



**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 CASE (RULE 6 STATEMENT)

RPS Planning & Development

Mallams Court
18 Milton Park
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OX14 4RP

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Quality Management

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Introduction

1. This document sets out the case to be made by RPS on behalf of Banner Homes Ltd in the matter of land at Cotefield Farm, Bodicote, near Banbury, Oxfordshire. The planning application (11/00617/OUT) submitted in April 2011 was refused on 11 August 2011, and an appeal subsequently lodged. The decision notice forms Appendix 1.

The Site and the Proposed Development

2. 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.
3. The site is bounded by Keyser Road to the west, Molyneux Drive to the north, a garden centre to the east and an open field to the south. Vehicular access would be from A4260 Oxford Road, using the existing access serving the garden centre. At the northern extremity of the site a field access would be used as a pedestrian route into the village.
4. 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.
5. 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. Discussions, which took place in the period leading up to an 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.
6. The application was accompanied by the following documents:
 - a Planning Supporting Statement, including a site location plan at 1:20,000 scale and a planning application area boundary drawing at 1:1,500 scale
 - a site layout plan at A1 at 1:500 scale
 - indicative sample elevations
 - a Design and Access Statement
 - an Affordable Housing Statement
 - a Transport Assessment
 - a Landscape Assessment

- a Phase 1 Habitat Survey
- a Flood Risk Assessment
- a Phase 1 Environmental Risk Assessment
- a Tree Survey and Hedgerow Evaluation and Grading Report
- an Archaeological Evaluation

Planning History

7. An outline application (05/02180/OUT) for residential development was submitted in 2005. The reasons for refusal form Appendix 2. An appeal was lodged but subsequently withdrawn.
8. A second outline application (10/00558/OUT) was submitted in April 2010, seeking planning permission for 86 dwellings. The application was withdrawn on the eve of Planning Committee in July 2010. It had been recommended for refusal. The draft reasons for refusal form Appendix 3.

Planning Policy

9. This section sets out what Banner Homes considers to be relevant planning policy; the Case for the Appellant below indicates what Banner Homes expects to draw from it.
10. Banner Homes Ltd consider the development plan to consist of the South East Plan (2009) and the adopted Cherwell Local Plan (1996) running to 2001. Banner Homes is aware of the Government's intentions for regional strategies; content of the proofs of evidence at the required date for exchange will reflect the position at that time.
11. The Non-Statutory Cherwell Local Plan 2011 and the Draft Core Strategy of February 2010 have been identified as the main other relevant planning documents. Neither in Banner Homes' view carries as much weight as the adopted components of the development plan; the proofs of evidence will address the degree of weight to be attached to them.
12. The proofs of evidence will primarily address the six policies from the adopted Cherwell Local Plan referred to in the first reason for refusal. The proofs will also address relevant policies in the South East Plan (subject to the qualification above) which provide the strategic context for the proposed development, and other relevant policies from the adopted Local Plan. Material in the evidence relating to the Non Statutory Local Plan and the Draft Core Strategy will reflect the weight to be attached to them.
13. Banner Homes has identified the following Planning Policy Statements as of primary relevance to the proposed development:

- PPS1: Delivering Sustainable Communities
- PPS3: Housing

PPS7: Sustainable Development in Rural Areas

14. The following Planning Policy Statements and Guidance Notes are also pertinent:

PPS5: Planning for the Historic Environment

PPS9: Biodiversity and Geological Conservation

PPG13: Transport

PPS25: Planning and Flood Risk

The Case for the Appellant

15. The case for the appellant will focus primarily on the six policies referred to in the first reason for refusal. The second reason for refusal, relating to the absence of a Section 106 Agreement or Unilateral Undertaking, is addressed below.
16. Banner Homes will argue that, in short, there are substantial other material considerations which outweigh the effect of the policies invoked in the first reason for refusal, to the extent that the adopted Local Plan should be set aside in the decision on this appeal.
17. It will be argued that the policies of the adopted Cherwell Local Plan are out of date and no longer appropriate in all circumstances for the determination of planning applications for housing, now that the planning horizon has been extended (by the South East Plan, and the Draft Core Strategy) to 2026, and that appropriate provision for housing must be made for this period.
18. Reference will be made to the policies of the South East Plan and other policies of the adopted Local Plan, and also to policies of the Non-Statutory Local Plan and Draft Core Strategy. Those of relevance will be examined for their applicability in this particular case.
19. Cherwell District Council did not refer to housing land supply in its reasons for refusal, and as a result, Banner Homes Ltd did not refer to this issue in its grounds of appeal. Nevertheless, Banner Homes Ltd considers that this issue is relevant to the consideration of whether or not the policies of the adopted Cherwell Local Plan 1996 are still appropriate for the determination of this application in 2011/12. Banner Homes will therefore refer to the 2011 Annual Monitoring Report, which sets out the basis of and the detail of the years supply calculation, and its predecessors as appropriate, to show that in there is an insufficient supply of deliverable land for housing in Cherwell District.
20. Banner Homes Ltd will produce evidence to demonstrate that the provision of affordable housing in Bodicote parish is limited, both in relation to households on the waiting list and the extent of provision in comparable villages – Bloxham, Adderbury and Deddington.
21. The evidence will also address concerns and objections raised by local residents.

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22. The evidence will provide more local information on the likely delivery of dwellings at Bankside, one of the principal proposed allocations for housing in Banbury.
23. It will be argued (in the proof of evidence on landscape and visual effects) that Policy C13 has for some years been inconsistent with national guidance on local landscape designations. Furthermore, the nature of the development, the existing tree planting to the south west of the site, and the proposed treatment for the southern boundary will ensure that harm to the open countryside is minimised, and that overall any harm is outweighed by the need to provide appropriate market and affordable housing in the area.
24. Banner Homes Ltd will argue in addition that substantial support for the proposed development is provided by the Ministerial Statement of 23 March 2011 and, to the extent that it carries weight as a result of its status as a draft, by the National Planning Policy Framework.

Section 106 Agreement/Unilateral Undertaking

25. The basis for the second reason for refusal was the absence of any such agreement or undertaking. However, draft heads of terms for such an agreement were included as an appendix to the Planning Supporting Statement which accompanied the application.
26. In the grounds of appeal Banner Homes Ltd stated that they intended to draft and complete a Section 106 agreement in the required timescale. Work has already begun.

Statement of Common Ground

27. Banner Homes Ltd hopes to establish as much common ground with the local planning authority as possible. The statement will, it is hoped, address the following issues:
- appropriate conditions in the event of the appeal being allowed
 - access
 - design
 - ecology
 - landscaping
 - open space and recreation
 - drainage and flood risk
 - effect on the amenities of existing dwellings

Documents

28. Banner Homes Ltd will refer to the following documents in its evidence:

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1. Material from the planning application package including the site location plan, indicative layout, schedule of accommodation, Planning Supporting Statement, and Design and Access Statement
 2. The report to and minutes of the Planning Committee held on 11 August 2011
 3. The decision notice
 4. The South East Plan 2009
 5. The adopted Cherwell Local Plan 1996
 6. The Non-Statutory Cherwell Local Plan 2011
 7. The Draft Core Strategy 2010
 8. The Annual Monitoring Report 2011 and its predecessors
 9. Relevant Planning Policy Statements, Planning Policy Guidance Notes and other Government guidance
 10. The Ministerial Statement of 23 March 2011 and letter of DCLG Chief Planner of 31 March 2011
 11. The draft National Planning Policy Framework
 12. Appeal decisions:
 13. APP/C3105/A/10/2132662: Land South of Milton Road, Adderbury
 14. APP/C3105/A/10/2184007: The Green, Chesterton
 15. APP/C3105/A/11/214212: London Road, Bicester
 16. Other appeal decisions considered to be relevant
 17. Draft conditions
 29. It should be noted that this list is not necessary exhaustive and Banner Homes may wish to refer to any other documents as appropriate in its evidence and at the inquiry.

DC/sm

6 December 2011

Appendix 1



**DISTRICT COUNCIL
NORTH OXFORDSHIRE**

Name and Address of Agent/Applicant :

Banner Homes Ltd
c/o RPS Planning & Development
Mr David Croft
Mallams Court
18 Milton Park
Abingdon
Oxon
OX14 4RP
Date Registered : 13th April 2011

NOTICE OF DECISION
TOWN AND COUNTRY PLANNING ACT 1990
(AS AMENDED)

RPS		
Date: 15 AUG 2011		
Job No:	1293	Div:
Initial:	Date:	Action:
<i>DC</i>	22/8	

Proposal : Outline application for residential development of 82 No. dwellings

Location : Land South Of Blackwood Place And Molyneux Drive And North West Of Cotefield Farm Oxford Road Bodicote Oxfordshire

Parish(es) : Bodicote

UPRN : 010011904661

REFUSAL OF PERMISSION FOR DEVELOPMENT

The Cherwell District Council, as Local Planning Authority, hereby **REFUSES** to grant planning permission for the development described in the above-mentioned application, the accompanying plans and drawings and any clarifying or amending information. **THE REASONS FOR REFUSAL ARE SET OUT IN THE ATTACHED SCHEDULE.**

Cherwell District Council
Bodicote House
Bodicote
Banbury
Oxon
OX15 4AA

Date of Decision : 12th August 2011

**Strategic Director
Planning, Housing & Economy**

REASONS FOR REFUSAL

- 1 The proposed development would be contrary to Policies H13 and H18 of the adopted Cherwell Local Plan, Policies H15 and H19 of the Non-Statutory Cherwell Local Plan 2011 which seek to guide residential development to allocated sites or sites within the existing built-up limits of settlements. In this case the site is not allocated for development in either the adopted or Non-Statutory Local Plan but lies outside the existing built-up limits of the settlement. It is therefore classed as countryside where its development would constitute an unjustified and undesirable intrusion into the countryside surrounding the village of Bodicote, which would be contrary to the policies intended to protect the character and appearance of the countryside. Furthermore the development would increase the outward spread of the village intruding into the unspoilt countryside surrounding the village, neither preserving nor enhancing the Area of High Landscape Value, contrary to Policy C13 of the adopted Cherwell Local Plan and Policy EN34 of the Non-Statutory Cherwell Local Plan.
- 2 In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not convinced that the infrastructure directly required to service or serve the proposed development, including affordable housing, open space/play space, off-site playing pitches, education facilities, library facilities, fire infrastructure and transport measures will be provided, which would be contrary to Policies H5, TR1 and R12 of the adopted Cherwell Local Plan and Policies H7, TR4, R8, R9 and R10A of the Non-Statutory Cherwell Local Plan 2011.

Appendix 2

05/02180/OUT

Bodicote - Land South Of Blackwood Place And Molyneux Drive And North West Of Cotefield Farm Oxford Road Bodicote

10.11.05

OUTLINE application for residential development

For : Banner Homes c/o RPS Planning Mallams Court 18 Milton Park
Abingdon Oxon

RECOMMENDATION :

Refusal, on the following grounds:

1. The proposed development would be contrary to Policies H13 and H18 of the adopted Cherwell Local Plan, Policies H15 and H19 of the Non-Statutory Cherwell Local Plan 2011 and Policies G1, G2, G5 and H1 of the Oxfordshire Structure Plan 2016 which seek to guide residential development to allocated sites or sites within the existing built-up limits of settlements. In this case the site is not allocated for development in either the adopted or Non-Statutory Local Plan but lies outside the existing built-up limits of the settlement. It is therefore classed as countryside where its development would constitute an unjustified and undesirable intrusion into the countryside surrounding the village of Bodicote, which would be contrary to the policies intended to protect the character and appearance of the countryside. Furthermore, it is considered that the release of this large rural, greenfield site against Council policy would prejudice future assessments and decisions on the Council's Core Strategy and Banbury and North Cherwell Site Allocations Development Plan Document, as part of the Local Development Framework, about the most sustainable means of meeting the Council's housing requirements, as set out in the Oxfordshire Structure Plan 2016.
2. The proposed development would be contrary to Policy C13 of the adopted Cherwell Local Plan, Policy EN34 of the Non-Statutory Cherwell Local Plan 2011 and Policy EN1 of the Oxfordshire Structure Plan 2016. The site is situated within an Area of High Landscape Value and the location and scale of the proposed development would have an adverse visual impact upon the rural character and landscape value of this locality, increasing the outward spread of the village and intruding into the unspoilt countryside surrounding the settlement.
3. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not convinced that the infrastructure directly required to service or serve the proposed development, including affordable housing, open space/play space, off-site playing pitches, off-site indoor sports facilities, education facilities, library facilities, fire infrastructure and transport measures will be provided, which would be contrary to Policy G3 of the Oxfordshire Structure Plan 2016, Policies H5, TR1 and R12 of the adopted Cherwell Local Plan and Policies H7, TR4, R8, R9 and R10A of the Non-Statutory Cherwell Local Plan 2011.
4. In the absence of a satisfactory archaeological field evaluation, the Local Planning Authority is not convinced that the proposed development can be undertaken without resulting in the loss of archaeological deposits

- which would be contrary to Policy C26 of the adopted Cherwell Local Plan, Policy EN47 of the Non-Statutory Cherwell Local Plan 2011 and Policy EN6 of the Oxfordshire Structure Plan 2016.
5. In the absence of an accompanying Transport Assessment, the suitability of the site in terms of a sustainable impact on the adjacent highway network and the adequacy of the site access cannot be assessed. The Local Planning Authority therefore is not convinced that the proposed development can be undertaken without detriment to highway safety, which would be contrary to Policies TR2 and TR3 of the adopted Cherwell Local Plan, Policies TR2, TR3 and TR5 of the Non-Statutory Cherwell Local Plan 2011 and Policies T1 and T8 of the Oxfordshire Structure Plan 2016.

CONSULTATIONS/REPRESENTATIONS

Bodicote Parish Council raises strong objections to the proposed development:-

- This site is not allocated for housing in either the Cherwell Local Plan 1996 or the Non-Statutory Cherwell Local Plan 2011. As such, it is contrary to the District Council's planning policies and should not be considered as a possible development site.
- There is already an extremely large development site within Bodicote Parish for which a planning application has been submitted. If this were to be approved, not only would there be no requirement for any additional housing but it would also be grossly unjust for Bodicote to be subjected to two housing developments, one to the east and one to the south.
- Bodicote is listed as a Category 1 Village in both the existing and Non-Statutory Local Plans. As such, it is contrary to the District Council's planning policy for a large housing development to be permitted.
- The proposed development would add to the existing problems regarding traffic congestion, lack of primary school places, gridlock in White Post Road during school hours, etc.
- There is only one access road from the Oxford Road. This is in a dip, which already causes problems for vehicles exiting from Weeping Cross, as visibility is poor.
- The proposed access from the site on to Molyneux Drive would have the potential to cause traffic problems in the village, as vehicles accelerate up the hill towards this point.

Adderbury Parish Council objects to the proposal as it would result in Bodicote coming closer to Adderbury.

Local Highway Authority: eventually responded to the consultation request with a response received on 12/12/2005. This recommended the refusal of this application because the application as submitted does not include a Transport Assessment. As such, the suitability of the site in terms of a sustainable impact on the adjacent highway network and the adequacy of the site access cannot be assessed.

Thames Water: has advised on waste and water comments in detail. These have been copied and sent to the applicant's agent.

Appendix 3

and there is insufficient information to assess the potential impact on archaeology. It is therefore recommended that this application be refused.

6. Recommendation

Reasons for refusal;

1. The proposal represents development beyond the built up limits of the settlement and will cause harm to the character and appearance of the countryside. Notwithstanding the Council's short term inability to demonstrate that it has the 5 year supply of housing land required by PPS 3 Housing, the development of this site cannot be justified on the basis of a temporary land supply deficiency alone, a development of this scale is inappropriate at this time given the existing lack of provision of village facilities and because of the landscape impact of the proposal. As such the proposed development is contrary to the saved policies H13, H18, C7 and C13 of the adopted Cherwell Local Plan, policy EN34 of the Non-Statutory Cherwell Local Plan, policy BE1 of the South east Plan and Planning Policy Statement 3 Housing.
2. The Transport Statement does not sufficiently demonstrate that the access to the A4260 is adequate to serve the development without causing harm to highway safety, contrary to guidance contained in PPG13.
3. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority cannot guarantee that the infrastructure directly required to service or serve the proposed development, including affordable housing, open space/play space, off-site playing pitches, education facilities, library facilities, and transport measures will be provided, which would be contrary to Policy CC7 of the South East Plan, Policies H5, TR1 and R12 of the adopted Cherwell Local Plan and Policies H7, TR4, R8, R9 and R10A of the Non-Statutory Cherwell Local Plan 2011.
4. In the absence of a satisfactory archaeological field evaluation, the Local Planning Authority is not convinced that the proposed development can be undertaken without resulting in the loss of archaeological deposits which would be contrary to Policy EN47 of the Non-Statutory Cherwell Local Plan 2011 and Policy BE6 of the South East Plan 2009 and guidance contained within PPS5.

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