of the County Council to have made further searching enquiries or to have contacted those likely to be affected by his suggestions before putting them forward in case alternative arrangements could be explored.

- d. With reference to the comments by Mr Plater as outlined in 2b above a section has been quietly added right at the end of the document on Page 53 of the amended Design and Access Statement under Paragraph 23.9.3 which asserts "as requested by OCC, construction traffic will not run through the adjacent residential development. A separate safe construction access point will be provided via the existing farm track to the east. Details will be provided in a Construction Traffic Management Plan" This is, of course, lifted virtually unchanged from the comments made by Mr Plater as referenced in 2c above, except that it should be noted that his use of "potentially" has been omitted. Firstly, this amendment or proposal is not "as requested by OCC" but he was merely stating that "potentially" this route could be used. The reasons why this proposal in 23.9.3 cannot be implemented as they stand will now be explored and explained.
- e. Number Two Crouch Cottages has unrestricted covenanted exclusive pedestrian and vehicle access rights (in that no party other than Crouch Farm has similar rights) along that part of the existing farm track that is immediately adjacent to the former Bloxham Road (which has now become an access road for 1 and 2 Crouch Cottages and (temporarily) for Crouch Farm) within the area that is closed off by walls/electric gates, hedging, and a wooden gate which currently allows access to Crouch Farm pending practical completion of their new access road to the south. We also control and maintain a small copse immediately adjacent to our cottage which contains surface-mounted drainage equipment, which also runs in a shallow trench under the access track. This would not stand up to the weight of laden vehicles which of itself makes the use of this area unviable for that purpose. Crouch Farm alone possesses similar rights to the track beyond the curtilage of our cottage (ie the other side of the walls/gates/hedging and wooden gates to the west) and this letter makes no comment regarding the sole rights of Crouch Farm as that is entirely their business.
- f. This bundle of legal rights attributable to our cottage is incompatible with the proposal for construction traffic access either within or, indeed, beyond the curtilage of our property. There is a reason why the existing east-west farm track beyond the curtilage of our property is falling into disrepair. I would refer you to planning application 17/01617/F in connection with a new access road for Crouch Farm which was won on appeal to the Secretary of State. One of the persuasive arguments for allowing the new access road to Crouch Farm further south along the Bloxham Road was that the existing farm track was a potential danger to pedestrians from the Redrow Estate as they traverse it in order to access the circular footpath around the attenuation pond referred to in 1c above. This argument was articulated by the appellant's agent at the time, Simon Taylor, who stated "the existing track

will form a significant visual and psychological barrier between the new houses and public open space. Its continued use... by vehicles... will significantly affect the enjoyment and, perhaps, discourage the use of the public open space. LPA (*Local Planning Authority*) officers have agreed that the track affects the permeability of the masterplan for the development site and separates the amenity area from the new housing, such that the former is not well integrated into the overall development. The cessation of the use of the access and track..... will improve safety and security at the site by enabling the gates onto the A361 to be locked shut....”

- g. The claim that there will be an unsatisfactory relationship between the farm track, the housing development (Redrow) to the north and the open space to the south has already been acknowledged by officers of the Council. When considering the original application for the Redrow Estate (LPA reference 16/00597/F) the design consultant acting for the Local Planning Authority commented that “the fundamental concern is the pedestrian permeability of the masterplan especially with regard to the access to the sites green spaces” and the planning officer (Matthew Parry) in his case report stated that “the southern amenity area (*attenuation pond*) is somewhat separated from the new housing area, such that it is not especially well integrated into the (*Redrow*) development, particularly given that it is located to the opposite side to the farm track”
- h. Furthermore, in a letter dated 9th May 2017, the Managing Director of Redrow, no less, wrote that “...the removal of vehicles from the existing access would have.... an overall positive effect on our future development” and that Redrow would “support .. the proposal...which removes traffic from the existing access track.”
- i. It is therefore apparent that any proposal to implement transport access using the farm track is entirely contradictory to the very reason for closing the access in the first place, as acknowledged by both the developer and the local authority. Roger Plater was entirely unaware of these settled arguments when making his initial comments as he subsequently acknowledged and I am sure he would not under any circumstances contemplate a scenario that encourages pedestrians (including children) to traverse the track from north to south at numerous crossing points while at the same time construction vehicles are travelling from east to west. Or, indeed, west to east. At the same time. On a single track. That is simply not acceptable under any reasonable measure.
- j. It was furthermore an obligation under the 17/01617/F application documents that, upon the practical completion of the new access road to Crouch Farm, the existing farm track was to be blocked off at the old entrance gates adjacent to our property, save for the emergency access to the pumping station. This station and grounds should normally be accessed from the Redrow Estate following the marked access in accordance with the approved plans for that site and it should be noted that the wooden gates access adjacent to our property is, as the planning documents state, an Emergency access and not an access of convenience, so the gates would not be expected to be used in all normal circumstances.

- k. So, to summarise this section, a successful argument by the developer's agent in connection with one planning application put to and agreed by The Secretary of State for preventing vehicle access along a track which is also a pedestrian route from the Redrow Estate to the Attenuation Pond area cannot and should not suddenly be inverted by the current agent as a convenience for them or as a sop to the initial opinion of a County Council employee or to residents of the new Redrow Estate who will unfortunately be affected by construction vehicles for longer than they anticipated. Our cottages have been there since 1901 so we should not be unduly prejudiced by attempts by the developer's agent to mitigate the opprobrium of co-ordinated objections from residents of the Redrow Estate.
- l. There is, however, a potential solution to this matter that could resolve the issue of construction access during the works. The existing farm track from the site up to the location of the Redrow Pumping Station could be extended and a temporary access put through the hedge line between the Pumping Station and the small copse referred to in 2e above onto the "old" Bloxham Road which is now simply an access road for the cottages. We would have no objection to this measure as a matter of expedience as long as vehicles and pedestrians do not encroach within the curtilage of our cottage as outlined. The farm track could be temporarily reopened during the construction phase only (and closed thereafter to preclude its use as a secondary vehicle access to the development site) as long as appropriate crossing places for pedestrians to traverse from the Redrow Estate to the Attenuation Pond Green Area are put in place. After the construction phase the farm track could be dug up and the temporary vehicle access onto the "Old" Bloxham Road could be converted to a single footpath access and the hedgerow replanted. This would be subject to Redrow's consent but that should not be unreasonably withheld for a temporary arrangement. As long as there is no incursion into our curtilage by vehicles or pedestrians then we would be content with that temporary arrangement.

I trust that the above is a reasonably clear, albeit lengthy, explanation and clarification of our position on the matters of concern together with a potential solution to those issues. This letter does require your response, please, and should not simply be uploaded to the planning portal without it.

Kind regards

