

OXFORDSHIRE COUNTY COUNCIL'S
REGULATION 122 COMPLIANCE STATEMENT

Location: Axis J9 Phase 3 Howes Lane, Bicester

LPA Planning Application Ref No: 21-03177-F

Planning Appeal Ref No: APP/C3105/W/22/3304021

Proposal Description: Full planning application for employment development (Use Classes E(g)(iii), B2 and/or B8) comprising 5 units within 3 buildings and associated parking and servicing, landscaping and associated works

Date of OCC Reg 122 Statement: 01/112022

1. INTRODUCTION

- 1.1. Oxfordshire County Council (OCC) considers that the proposed employment development (Use Classes E(g)(iii), B2 and/or B8) comprising 5 units within 3 buildings and associated parking and servicing, landscaping and associated works is unacceptable without an agreement under Section 106 of the Town and County Planning Act 1990 (S106) which is required to mitigate the demands which will be placed on infrastructure and services as a result of the development. This statement by OCC provides the justification for its requirements for a contribution towards public transport services, public transport infrastructure, travel plan monitoring and public rights of way improvements, and for a fee towards the administration & monitoring of the S106 agreement.
- 1.2. This statement supplements the previously submitted formal responses by OCC to the formal statutory planning application consultations carried out by Cherwell District Council (CDC).
- 1.3. R122(2) of the Community Infrastructure Levy (CIL) regulations 2010 (as amended) introduced three tests for S106 agreements which must apply if a planning obligation is to constitute a reason for granting planning permission. It should be:
 - a) necessary to make the development acceptable in planning terms
 - b) directly related to the development and
 - c) fairly and reasonably related in scale and kind to the development.
- 1.4. The purpose of this statement is to show that the requested contributions

Comply with the requirements of the three tests.

2. **INFRASTRUCTURE CONTRIBUTIONS:**

- 2.1. OCC considers that the development would have a detrimental impact on the local services it provides unless the contributions sought are provided as set out below:

| Type of Contributions | Contribution | Indexed-linked & Base Date |
|-----------------------------------|---------------------|---------------------------------------|
| Public transport services | £140,859 | RPIX July 2022 |
| Public transport infrastructure | £19,796 | Baxter October 2021 |
| Travel Plan Monitoring | £5,579 | RPIX December 2021 |
| Public Rights of Way improvements | £3,031 | Baxter July 2022 |

Table 1: OCC Required Infrastructure Contributions

2.2. **The OCC Administration and Monitoring Fee= £4,600**

- 2.3. The above contributions save for the Administration and Monitoring Fee are to be indexed-linked to maintain the real values of the contributions so that they can in future years deliver the same level of infrastructure provision as currently required.
- 2.4. The site forms part of the North West Bicester strategic allocation (Cherwell Local Plan Policy Bicester 1). It has planning permission for 150 dwellings, which this application seeks to replace with industrial/warehousing development. The contributions secured on the residential permission form a proportionate part of the infrastructure package required to mitigate the impact of the strategic allocation. The contributions sought here are to provide what would otherwise be lost as a result of the change from residential to employment and are necessary to ensure that sufficient contributions are provided across the allocation to secure the full mitigation.

3. **TRANSPORT CONTRIBUTIONS**

3.1. **Relevant Policies:**

National Policy

National Planning Policy Framework, July 2021

The Government's planning policies relating to accessibility, transport and highways are set out in Section 9 of the National Planning Policy Framework (NPPF). The relevant sections of the NPPF which support the provision of transport contributions are set out below.

- i. **Paragraph 104**

Transport issues should be considered from the earliest stages of plan-making and development proposals, so that:

- (a) the potential impacts of development on transport networks can be addressed;
- (b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;
- (c) opportunities to promote walking, cycling and public transport use are identified and pursued;
- (d) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and
- (e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes and contribute to making high quality places.

ii. Paragraph 105

The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

iii. Paragraph 110

In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- (a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- (b) safe and suitable access to the site can be achieved for all users; and
- (c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

iv. Paragraph 112

Within this context, applications for development should:

- (a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- (b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- (c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

Cherwell Local Plan 2015-2031

Policy for North West Bicester, of which this development is part, is set out in the adopted Cherwell Local Plan Policy Bicester 1, which states that ‘planning permission will only be granted ...in accordance with a comprehensive masterplan for the area to be approved by the Council as part of a North West Bicester Supplementary Planning Document.’

Cherwell District Council’s adopted North West Bicester Supplementary Planning Document references the NW Bicester Masterplan Access and Travel Strategy, which was part of the NW Bicester Masterplan submission. This document sets out the transport impact of the masterplan development in aggregate.

Together these documents support the requirement for each application within NW Bicester to mitigate their share of the aggregate, cumulative impact of NW Bicester as opposed to their impact as a site being developed in isolation from the rest of NW Bicester.

Northwest Bicester Supplementary Planning Document (SPD)

4.142 The vision is to create a rapid and regular bus service from the site to key destinations in and around the town in order to be attractive to residents. The public transport service needs to be fast reliable, affordable and direct.

4.145 North West Bicester should be an exemplar in the design and operation of its transport systems. The challenge this presents is significant and means that “business as usual” is not an option. Street and place design should give pedestrians and cyclists priority with limited and managed car access.

4.146 An indicative bus route has been submitted with the Draft masterplan. It includes bus only routes and bus priority measures. The final public transport solution must be attractive to all future residents and provide a viable and efficient alternative to car travel.

6.19 The requirements of the planning obligations include the provision and/or contributions for the following:

- Sustainable transport

- Bus service

Oxfordshire County Council Policy

Oxfordshire County Council- Local Transport and Connectivity Plan 2022 - 2050 – LCTP.

Policy 18: Public transport states:

“ We will

- c) Seek to make the bus a natural first choice through development of infrastructure and network management measures which give priority over the private car
- e) Ensure that all new strategic development is designed for bus access and provides suitable funding for high quality services and infrastructure.
- h) Ensure bus services are accessible and support community transport to address unmet local transport needs (further information in community transport policy). “

Policy 5 e) Public Rights of Way states that:

'We will extend and improve the public rights of way network by securing on and offsite mitigation measures from developments and increasing partnership working with a range of stakeholders to achieve shared outcomes.'

Connecting Oxfordshire: Oxfordshire County Council's Fourth Local Transport Plan (LTP4) 2015-2031 Volume 2 Bus & Rapid Transit Strategy (2016) (This has not yet been replaced by Part 2 of the Local Transport and Connectivity Plan).

Promoting bus use through the planning process

Paragraph 91:

To support bus development and maximise use of strategic transport investment we will:

- Seek developer funding to support the development of existing or new bus services to achieve a higher and more attractive standard of service as required where there is a reasonable expectation of longer-term commercial sustainability.

Paragraphs 93-95:

The identification, negotiation and securing of section 106 developer contributions to bus services and infrastructure is currently undertaken on a site by site basis.

There is no strict formulaic approach which calculates a financial contribution to transport measures. The size and phasing of any specific developer contribution is a matter of negotiation and agreement between the local authorities and the developers. The current approach allows flexibility based on the specific circumstances of development(s) based on experience elsewhere. Service and infrastructure measures can be tailored to circumstances, based on available local evidence and knowledge of bus operating conditions and potential passenger demand and professional judgement.

Connecting Oxfordshire: Oxfordshire County Council's Fourth Local Transport Plan 2015-2031 (LTP4) – Bicester Area Strategy

Policy BIC2

We will work to reduce the proportion of journeys made by private car by implementing a Sustainable Transport Strategy by:

Providing bus priority where feasible to ease movements – in particular there is the need to find a solution to issues at the Bucknell Road / Field Street junction which is proposed to become an important bus route as North West Bicester builds out and consider the need for bus lanes along the A41 to connect with the park & ride scheme.

3.2. Public Transport Contribution: £140,859 to be index linked from July 2022 (RPIX) towards bus services serving North West Bicester

(a) Necessary to make the development acceptable in planning terms

The development would form part of the wider North West Bicester strategic allocation for a new urban extension of 6000 homes plus employment. As such it needs to contribute to meeting the sustainable policy objectives for North West Bicester. The adopted North West Bicester SPD sets out the requirements for serving the development by bus, and refers to the North West Bicester Masterplan which proposes two new bus routes, one serving the development to the south and one to the north of the railway (North West Bicester Masterplan, Access and Movement Framework).

The aim is to achieve a ten-minute frequency, providing a genuine 'turn up and go' service, which is considered necessary for the bus to be attractive to all future residents and employees and provide a viable and efficient alternative to car travel. The SPD says that for North West Bicester, 'business as usual' is not an option for public transport: the offer must be sufficient to achieve the high levels of bus modal share in NW Bicester that the transport strategy and planned transport infrastructure relies on. If this share is not achieved, then the planned infrastructure will not provide sufficient capacity to meet the demand for car travel, and congestion will be severe by the end of the plan period.

Thus the bus service to which this development must contribute, is considered necessary to make the wider North West Bicester development, of which this development is part, acceptable.

(b) Directly related to the development

The proposed bus service would pass through and stop within the development. The route would vary as the development progresses, but ultimately it would pass through the site on a bus-only link.

(c) Fairly and reasonably related in scale and kind to the development

The contribution is based on a pro-rata share, based on the number of dwellings originally permitted at the site, of the total cost of providing the service to the south of the railway. The total cost of the service is estimated at £2.88 million. This has been calculated as set out below.

The eventual service level for the development sites south-west of the railway has been assessed as requiring 4 buses to fulfil the stated eventual service level. This is based on the delivery of a 10 minute frequency (6 buses per hour) with a round-trip journey time from Bicester Town station, around the development sites south-west of the railway and back to Bicester Town, of between 30 and 40 minutes.

The initial bus service from the first completion would commence with a single vehicle and then the frequency of the service would be increased at agreed trigger-points, to a two-bus service, a three-bus service and eventually a four-bus service. There would also be specified levels of service for evenings, Sundays, public holidays.

The cost of each additional bus inserted into the service level for North West Bicester is calculated as requiring £720k of financial support over a period of 8 years from the start of service for each of these buses. This amount is calculated from a declining financial support profile of £160,000 in the first year, £140,000 in the second year, £120,000 in the third year, £100,000 in the fourth year, £80,000 in the fifth year, £60,000 in the sixth year, £40,000 in the seventh year and £20,000 in the eighth year. In this calculation, each bus is assumed to reach commercial viability from the ninth year onwards.

The trigger points for service enhancement should be:

- 1 bus service from first occupation
- 2 bus service from 401st occupation
- 3 bus service from 1000th occupation
- 4 bus service from 2000th occupation.

To arrive at the contribution, the total cost was divided by 3522 (being the total number of anticipated dwellings south of the railway, comprising 900 at Aldershot Farm, 1700 on Himley Village, 150 on the appeal site, and a further 772 on other applications (not yet received)), multiplied by 150, being the number of dwellings originally permitted on the appeal site.

3.3. Public Transport Infrastructure: £19,796 to be index linked from October 2021 (RPIX) towards bus stop infrastructure serving North West Bicester

(a) Necessary to make the development acceptable in planning terms

Bus stop infrastructure, comprising flagpoles and timetable cases, shelters and Real Time Information displays are required to make the bus service comfortable and convenient to use, and to ensure that residents and employees are aware of it. Real Time information is specified in the NW Bicester SPD and promotes user confidence in bus services, making it more likely that people will choose to travel by bus, thereby supporting the requirement at NW Bicester for high bus modal share.

(b) Directly related to the development

The infrastructure is required for a bus stop on the road leading from Himley Village to the realigned A4095, which would serve this employment parcel as part of the eventual NW Bicester bus service.

(c) Fairly and reasonably related in scale and kind to the development

The infrastructure would primarily serve employees and visitors at the site. The amount is equivalent to the cost to OCC of providing a bus stop pole and flag and a standard three-bay shelter with a real time information (RTI) display, with a commuted sum added for maintenance covering the asset life of 10 years.

3.4 Public Rights of Way contribution: £3,031 to be index linked from July 2022 (Baxter) towards improvements to Bridleway 9 and Bucknell Bridleway 2

(a) Necessary to make the development acceptable in planning terms

This bridleway links Bicester with the surrounding countryside and villages to the north west, and provides a key strategic leisure link for residents and employees and access to the countryside. It originates on Bucknell Road and passes north west through the North West Bicester Masterplan area, connecting to Ardley via Trow Pools nature reserve and on to RAF Upper Heyford and their wider networks, and is valuable to walkers, cyclists and equestrians. It would be accessed from routes within North West Bicester, including from this development. It is currently an unsurfaced bridleway through arable and pasture farmland, including minor road use and road crossing of the M40. The aim is to provide a predominantly traffic-free multi user route, suitable for all year round use, to mitigate the impact of the developments at NW Bicester. Partial funding has been secured from development at Heyford Park towards making the route suitable for cycling. The route would eventually be suitable for commuting from Heyford Park.

Increased use of this facility would support the active travel and health objectives of the North West Bicester SPD, and is part of the overall mitigation package for

the strategic allocation, with contributions also having been requested and secured from other sites at NW Bicester.

It is listed as Item 7 in the Bicester Key Area Countryside Access Needs section of the adopted Oxfordshire Rights of Way Improvement Plan.

(b) Directly related to the development

The improvements would directly benefit the employees of the development, who would be able to access the bridleway from within the pedestrian/cycle network of the North West Bicester Masterplan. It represents the only traffic-free countryside route near the site.

(c) Fairly and reasonably related in scale and kind to the development

The contribution is based on a cost estimate of £65,000 for the scheme, divided pro-rata (based on the number of dwellings permitted at the site) between the proposed developments at NW Bicester south of the railway.

The scheme aims to provide a wide green corridor, stone surfaced to 2 to 3m width with grass and tree verges and improvements to roads where possible, as well as in-field links for roads in key locations, and improvements to gates, bridges and signage.

The contribution would be put towards the upgrade of the Bicester end of the route – funds are secured for the Ardley and Heyford section of the route.

The cost estimate includes improved signage and information, drainage modifications, preparation and installation of the stone surfaced track, improvements to gates, seating and safety fencing, signing, traffic management and modified fencing on the minor road.

3.5 Travel Plan monitoring contribution : £5,679 to be index linked from December 2021 (RPIX) towards the cost of monitoring the framework and individual travel plans over the life of the plans

(a) Necessary to make the development acceptable in planning terms

The travel plans aim to encourage and promote more sustainable modes of transport with the objective of reducing dependence upon private motor car travel and so reducing the environmental impact and traffic congestion. Travel plans are required to make this development acceptable in planning terms.

A travel plan is a 'dynamic' document tailored to the needs of businesses and requires an iterative method of re-evaluation and amendment. The county council needs to carry out biennial monitoring over five years of the life of a Travel Plan which includes the following activities:

- review survey data produced by the developer
- compare it to the progress against the targets in the approved travel plan and census or national travel survey data sets
- agree any changes in an updated actions or future targets in an updated travel plan.

Government guidance, 'Good Practice Guidance: Delivering Travel Plans through the Planning Process' states that: 'Monitoring and review are essential to ensure travel plan objectives are being achieved. Monitoring for individual sites should ensure that there is compliance with the plan, assess the effectiveness of the measures and provide opportunity for review.... Monitoring must be done over time – it requires action and resources.'

In accordance with this Guidance, it is the view of the county council that without monitoring the travel plan is likely to be ineffective. Therefore, monitoring of the travel plan is required to make the development acceptable in planning terms.

The government's Good Practice Guidance has been archived but has not been superseded with any other guidance on the practicalities of implementing travel plans. The county council's own published guidance: Transport for new developments; Transport Assessments and Travel Plans, also includes the requirement for monitoring.

Further, the Good Practice Guidance states that 'local authorities should consider charging for the monitoring process and publish any agreed fee scales'.

Section 93 of the Local Government Act 2003 gives the power to local authorities to charge for discretionary services. These are services that an authority has the power, but not a duty, to provide. The Travel Plan Monitoring fee is set to cover the estimated cost of carrying out the above activities and is published in the county council's guidance: 'Transport for new developments; Transport Assessments and Travel Plans'.

As with most non-statutory activities, councils seek to cover their costs as far as possible by way of fees. This is particularly required in the current climate of restricted budgets. Without the fees the council could not provide the resource to carry out the activity, as it is not possible to absorb the work into the general statutory workload. In the case of travel plan monitoring, the work is carried out by a small, dedicated Travel Plans team.

The travel plan monitoring fee is therefore required to make the development acceptable in planning terms, because it enables the monitoring to take place which is necessary to deliver an effective travel plan.

(b) Directly related to the development

The travel plans will be bespoke documents relating to the development at the site.

(c) Calculation:

The fee charged is for the work required by Oxfordshire County Council to monitor the framework and individual travel plans related solely to this development site. The fee is based on an estimate of the officer time required to carry out the following activities:

- review the survey data produced by the developer
- compare it to the progress against the targets in the approved travel plan and census or national travel survey data sets

- agree any changes in an updated actions or future targets in an updated travel plan.

Oxfordshire County Council guidance –Transport for new developments: Transport Assessments and Travel Plans sets out two levels of fees according to the size of the development.

The figure for each travel plan is based on the officer time required for three monitoring and feedback stages (to be undertaken at years 1, 3 & 5 following first occupation). The fee was calculated on the basis of of £2,563 for the Framework Travel Plan and £1,558 each for the two individual travel plans, totalling £5,679 (RPIx Dec 2021).

4. 2022 OCC ADMINISTRATION AND MONITORING FEE = £4,600

Regulation 122 (2A) of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) now makes it clear that a monitoring fee can be charged to monitor planning obligations provided:

- (a) the sum to be paid fairly and reasonably relates in scale and kind to the development; and
- (b) the sum to be paid to the authority does not exceed the authority’s estimate of its cost of monitoring the development over the lifetime of the planning obligations which relate to that development.”

The fee meets these tests because:

In order to secure the delivery of the various infrastructure improvements, to meet the needs arising from development growth, OCC needs to monitor Section 106 planning obligations to ensure that these are fully complied with. To carry out this work, the County Council has set up a Planning Obligation Team and so charges an administration/monitoring fee towards funding this team of officers. The work carried out by the Planning Obligations Team arises solely as a result of OCC entering into Section 106 Agreements in order to mitigate the impact of development on the infrastructure for which OCC is responsible. OCC then has a resultant obligation to ensure that when money is spent, it is on those projects addressing the needs for which it was sought and secured. The officers of the Planning Obligation Team would not be employed to do this work were it not for the need for Section 106 Obligations associated with the development to mitigate the impact of developments.

OCC has developed a sophisticated recording and accounting system to ensure that each separate contribution (whether financial or otherwise), as set out in all S106 legal agreements, is logged using a unique reference number. Systematic cross-referencing enables the use and purpose of each contribution to be clearly identified and tracked throughout the lifetime of the agreement.

This role is carried out by the Planning Obligations Team which monitors each and every one of these Agreements and all of the Obligations within each Agreement from the completion of the Agreement, the start of the development through to the end of a development and often beyond, in order to ensure complete transparency and financial probity. It is the Planning Obligations Team which carries out all of the work recording Agreements and Obligations, calculating and collecting payments (including calculating indexation and any interest), raising invoices and corresponding with developers, and thereby enabling appropriate projects can be delivered. They also monitor the corresponding obligations to ensure that non-financial obligations, on both the developer and OCC are complied with.

To calculate fees OCC has looked at the number of Agreements signed in a year, the size and nature of the various Obligations in those Agreements, and how much work was expected in monitoring each Agreement. From this, OCC has calculated the structure/scale of monitoring fees that would cover the costs of that team. This was then tested to see whether or not the corresponding fees associated with X number of agreements at Y contributions, would be sufficient to meet the costs; the answer was yes. It is relevant to note that the team costs, (against which the current fees were assessed) were established when there were only two officers in the Planning Obligation Team. There are now five officers. The team is therefore now bigger than when the fees were originally calculated.

The OCC 2022 administration and monitoring fee of = £4,600 does not exceed the authority's estimate of its cost of monitoring the development over the lifetime of the planning obligations which relate to that development. The fee therefore meets the tests of Reg 122 (2A).