



**TOWN AND COUNTRY PLANNING ACT 1990
APPEAL BY BANNER HOMES LTD
LAND AT COTEFIELD FARM, BODICOTE,
BANBURY, OXFORDSHIRE**

APPEAL REFERENCE: APP/C3105/A/11/2159619

**STATEMENT OF COMMON GROUND BETWEEN
BANNER HOMES LTD AND CHERWELL DISTRICT
COUNCIL**

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Quality Management

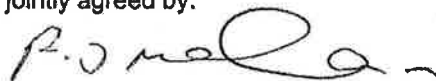
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Authorised by:	Christopher Lecoïnte	
Date:	31 January 2011	
Project Number:	OXF7467	
Status:	Final	

Introduction

1. This Statement of Common Ground (SoCG) has been drafted by RPS Planning and Development on behalf of Banner Homes Ltd and agreed by officers of Cherwell District Council. It addresses the potential areas for common ground identified in the statements of case of both RPS and the Council. It also follows the Planning Inspectorate Good Practice Note 08 – England (November 2011).

2. The SoCG is jointly agreed by:

Signed



Name

P. J. McCANN

On behalf of Banner Homes Ltd

Date

31/01/2012

Signed



Name

Linda J. Griffiths

On behalf of Cherwell District Council

Date

31/1/12

Site Description

3. The parties agree the following facts about the site and its surroundings.
4. The appeal site consists of 3.77 hectares of agricultural land on the southern edge of the village of Bodicote, about three kilometres south of the centre of Banbury represented by Banbury Cross.
5. The site is bounded by Keyser Road to the west, Blackwood Place to the north, a garden centre to the east and an open field to the south. Vehicular access would be from A4260 Oxford Road to the east of the site, using the existing access, serving the garden centre and the adjacent Cotefield Farm complex which is to be revised in accordance with the requirements of Oxfordshire County Council by the provision of an acceleration lane, should the appeal proposal be allowed. At the northern extremity of the site a field access would be used as a pedestrian and cycle route into the village.
6. The site lies at around 110-115 metres AOD, slightly lower than the rest of Bodicote village. To the south of the site, land slopes down to the valley of the Sor Brook, a tributary of the River Cherwell. A belt of mixed deciduous trees about 25m wide planted in 2000 runs from the south western edge of the site in south easterly direction for about 500 metres.

Planning History

7. The parties agree the following about the planning history of the site.
8. An outline application (05/02180/OUT) for residential development was submitted in 2005. An appeal was lodged against the refusal of this application but subsequently withdrawn.
9. A second outline application (10/00558/OUT) was submitted in April 2010, seeking planning permission for 86 dwellings. It was submitted after the 2009 Annual Monitoring Report had identified slightly less than a five year supply of housing, and officers had recommended the adoption of an interim housing policy to remedy this situation. The recommendation was not adopted.
10. The application was recommended for refusal for a number of reasons. It was withdrawn on the eve of Planning Committee in July 2010.

The Planning Application

11. The parties agree the following facts about the planning application 11/00617/OUT, the subject of this inquiry.
12. The application was submitted in April 2011 in outline with all matters except for access reserved. The original application sought permission for 80 units, of which 48 would be market units and 32 affordable units. Discussions, which took place in the period leading up to and following the submission of the application with the Council's housing officers, led to the

amendment of the scheme, with changes to the indicative mix of dwellings, particularly the affordable component, with totals of 50 market units and 32 affordable units. The Council accepted these changes as minor amendments.

Drawings and Plans

13. It is agreed that the drawings and plans to be referred to consist of the site location plan Rev A, and the illustrative layouts (drawing number PL.01 Rev D) for 80 dwellings submitted with the planning application in April 2011 and the revised layout (drawing number PL.01 Rev F) for 82 dwellings submitted subsequently and agreed by the Council as a minor amendment.

Areas of Common Ground and of Disagreement

14. The following areas of common ground have been identified.

Access and Highway Safety

15. The parties agree that in the light of the Transport Assessment submitted with the application, and the response to consultation by Oxfordshire County Council, there would be no significant adverse traffic impacts and that in particular the existing junction of A4260 Oxford Road with improvements is adequate to safely serve the proposed development.

Design and Impact on Neighbouring Amenities

16. The parties agree that although the proposed layout is indicative, and will be addressed at the reserved matters stage in the event of the appeal being allowed, the Council is satisfied that 82 dwellings could be accommodated on the site without detriment to the residential amenities of the adjacent residential properties.

Ecology

17. It is agreed that in the light of the Phase 1 Ecological Survey submitted with the application, and the response to consultation by Natural England, there are no fundamental ecological issues which would prevent the development of the site.

Archaeology

18. It is agreed that in the light of the report submitted with the planning application and the response to consultation of Oxfordshire CC Archaeological Services, that archaeological issues could be dealt with by planning condition.

Open Space and Recreation

19. To comply with the Council's adopted policy and Supplementary Planning Guidance, the provision of appropriate open space, sport and play provision would need to be secured in a Section 106 Agreement at the outline application stage. It is agreed that the detail of the laying out of the on site provision of open space and recreation could be addressed at the reserved matters stage in the event of the appeal being allowed.

Drainage and Flooding

20. It is agreed that in the light of the flood risk assessment submitted with the application, and the response to consultation by the Environment Agency, there are no significant issues of drainage or flooding on or off site.

Waste Water, Surface Water Drainage and Water Supply

21. It is agreed that in the light of the response to consultation by Thames Water, any constraints or difficulties arising in respect of these matters can be overcome by design or by appropriate condition.

Sustainability

22. The Council's Draft Core Strategy indicates that Bodicote is one of the more sustainable villages within the District in terms of the presence of local services and facilities, including a bus service and its proximity to an urban area.

Housing Land Supply

23. The parties agree that although housing land supply was not raised in the reasons for refusal (and as a result, not referred to in the appellant's grounds of appeal), housing land supply is a material issue in the consideration of this appeal.
24. The parties agree that the housing land supply position is as set out in the Council's Annual Monitoring Report 2011 approved by the Executive on 6 December 2011. The AMR shows that between April 2006 and March 2001 1,749 dwellings were completed in the Banbury and North Cherwell Area (part of the South East Plan's Rest of Oxfordshire area) compared to a requirement of 1,750. The AMR also shows that there is a 2.8 year supply of housing for the period 2011-16 in the District as a whole, and a 1.7 year supply in the Banbury and North Cherwell part of the District for the same period. A report is to be taken to the Council's Executive on 6th February, setting out the Council's position on the management of future supply.
25. It is agreed that no Strategic Housing Land Availability Assessment or equivalent has been published which would have enabled potential alternative sites for housing in and around Bodicote to be identified.
26. The parties agree that as a result of the position in the District as a whole, paragraph 71 of PPS3 applies, as acknowledged in the AMR at paragraph 5.40.

Housing Provision in Bodicote Parish

27. It is agreed that since 1 April 1986, 85 dwellings have been completed in Bodicote parish. This compares with 254 in Adderbury, 303 in Bloxham, and 270 in Deddington, the three other villages in Banbury and North Cherwell in Category 1 as defined by the draft Core Strategy, in

the same period. The significance of these figures will however be addressed in evidence and at the Inquiry.

Affordable Housing

28. It is agreed that there is a shortage of affordable housing in the District as a whole. However, the target of the Council's Housing Strategy (2005-2011), in respect of the delivery of affordable housing has been met. The mix of affordable housing will need to be agreed and secured as part of the Section 106 Agreement.
29. In respect of affordable housing, a representative of the Council's preferred affordable housing provider has been involved in pre-application discussions. The site would be immediately deliverable following the approval of reserved matters (in the event of this appeal being allowed) and therefore would make a timely contribution to the provision of affordable housing in particular.

Timing of Core Strategy

30. The Council intends to take its proposed submission draft Core Strategy to its Executive for approval on April 2012, with consultation (Regulation 27) planned for April/May and submission to the Secretary of State in July 2012. It is therefore unlikely that the Core Strategy will be adopted before 2013.

Principal Area of Disagreement

31. The principal area of disagreement is the relevance and applicability of the three policies from the adopted Cherwell Local Plan 1996 and the three policies from the Non-Statutory Cherwell Local Plan 2011 referred to in the first reason for refusal.

Core Documents

32. The following are agreed as core documents for the Inquiry:
- Material from the planning application package including the site location plan, indicative layout, schedule of accommodation, Planning Supporting Statement, and Design and Access Statement
 - The report to and minutes of the Planning Committee held on 11 August 2011
 - The decision notice
 - The South East Plan 2009
 - The adopted Cherwell Local Plan 1996
 - The Non-Statutory Cherwell Local Plan 2011
 - The Draft Core Strategy 2010

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- The Annual Monitoring Report 2011 and its predecessors
 - Relevant Planning Policy Statements, Planning Policy Guidance Notes and other Government guidance
 - The Ministerial Statement of 23 March 2011 and letter of DCLG Chief Planner of 31 March 2011
 - The draft National Planning Policy Framework

Relevant Appeal Decisions

33. Both parties have identified the following appeal decisions in Cherwell District as relevant:
- APPC3105/A/10/2132662: South of Milton Road, Adderbury
 - APPC3105/A/10/2134007: The Green, Chesterton
 - APPC3105/A/11/214212: London Road, Bicester
34. In view of the fact that these decisions pull in different directions, their significance and weight to be attached to them will be dealt with in evidence and at the Inquiry.
35. RPS will refer in its evidence to other recent appeal decisions elsewhere in England which it considers relevant.

Resolution of Reasons for Refusal by Condition

36. The second of the two reasons for refusal related to the absence of a Section 106 agreement. The Appellant states that such an agreement is being drawn up and will be submitted by the due date. The first reason for refusal refers to a number of policies, the relevance and applicability of which will form the main issue for the Inquiry, as already indicated. There is therefore no scope for the resolution of any reason for refusal by condition.

Agreed Proposed Conditions

37. The following conditions are proposed:
1. That no development shall be commenced until full details of the layout, scale, appearance, access and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.
Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 3(1) of the Town and Country Planning (General permitted Development Procedure) Order 1995 (as amended)

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2. That in the case of the reserved matters, application for approval shall be made not later than the expiration of one year beginning with the date of this permission. **Reason:** As above
 3. That the development to which this permission relates shall be begun not later than the expiration of one year from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last reserved matters to be approved. **Reason:** As above
 4. That no more than 82 dwellings shall be accommodated on the site. **Reason:** In order to achieve a satisfactory form of development, to ensure that the site is not overdeveloped and to comply with Policies C28 and C30 of the adopted Cherwell Local Plan.
 5. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents:
 - Figure Number: 2 Rev: A Planning Application Area Boundary
 - Planning Application forms
 - Design and Access Statement
 - Planning Supporting Statement
 - The Conclusions and the Recommendations of the Phase 1 Habitat Survey
 - The Summary of the Transport Assessment
 - The Conclusions of the Tree Survey and hedgerow Evaluation and Grading
 - The Flood Risk Assessment
 - The Archaeological Evaluation

Reason: For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with PPS1 – Delivering Sustainable Development.
 6. That no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping the site which shall include:-
 - (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
 - (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
 - (c) details of the hard surface areas, pavements, pedestrian areas, crossing points and steps.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan.

7. That all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner; and that any trees and shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation. **Reason** - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan.
8. Prior to the commencement of the development hereby permitted details of the provision, landscaping and treatment of open space/play space within the site shall be submitted to and approved in writing by the Local Planning Authority. The open space/play space, once approved shall be landscaped, laid out and completed in accordance with the details approved and within a time period to be first approved in writing by the Local Planning Authority and thereafter retained as open space/play space. **Reason** - In the interests of amenity, to ensure the creation of a pleasant environment for the development with appropriate open space/play space and to comply with Policy R12 of the adopted Cherwell Local Plan.
9. Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed. **Reason:** The development may lead to sewage flooding; to ensure sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.
10. Development should not commence until: Impact studies of the existing water supply infrastructure have been submitted to, and approved in writing by, the local planning authority (in consultation with Thames Water). The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point. **Reason:** To ensure that the water supply infrastructure has sufficient capacity to cope with the/this additional demand.

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11. That the proposed vision splays shall be formed, laid out and constructed in accordance with detailed plans which shall be submitted to and approved in writing by the Local planning Authority prior to the first occupation of the dwellings and that the land and vegetation within the splays shall not be raised or allowed to grow above a maximum height of 0.6 metres above carriageway level. Reason: In the interest of highway safety and to comply with Government advice contained in PPG13: Transport
12. Prior to the commencement of development a construction phase travel plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include proposals for wheel washing facilities for site vehicles. Throughout development the approved plan must be adhered to. Reason: In the interests of highway safety and to safeguard the amenities of the occupants of the adjacent dwellings during the construction period and to comply with Policy ENV1 of the adopted Cherwell Local Plan.
13. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) ref. BES0415 Rev1 dated April 2010 and the following mitigation measures detailed within the FRA:
- a) Limiting the surface water run-off generated by the 100 year plus climate change critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
 - b) Provision of infiltration to ground where possible.
 - c) Use of SUDS techniques using the SUDS hierarchy.
- Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site through the use of sustainable drainage.
14. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is commenced. Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.
15. Prior to the commencement of the development a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority. Reason: To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with PPS5: Planning for the Historic Environment.

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16. Prior to the commencement of development and following the approval of the written scheme of Investigation referred to in condition (above), a staged programme of archaeological mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority. **Reason:** To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets and their wider context through publication and dissemination of the evidence in accordance with PPS5: Planning for the Historic Environment.
17. A land survey, arboricultural survey and tree constraints plan shall form part of a wider Arboricultural Method Statement and Tree Protection Plan and shall be submitted as part of the Reserved Matters application. **Reason:** To ensure the continued health of retained trees and in the interests of the visual amenity of the area, to ensure the integration of the development in to the existing landscape and to comply with Policy C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.
18. Prior to the commencement of any development on the site, full details shall be submitted to and approved in writing by the Local Planning Authority showing the footpath link from this development through to Molyneux Drive. The footpath link shall be provided in accordance with the approved details prior to the first occupation of any dwelling. The footpath shall be retained, and maintained unobstructed in perpetuity. **Reason:** In the interests of sustainability and in order to achieve a satisfactory form of development with a pedestrian link to Bodicote village and its facilities, in accordance with Policy CC6 of the South East Plan.

Suggested planning notes if approved:

- a) Attention is drawn to a legal agreement related to this development or land which has been made pursuant to Section 106 of the Town and Country Planning Act 1990, Sections 111 and 139 of the Local Government Act 1972 and/or other enabling powers
- b) With regard to surface water drainage it is the responsibility of the developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not

permitted for the removal of ground water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required.

- c) Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames water pipes. The developer should take account of this minimum pressure in the design of the proposed development.

In England it is a legal requirement to have a site waste management plan (SWMP) for all new construction projects worth more than £300,000. The level of detail that your SWMP should contain depends on the estimated build cost, excluding VAT. You must still comply with the duty of care for waste. Because you will need to record all waste movements in one document, having a SWMP will help you to ensure you comply with the duty of care. Further information can be found at www.netregs-swmp.co.uk

The foul drainage from this development will drain to Banbury Sewage Treatment Works which is reaching its design capacity. The developer should confirm with the sewerage undertaker that a) sufficient capacity remains to properly deal with the additional load and b) the sewerage conveying foul drainage to these works has sufficient hydraulic capacity. This is to prevent the deterioration of river water quality and to minimise the risk of storm sewage discharges.

