

08 September 2009

Mr Mervyn Dobson  
Pegasus Planning Group  
Queens Business Centre  
Whitworth Road  
Cirencester  
GL7 1RT

Our Ref: APP/C3105/A/08/2080594

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78 AND PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990 – SECTION 20 APPEALS BY NORTH OXFORDSHIRE CONSORTIUM LTD – SITE AT HEYFORD PARK, CAMP ROAD, UPPER HEYFORD, BICESTER, OX25 5HD**

**APPLICATION REF: 08/00716/OUT (THE LEAD APPEAL), TOGETHER WITH 24 CONSERVATION AREA CONSENT APPEALS**

1. The Secretary of State is considering the report of the Inspector, Daphne Mair BA(Econ), MPhil, MRTPI, assisted by Elizabeth Hill BSc(Hons), BPhil, MRTPI, who held a public local inquiry into the above appeals on dates between 30 September 2008 and 16 March 2009 - when the inquiry was adjourned pending consideration, if necessary, of 41 other linked appeals.
2. The Secretary of State considers that he is not yet in a position to determine these appeals because he does not have sufficient information on certain aspects of the lead appeal proposals as set out below. The purpose of this letter is, therefore, to invite your clients to provide the information requested, in consultation with the local planning authority and other Rule 6 parties as appropriate. The Secretary of State will then invite all the parties to whom this letter is being sent, and whose names are listed at Annex A, to comment on these matters, and he will take account of all such information and comments in coming to his decision both on the lead appeal and the linked appeals listed at Annex B.

Car processing use

3. The Secretary of State considers that he requires further information concerning the car parking arrangements which are being proposed in connection with the car processing use. He considers it necessary to refer back to the parties on this issue because the Inspector has indicated to him that she considers that, for the

car processing to be acceptable as part of the overall proposal, there would need to be a constraint placed on the parking of ranks of vehicles at the western part of the area shown for that use on the Change of Use Plan (COU Plan N.0111\_22-1L). She has suggested to the Secretary of State that this would minimise the harm caused by the parking of these vehicles to the appearance of the Conservation Area when viewed head on from within the site and from the approach from the west along the taxiway to exit the Flying Field. She has therefore gone on to suggest to the Secretary of State that imposing a condition which would restrict parked vehicles to an area to the east of a line drawn between the south east corner of building 337 and the north east corner of building 350 might well be sufficient to mitigate this harm; but she acknowledges that such a restriction was not discussed at the inquiry and that the parties would therefore need to be consulted on its practicality.

4. Accordingly, before coming to a decision on the appropriateness of retaining the car processing use on the site, the Secretary of State invites the parties to submit further representations on the feasibility of achieving the visual improvement which the Inspector suggests. This might be done either by showing how the Inspector's suggestion could be achieved in terms of a layout plan and a suitably worded condition, or by proposing alternative solutions. However, the Secretary of State is well aware of all the wider arguments for and against the car processing plant already put before the Inquiry, and he therefore asks that the parties restrict their further representations to this particular matter.

#### Submitted S106 Planning Obligation

5. A unilateral planning Obligation has been submitted under s.106 of the Town and Country Planning Act 1990 which is conditional upon the grant of planning permission for the appeal proposals. The Obligation is stated to provide for a range of benefits including provision for affordable housing, education and other community facilities. The Secretary of State indicated when he recovered the appeals that he wished to be informed on whether any planning permission granted should be accompanied by any planning obligations and, if so, whether the proposed terms of such obligations were acceptable. Whilst it appears to him that a planning obligation would be necessary to deliver the benefits proposed he is, for the reasons given below, presently unable to reach a view regarding its acceptability having regard to the content of the Obligation and the evidence available to him at present, In particular he requires further information about the mechanisms needed to secure delivery of the benefits. He is therefore inviting the parties to comment on the matters referred to below.

#### *Affordable housing*

6. In particular, the Secretary of State considers that he needs substantially more information about the arrangements for the provision of affordable housing before he can take a view as to whether this benefit could actually be delivered. He notes that the Obligation provides for the affordable units to be offered by an Affordable Housing Provider (AHP) to eligible occupiers who are resident on the application site on the date the deed was completed (23 January 2009). However, he also notes that a survey of the housing needs of the residents of the site is yet to be undertaken. As the date for qualification as eligible occupiers is fixed, the Secretary of State sees no reason why a survey of residents' housing

needs could not be undertaken to help inform his decision about the extent to which the affordable housing offer will meet local needs. He therefore asks that your clients should arrange for such a survey to be undertaken and submitted for his consideration.

7. Furthermore, while it would seem that the size of the units of accommodation to be provided has already been settled (in that the "Proposed Mix" is a defined term and provides for a substantial amount of one and two bed apartments (25% and 17% respectively of the total units) with 22% 3-bed houses and 6% 4-bed houses), the Secretary of State has no information available to him at present to be able to assess whether this mix reflects the requirements of those currently on the site, accords with the results of the survey or would meet local housing needs. He also observes the Council would need to subsidise any variation to the proposed tenure mix which increases the Secretary of State's concern that a survey of the needs of the eligible occupants is required to inform his decision.
8. The Secretary of State also notes that there is no indication in the Obligation as to how any "surplus" affordable units would be allocated other than by reference to the Local Letting Plan reflecting the report approved by the Council and which suggests that these would be offered to others in housing need who have a local connection. However, the Secretary of State has no evidence at present to enable him to take a view on whether the affordable units will make an appropriate contribution towards meeting local needs, and he requires information about how the Obligation could deal with this aspect more explicitly.
9. The Secretary of State notes that, in the Obligation as it currently stands, an affordable housing scheme has to be submitted prior to an application for reserved matters approval, to show the distribution of affordable housing between the various phases and how the existing occupiers will be moved directly from their existing accommodation; and that a Local Letting Plan must also be submitted. The Secretary of State considers that the submission of an acceptable affordable housing scheme is an important consideration in reaching his decision on the appeals and there seems to be no reason why it cannot be prepared straight away to assist in his determination. He therefore asks your clients to arrange for a Local Letting Plan to be prepared to accompany the results of the survey requested in paragraph 6 above.
10. In making these requests, the Secretary of State notes that there seem to be discrepancies between the "Proposed Mix" and the potential needs identified in the report approved by the Council in August 2007; and he considers that he needs further information on how these would be reconciled. He also invites comments on the apparent failure of the Obligation to provide appropriate safeguards including a requirement for formal approval by Cherwell District Council of the affordable housing arrangements and effective provision for enforcement should there be a breach of the obligation relating to the provision of affordable housing.
11. While noting that the Obligation provides that the affordable units will be delivered in clusters of 10-30 dwellings distributed across the development and phase by phase, the Secretary of State requires further information about the practical implications of this to assist him in assessing whether clusters of this size will meet with the policy aim for affordable housing on new developments to be fully

integrated within the general market housing. This information should include an indication of the proportion of affordable units to open market units in each phase and an explanation of how a cluster of as many as 30 dwellings could be fully integrated.

12. The Secretary of State also requires information about the timing of the delivery of the affordable housing given that the Obligation as drafted permits occupation of up to 50% of the open market dwellings provided 50% of the affordable units have been constructed and are available for occupation and also permits occupation of up to 95% of the open market units in any phase prior to provision of all the affordable units in that phase. The Secretary of State invites comments on whether or not the parties consider this to be a sufficient control to ensure completion of the affordable housing intended for any one phase. He would welcome suggestions from your clients about the scope for including tighter safeguards in the Obligation.
13. The Secretary of State also has wider concerns about the effectiveness of the procedures set out in the Obligation which are intended to procure affordable housing that meets local needs. For example, if no AHP can be found to enter into a contract with the Landowner it might result in properties being sold to existing occupiers at 40% discount but this would not provide for any social rented element. He also requires information as to whether those options involving the Landowner constructing and leasing units to existing occupiers would both meet the needs of the existing occupiers and be "affordable". Further, he wishes to know what steps could be taken to ensure that local needs (including any requirement for social rented housing) are met in the event of the Council does not make an election as required by the Obligation. The Secretary of State invites your clients to consider the scope for ensuring that all the options where an AHP is unwilling to enter into a contract can still achieve the appropriate levels of provision and meet local needs.
14. In summary, the Secretary of State considers that, as they stand, the terms of the Obligation relating to the provision of affordable housing do not enable him to assess if the planning application before him could deliver the level of affordable housing proposed and whether or not that level would be sufficient to satisfy local need (particularly with regard to the existing occupiers). He requires further information on this issue and, in particular on the detailed matters raised above, preferably in the form of an agreed joint response from your clients and the local planning authority.

#### *Education contributions*

15. The Secretary of State notes that, in addition to potentially providing land for a primary school site, the appellants have undertaken in the Obligation to make a substantial financial contribution towards the provision of primary and secondary school places. However, he is concerned that, as currently drafted, the terms of the Obligation do not provide him with sufficient information to demonstrate that the funding would available to the local education authority at the right times to ensure that the appropriate number of school places would become available to meet the need generated upon occupation of the proposed housing. He requires further information about how this could be achieved and what mechanisms could be put in place to ensure a co-ordinated provision of the housing with the

education places. He accepts that the appellants may find it necessary to pursue the matter further with the local education authority before responding to his request.

#### *Arrangements for the on-going provision of facilities*

16. The Secretary of State is also concerned that, as currently drafted, it is not clear how the future management of such facilities as play areas, Sports Pitches and Pavilion and Community Hall and the employment of the Development Officer are to be safeguarded if the District Council does not accept the Landowner's offer to transfer such facilities on the terms specified in the Obligation. In particular, the Secretary of State notes that, in such circumstances, the Obligation provides that the Landowner would be responsible for their maintenance and continued use through transfer to a management company "or otherwise". No provision is made in the deed for setting up a management company or companies and the term "otherwise" is not further defined. The Secretary of State therefore requires additional information about how the future of these facilities will be secured and what alternative mechanism would be put in place if the facilities are not transferred to the Council or to a management company.

#### **Submission of material requested**

17. The Secretary of State is conscious that his request for further information on some of the issues which he has raised above could lead to changes being made to the provisions of the Obligation. However, he does not expect that work to be undertaken at this stage as he is not in a position to make a decision on the appeals until he has received and considered the responses made to his request.

18. Accordingly, written representations relating to the matters raised in this letter should be sent to the address on the first page of this letter; and should be received within 28 days of the date of this letter, that is, not later than 6 October 2009. As soon as practicable thereafter, the Secretary of State will circulate these representations for comment, giving a further 14 days within which final comments may be made.

19. The Secretary of State does not propose to allow a lengthy series of cross-representations and further comments. Please note, furthermore, that the Secretary of State is inviting representations only on the particular issues set out above, and he does not regard this invitation as an opportunity to address other issues raised during the inquiry.

20. The Secretary of State wishes to emphasise that representations on the above issues are to enable him to take a fully informed decision since he has not yet determined the appeals. This letter should not be read as any indication as to his attitude to the proposals generally one way or another.

#### **Variation of timetable**

21. The Secretary of State considers that he will not be in a position to reach a decision by the previously advised date of 17 September 2009, because of the need to allow the appellants to provide additional information and for the parties to comment on it. Therefore, in the exercise of the power conferred on him by paragraph 6(2) of Schedule 2 to the Planning and Compulsory Purchase Act

2004, he hereby gives notice that he has varied the timetable previously set and he will now issue his decision on or before 11 January 2010.

22. This means that it will not be practical to reopen the Inquiry on 1 December 2009 to consider the remaining 41 cases, as previously notified; and PINS will be writing separately to inform you and all relevant parties of the new date.

23. A copy of this letter has been sent to Cherwell District Council, Oxfordshire County Council and the other parties listed at Annex A.

Yours faithfully,

**Jean Nowak**

Authorised by the Secretary of State to sign in that behalf

## **ANNEX A**

### **LIST OF COPYEES RECEIVING THIS LETTER**

Ms Stephanie Betts – Cherwell DC  
Mr Richard Dunnett  
Mr Tony Clements  
Mr Daniel Scharf  
Ms Jane Burgess – English heritage  
Mr Paul Semple  
Mr Chris Ayres  
Mr Richard Brown  
Ms Michelle Kidd – Environment Agency  
Mrs Sue Lee – Lower Heyford PC  
Dr David R Kingham  
Jane Griffin - SEEDA  
Robert Hanson  
David Griffin – Thames Valley Police  
Tim Lamacraft  
Simon Pipe

## **ANNEX B**

### **LIST OF CONSERVATION AREA CONSENT APPEALS**

APP/C3105/E/08/2069311: Buildings 21 and 23 Trenchard Circle, Heyford Park  
APP/C3105/E/08/2069313: Buildings 53, 54 & 56 Heyford Park  
APP/C3105/E/08/2069314: Building 59 Heyford Park  
APP/C3105/E/08/2069315: Building 79 Heyford Park  
APP/C3105/E/08/2069316: Buildings 101 & 102 Heyford Park  
APP/C3105/E/08/2069318: Buildings 106, 107 & 108 Heyford Park  
APP/C3105/E/08/2069321: Buildings 113, 113a, 113b & 114 Heyford Park  
APP/C3105/E/08/2069324: Building 115 Heyford Park  
APP/C3105/E/08/2069327: Buildings 117, 118 & 119 Heyford Park  
APP/C3105/E/08/2069329: Building 130 Heyford Park  
APP/C3105/E/08/2069331: Building 131 Heyford Park  
APP/C3105/E/08/2069333: Building 132 Heyford Park  
APP/C3105/E/08/2069334: Building 133 Heyford Park  
APP/C3105/E/08/2069335: Buildings 145, 146, 147, 148, 149 Heyford Park  
APP/C3105/E/08/2069337: Buildings 442, 460, 465, 467, 470, 481, 492, 493, 529  
and UH11 Heyford Park  
APP/C3105/E/08/2069339: Buildings 593, 594, 598 Heyford Park  
APP/C3105/E/08/2069340: Buildings 449, 461, 466, 468, 471, 472, 474, 475, 483,  
484 & 486 Heyford Park  
APP/C3105/E/08/2069341: Buildings 441, 445, 446, 485, 487, 488, 491, 500, 502,  
596, UH10 & UH9 Heyford Park  
APP/C3105/E/08/2069343: Buildings 440, 440b, 443, 444, 450, 454, 476, 480, 489,  
498 & UH8 Heyford Park  
APP/C3105/E/08/2069345: Buildings 530 – 534 Heyford Park  
APP/C3105/E/08/2069346: Buildings 640 – 692 Heyford Park  
APP/C3105/E/08/2069347: Buildings 700 – 757 Heyford Park  
APP/C3105/E/08/2069349: Buildings 759 – 780 Heyford Park  
APP/C3105/E/08/2069350: Buildings 291, 542, 546 – 548, 550 – 565, 568, 573, 588  
& UH2 Heyford Park  
All at Heyford Park, Camp Road, Upper Heyford, Bicester, Oxfordshire, OX25 5HD