

APP/1/A

Town and Country Planning Act 1990 (Section 78)

Public Inquiry in Respect of:

LAND AT NORTH WEST BICESTER, OX27 8BP

Appeal Ref: APP/C3105/W/23/3315849

Proof of Evidence of:

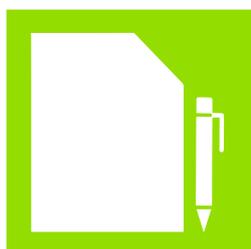
Nicholas Fell LL.B (Hons) PG.Dip MRICS

In Respect of: FINANCIAL VIABILITY IN PLANNING

On Behalf of Firethorn Developments Limited (the Appellant)

05 May 2023

Our Ref: NF/20-00678

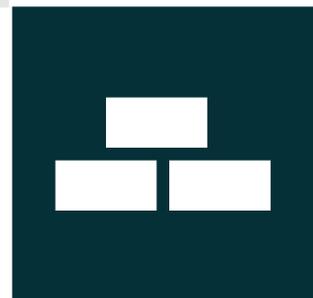


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## 1 QUALIFICATIONS & EXPERIENCE

- 1.1 My name is Nicholas Fell. I hold a Law Degree from Nottingham Trent University, a Post Graduate Diploma from South Bank University in Property Development & Planning and have been a Member of the Royal Institution of Chartered Surveyors (RICS) since 2007. I have been an RICS Registered Valuer since 2010 when the registration scheme was first introduced.
- 1.2 Since 2015 I have been a Partner in the firm of Rupleys LLP, Chartered Surveyors and Planning Consultants, of 66 St James's Street, London SW1A, having other offices in Bristol, Birmingham, Manchester, Cambridge, Edinburgh and Huntingdon. I am an Equity Partner at the firm and head of the Residential Division, which encompasses residential development agency and consultancy teams.
- 1.3 Prior to my appointment at Rupleys I spent 10 years at Strettons Ltd, where for the last 4 years I was jointly responsible for the Affordable Housing & Viability Team.
- 1.4 Prior to Strettons I was a Project Manager for Bellhouse Joseph Ltd, a private sector developer and also for the BBC in relation to their developments at White City and the Mailbox in Birmingham.
- 1.5 I have 20 years of experience on development matters, principally in residential and mixed-use schemes. My area of expertise is principally valuation and agency advice in connection with residential development. In my current role I predominately provide development valuation advice to private developers and Affordable Housing Registered Providers in connection with financial viability in planning and over the past 8 years I have advised on more than 250 cases involving financial viability in planning. I have also provided valuation advice to local authorities, banks, and charities on a range of residential development issues including strategic land assembly, development valuation, s.106 contributions and affordable housing valuation and secured lending.
- 1.6 I also advise clients on the purchase and sale of residential-led development sites which includes providing advice on appropriate pricing strategies, negotiating offers on behalf of landowners and acquiring bodies and advising on appropriate marketing and sales strategies.
- 1.7 I have previously prepared reports for referral to arbitration and independent experts and have acted as a single joint expert in proceedings dealing with both residential and commercial property. I have been instructed to prepare CPR-compliant expert witness reports for both claimants and defendants in respect of properties in London and South East England where professional negligence is alleged or where mortgage fraud is suspected. I have also prepared proofs of evidence in connection with planning appeals and public inquires and have provided oral evidence to assist the Planning Inspectorate on numerous schemes across the country.
- 1.8 I confirm that my evidence to this Inquiry has been prepared and is given in accordance with the guidance of my Professional Institution and I confirm that the opinions expressed are my true and professional opinions.

## 2 SUMMARY OF MY EVIDENCE

2.1 The appeal before this Inquiry is made by the Appellant for non-determination within the statutory period by Cherwell District Council (CDC) of outline planning application 21/01630/OUT (the "Application"). The Application was made in Spring 2021 for the following development:

"Outline planning application for residential development (within Use Class C3), open space provision, drainage and all associated works and operations including but not limited to demolition, earthworks, and engineering operations, with the details of appearance, landscaping, layout and scale reserved for later determination" (the "Proposed Development")

2.2 On 09 March 2023 the Application was considered by CDC to confirm how they would have resolved to determine the Application, in the absence of the appeal. The Application was put before members with Officer's recommendation for approval subject to (1) completion of the viability negotiations, (2) completion of a planning obligation under Section 106 of the Town & Country Planning Act 1990 and (3) a set of agreed planning conditions. Members confirmed that had the appeal not been lodged on non-determination grounds then they would have refused the application. There are five putative reasons for refusal. Grounds 1, 4 and 5 are relevant to my evidence.

### **Putative Reason for Refusal 1 (RfR1)**

*The development, when set against the viability of the scheme, would not go far enough in trying to achieve the True Zero Carbon requirements for NW Bicester, as set out by Policy Bicester 1 of the Cherwell Local Plan Part 1 2011-2031. This would undermine the Council's strategy for achieving an Exemplary Eco Town development at NW Bicester which sets this site apart from others and where the Council has declared a Climate Emergency. The development would therefore conflict with Policy Bicester 1 and Policies ESD1-5 of the Cherwell Local Plan Part 1 2011-2031 and the North West Bicester SPD 2016.*

*Note to Appellant: This reason for refusal is capable of being addressed*

### **Putative Reason for Refusal 4 (RfR4)**

*The proposed development, when set against the financial viability of the scheme, would fail to provide an adequate level of affordable housing provision. The proposal is therefore contrary to Policy BSC3 and Policy Bicester 1 of the Cherwell Local Plan Part 1 2011-2031, the North West Bicester SPD 2016, CDC's Developer Contributions SPD 2018 and Government guidance contained within the National Planning Policy Framework.*

*Note to Appellant: This reason for refusal is capable of being addressed.*

### **Putative Reason for Refusal 5 (RfR5)**

*In the absence of a satisfactory unilateral undertaking or other form of S106 legal agreement, the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions required as a result of the development and necessary to make the impacts of the development acceptable in planning terms. This would be to the detriment of both existing and proposed residents and would be contrary to Policies INF1, BSC3, BSC7, BSC8, BSC10, BSC11, BSC12 and Policy Bicester 1 of the Cherwell Local Plan Part 1 2011-2031, the North West Bicester SPD 2016, CDC's Developer Contributions SPD 2018 and Government guidance contained within the National Planning Policy Framework.*

*Note to Appellant: This reason for refusal is capable of being addressed.*

2.3 In responding to these reasons for refusal my evidence will show that:

- i. In respect of RfR1 the Appellant will commit to delivering the Proposed Development to True Zero Carbon in accordance with Policy Bicester 1 and Policies ESD1-5 of the Cherwell Local Plan Part 1 2011-2031<sup>1</sup> and the sustainability measures of the North West Bicester SPD 2016<sup>2</sup>. The Appellant will commit to planning conditions that ensure compliance with these policies with details provided with each reserved matters application. The Proof of Evidence of Jonathan Riggall of Stantec<sup>3</sup> provides full justification for how the Proposed Development will comply with Policy Bicester 1 and Policies ESD1-5 of the Cherwell Local Plan Part 1 2011-2031 and the North West Bicester SPD 2016.
- ii. **Therefore RfR1 should not form the basis for a refusal of the Proposed Development.**
- iii. In respect of RfR4 Cherwell's Policy BSC3: Affordable Housing<sup>4</sup> states "*Should the promoters of development consider that individual proposals would be unviable with the above requirements (30% of new housing as affordable homes) 'open book' financial analysis of the proposed developments will be expected so that an in house economic viability assessment can be undertaken.....Where development is demonstrated to be unviable with the above requirements, further negotiations will take place. These negotiations will include consideration of: the mix and type of housing, the split between social rented and intermediate housing, the availability of social housing grant/funding and the percentage of affordable housing to be provided.*"
- iv. **The approach to viability testing for the Proposed Development is in accordance with Policy BSC3 and therefore RfR4 should not form the basis for a refusal of the Proposed Development.**
- v. In addition, in respect of RfR4 there is a direct link between overcoming RfR1, in terms of delivering the scheme to True Zero Carbon, and the viable level of affordable housing that can also be delivered. All the inputs to the viability appraisals have been agreed with the Council's Viability Consultant, Highgate Land & Development (HLD) and set out in the Viability Statement of Common Ground<sup>5</sup>. These agreed inputs confirm that the Proposed Development cannot viably deliver any affordable housing whilst delivering the Proposed Development to True Zero Carbon in accordance with Policy Bicester 1 and Policies ESD1-5 of the Cherwell Local Plan Part 1 2011-2031 and the sustainability measures of the North West Bicester SPD 2016. Notwithstanding this, the Appellant is committed to delivering a minimum 10% affordable housing (in a policy compliant mix) and will do so by reducing their development margin (profit). The Appellant will also commit to a viability review mechanism as part of the Section 106 Agreement that will deliver additional on-site affordable housing, should the review demonstrate it is viable to do so.
- vi. **Therefore, in responding to RfR4 the Appellant will commit to a minimum 10% on-site affordable housing delivery, notwithstanding the current viability evidence demonstrates that a lower level of affordable housing can be evidenced. They will also commit to a viability review mechanism within the s.106 Agreement.**
- vii. In respect of RfR5 this will be overcome through the signing of a s.106 Agreement.

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<sup>1</sup> CD/4.1

<sup>2</sup> CD/4.5

<sup>3</sup> APP/2/A

<sup>4</sup> CD/4.1

<sup>5</sup> CD/10.4

## **RULE 6 PARTY: NW BICESTER ALLIANCE**

- 2.4 The NW Bicester Alliance's Statement of Case<sup>6</sup> sets out at paragraphs 2.22 – 2.24 that they have concerns regarding the approach undertaken in the Appellant's Financial Viability Assessment, however they provide no further details as to the basis of their concerns. I will review any arguments made in respect of viability within their Proof of Evidence and if necessary provide rebuttal on any issues raised.

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<sup>6</sup> CD/9.3

### 3 BACKGROUND TO VIABILITY NEGOTIATIONS

- 3.1 The original Financial Viability Assessment (FVA) was submitted alongside the Application and dated 22 October 2021<sup>7</sup>. The FVA concluded<sup>8</sup> that the Proposed Development could not viably deliver any affordable housing if the Proposed Development were to be constructed to meet the Council's policies on True Zero Carbon (TZC) and all the sustainability measures as set out in Bicester Policy 1 and policies ESD1-5.
- 3.2 CDC appointed Highgate Land and Development (HLD) to act as their viability consultant and the Appellant and CDC (the Parties) entered into extensive negotiations throughout late 2021 and 2022. HLD provided their FVA report on 21<sup>st</sup> November 2022<sup>9</sup>. HLD provide a very thorough chronology of the viability engagement with the Appellant's experts up to November 2022 at Section 4<sup>10</sup> of their report. This is an accurate chronology, and it is therefore not necessary to reiterate this in my evidence.
- 3.3 The Parties entered further negotiations relative to viability through December 2022 and into early 2023. The Officer's report to committee on 9<sup>th</sup> March 2023<sup>11</sup> provides an overview of CDC's position on the impact of the TZC policy and all the policies on sustainability on the delivery of affordable housing<sup>12</sup>. Officers recognise, following advice from HLD, that it is not viable to deliver on all the Council's TZC and the sustainability policies as well as meeting their 30% affordable housing target and delivering the necessary package of s.106 contributions. Officers, in their report to committee therefore recommended to Members a balanced solution<sup>13</sup> which would seek to deliver 10-15% affordable housing, a package of s.106 contributions designed to maximise the potential delivery of affordable housing<sup>14</sup> and agreement that conditioned the scheme to be delivered based on the Valued Engineered (VE) package of measures in respect of TZC.
- 3.4 At a planning committee meeting on 9<sup>th</sup> March 2023 Members resolved that should they have been asked to determine the application they would have refused permission notwithstanding the recommendations put forward by Officers. As set out above putative RfR 1, 4 and 5 are relevant to my evidence.
- 3.5 Following further engagement with CDC and HLD during March and April 2023, the Parties have been able to close all outstanding issues between them in respect of the inputs to the viability appraisals and have agreed a Joint Statement of Common Ground for Viability<sup>15</sup>. This Proof of Evidence must be read alongside the Joint Statement of Common Ground for Viability.
- 3.6 My Statement of Case (SoC) on Financial Viability in Planning<sup>16</sup>, dated 30<sup>th</sup> January 2023, submitted alongside the Appeal, was prepared in advance of Members hearing the Application in March 2023. It was therefore not prepared in response to any reasons for refusal. My proof of evidence therefore follows on from my SoC and responds to the putative reasons for refusal.

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<sup>7</sup> CD/2.46

<sup>8</sup> CD 2.46 Rapleys FVA, 22 October 2021, Section 16, page 26.

<sup>9</sup> CD/8.4.1

<sup>10</sup> CD/8.4.1 HLD FVA, 21 November 2022, Section 4, page 34

<sup>11</sup> CD/3.4

<sup>12</sup> CD/3.41 Planning Committee Report, 9 March 2023, page 110, Para 9.223 – 9.260

<sup>13</sup> CD/3.41 Planning Committee Report, 9 March 2023, page 110, Para 9.258

<sup>14</sup> CD/3.41 Planning Committee Report, 9 March 2023, page 122, para 9.249

<sup>15</sup> CD/10.4

<sup>16</sup> CD/9.1

## 4 EVIDENCE BASE

4.1 In preparing my evidence I have relied upon the following:

1. Proof of Evidence of Jonathan Riggall of Stantec on Carbon Emission Reduction APP/2/A
2. Proof of Evidence of Hannah Leary on Planning prepared by Barton Wilmore, now Stantec APP/3/A
3. RICS Professional Statement: Financial Viability in Planning: Conduct and Reporting, 1<sup>st</sup> Edition May 2019 CD/8.4.2
4. RICS Guidance Note: Assessing Viability in Planning under the National Planning Policy Framework 2019 for England, 1<sup>st</sup> Edition, March 2021 CD/8.4.3
5. Mayor for London SPG on Affordable Housing & Viability, "Homes for Londoners" CD/8.4.4
6. Cherwell Local Plan Part 1 2011-2031 CD/4.1
7. North West Bicester SPD 2016 CD/4.5
8. The National Planning Policy Framework (NPPF)
9. Planning Practice Guidance (PPG) on Viability

## 5 PUTATIVE REASON FOR REFUSAL 1

5.1 Putative RfR1 is described by CDC as follows:

5.2 *“The development, when set against the viability of the scheme, would not go far enough in trying to achieve the True Zero Carbon requirements for NW Bicester, as set out by Policy Bicester 1 of the Cherwell Local Plan Part 1 2011-2031. This would undermine the Council’s strategy for achieving an Exemplary Eco Town development at NW Bicester which sets this site apart from others and where the Council has declared a Climate Emergency. The development would therefore conflict with Policy Bicester 1 and Policies ESD1-5 of the Cherwell Local Plan Part 1 2011-2031 and the North West Bicester SPD 2016.*

*Note to Appellant: This reason for refusal is capable of being addressed”*

5.3 In their report to planning committee on 9<sup>th</sup> March 2023<sup>17</sup>, Officers had recommended to Members a ‘Value Engineered’ (VE) scheme that included the removal of the costs for rainwater and grey water harvesting plus other cost reductions such as removing the requirement to provide fruit trees and passive ventilation<sup>18</sup>. RfR1 indicates that Members were clearly not of the view that the VE option went far enough in trying to achieve the Council’s policies in respect of TZC of Policy Bicester 1 and sustainability measures of the North West Bicester SPD 2016 .

5.4 The Proof of Evidence of Jonathan Riggall of Stantec<sup>19</sup> provides justification for how the Proposed Development will comply with Policy Bicester 1 and Policies ESD1-5 of the Cherwell Local Plan Part 1 2011-2031 and the North West Bicester SPD 2016. A summary of the parameters that the Proposed Development will seek to deliver is set out within Mr Riggall’s report at paragraphs 6.4.1 – 6.4.4.

5.5 Having reflected on the reason for refusal the Appellant will commit to delivering the scheme to True Zero Carbon in accordance with Policy Bicester 1 and Policies ESD1-5 of the Cherwell Local Plan Part 1 2011-2031 and the sustainability measures as set out in the North West Bicester SPD 2016. The Appellant will commit to planning conditions that ensure compliance with these polices with details provided with each reserved matters application.

5.6 Therefore, RfR1 should not form the basis of the refusal of the Application.

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<sup>17</sup> CD/3.41

<sup>18</sup> Planning Committee Report, 9 March 2023, page 113 para 9.236

<sup>19</sup> APP/2/A

## 6 PUTATIVE REASON FOR REFUSAL 4

6.1 Putative RfR4 is described by CDC as follows:

6.2 *"The proposed development, when set against the financial viability of the scheme, would fail to provide an adequate level of affordable housing provision. The proposal is therefore contrary to Policy BSC3 and Policy Bicester 1 of the Cherwell Local Plan Part 1 2011-2031, the North West Bicester SPD 2016, CDC's Developer Contributions SPD 2018 and Government guidance contained within the National Planning Policy Framework.*

*Note to Appellant: This reason for refusal is capable of being addressed."*

6.3 There are two parts to this reason for refusal:

1. Is an affordable housing proposal that falls below the Council's target of 30% affordable housing contrary to Policy BSC3 and Policy Bicester 1 of the Cherwell Local Plan Part 1 2011-2031, the North West Bicester SPD 2016, CDC's Developer Contributions SPD 2018 and Government guidance contained within the National Planning Policy Framework?; and
2. Does the proposal fail to provide adequate level of affordable housing provision?

6.4 In response to the first point above the answer is no. Local plan policy in respect of affordable housing and financial viability in planning is set out at Local Plan Policy BSC3<sup>20</sup> 'Affordable Housing'. It states that:

*'At Banbury and Bicester, all proposed developments that include 11 or more dwellings (gross), or which would be provided on sites suitable for 11 or more dwellings (gross), will be expected to provide at least 30% of new housing as affordable homes on site.'*

6.5 Policy BSC3 also states:

*'All qualifying developments will be expected to provide 70% of the affordable housing as affordable/social rented dwellings and 30% as other forms of intermediate affordable homes. Social rented housing will be particularly supported in the form of extra care or other supported housing. It is expected that these requirements will be met without the use of social housing grant or other grant.'*

6.6 Policy BSC3 also states:

*'Should the promoters of development consider that individual proposals would be unviable with the above requirements, 'open-book' financial analysis of proposed developments will be expected so that an in house economic viability assessment can be undertaken. Where it is agreed that an external economic viability assessment is required, the costs shall be met by the promoter.'*

6.7 Finally, Policy BSC3 states:

*'Where development is demonstrated to be unviable with the above requirements, further negotiations will take place. These negotiations will include consideration of: the mix and type of housing, the split between social rented and intermediate housing, the availability of social housing grant/funding and the percentage of affordable housing to be provided.'*

6.8 Therefore, the policy explicitly builds in viability testing as part of the process to determine if developments are being bought forward in compliance with Policy BSC3. Therefore, if a development is demonstrated to be unviable through viability testing in negotiation with CDC, it can still be bought forward in compliance with Policy BSC3. Members were therefore wrong to request that RfR4 be proposed on the basis that the development is bought forward contrary to Policy BSC3.

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<sup>20</sup> CD/4.1

- 6.9 In terms of National Planning Policy, the PPG Viability Guidance prepared alongside the NPPF at Paragraph: 010 Reference ID: 10-010-20180724 states:
- “Viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return.”*
- 6.10 The NPPF and PPG Viability Guidance advocates the use of viability assessments at the plan-making, rather than the decision-taking, stage. Specifically, paragraph 58 of the NPPF details:
- “Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force.”*
- 6.11 The NPPF seeks to move the focus of viability studies to the plan making stage. Policy requirements, particularly for affordable housing, should be set at a level that takes account of affordable housing and infrastructure needs across a local authority area and allows for the planned types of sites and development to be deliverable, without the need for further viability assessment at the decision-making stage.
- 6.12 The NPPF therefore puts the responsibility on the applicant to demonstrate whether particular circumstances justify the need for a viability assessment. In terms of the weight given to an assessment this is now a matter for the decision maker having regard to all of the circumstances in the case. The decision maker needs to pay regard to whether the plan and the viability evidence underpinning it are up to date.
- 6.13 The viability evidence base that underpins the Cherwell Local Plan Part 1 2011-2031 (Local Plan) is now out of date. The most recent viability evidence base was commissioned by CDC in July 2017<sup>21</sup>. That study is now some 6 years old and did not include a specific assessment of the appeal site. Therefore, considerable weight needs to be given to the viability assessments prepared as part of the application process and for this appeal.
- 6.14 CDC are reviewing their Local Plan and the Regulation 18 Consultation for the Draft CDC Local Plan 2040 is at early stages. There will be a new viability evidence base prepared as part of the new Local Plan but at this stage it is the Appellant’s view that any draft evidence base carries little weight as it is yet to be consulted upon or tested as part of the Local Plan examination process.
- 6.15 Paragraph 58 of the NPPF goes on to say:
- “All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.”*
- 6.16 The approach to viability testing in this case has followed the recommended approach detailed in the Viability Guidance Note including the adoption of the standardised inputs<sup>22</sup>. This has been agreed with HLD and confirmed in the Viability Statement of Common Ground<sup>23</sup>. Both the FVA and HLD’s review are publicly available on the CDC Planning Portal. Therefore, Policy BSC3 and National Planning Policy are aligned and confirm that viability testing is an integral part of the determining viable levels of affordable housing. If a development is demonstrated to be unviable through viability testing in negotiation with CDC, it can still be bought forward in compliance with Policy BSC3.

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<sup>21</sup> CD/8.4.5 - Cherwell District Council: Local Plan Partial Review – Viability Assessment, July 2017

<sup>22</sup> PPG on Viability, Standardised Inputs to Viability Assessment, para Paragraph: 011 Reference ID: 10-011-20180724 & Paragraph: 012 Reference ID: 10-012-20180724

<sup>23</sup> CD/10.4 – Viability Statement of Common Ground

## DOES THE PROPOSAL FAIL TO PROVIDE ADEQUATE LEVEL OF AFFORDABLE HOUSING PROVISION

- 6.17 Putative RfR4 states that the:
- 'proposed development, when set against the financial viability of the scheme, would fail to provide an adequate level of affordable housing provision.'*
- 6.18 It has always been the Appellant's viability case that the cumulative impact of meeting CDC's policy objectives in respect of True Zero Carbon, 40% open space provision, S.106 financial contributions and necessary infrastructure delivery means that the Proposed Development cannot viably deliver on the CDC's 30% affordable housing target, when assessed against the site's benchmark land value<sup>24</sup>.
- 6.19 The Officer's Report to Members<sup>25</sup> for the 9<sup>th</sup> March 2023 Committee sets out a thorough account of the viability constraints, negotiations to date and recommended approach to reaching, what the Officer's referred to as, 'the balanced solution'<sup>26</sup>, in respect of the viability gap resulting from the competing policy demands from para 9.214 – 9.251<sup>27</sup>.
- 6.20 In the Officer's Report they propose a balanced solution to the viability constraints at 9.258:
- i. 10-15% Affordable Housing (final % to be confirmed once further work has been undertaken as the minimum to be secured)*
  - ii. A S106 package as set out in Appendix 1 which sets out the recommended Heads of Terms taking into account the assessment above (final HoT to be confirmed once some queries have been dealt with as set out above)*
  - iii. The development built to Future Homes Standard with the applicant's offered contribution of £543,600 set aside and identified for use on site to enable additional benefit to the site over and above the development achieving Future Homes Standard.*
- 6.21 At para 9.259 of the Officers' report, they acknowledge:
- 'Whilst this solution to the viability gap does not meet Planning Policy requirements in a number of ways – i.e. it does not achieve Policy compliant levels of affordable housing, it does not provide for all sought S106 obligations and it does not achieve the build standards required at NW Bicester, Officers consider that the approach recommended ensures that the scheme responds to each of the Policy requirements for the site as far as it possibly can based upon the information before it taking into account that with all requirements, the scheme would not be viable.'*
- 6.22 It is clear from putative RfR1 and RfR4 that members did not agree the balanced approach proposed by Officers.
- 6.23 As already set out above, in response to putative RfR1 the Appellant is committing, through planning conditions, to deliver the Proposed Scheme in accordance with the Council's policy on True Zero Carbon and sustainability measures. It is therefore necessary to consider the '*financial viability of the scheme*' against these policies. The Parties have spent considerable time over the past number of months in reaching agreement over the inputs to the viability appraisals on the basis of the Proposed Development being delivered in accordance with all TZC and sustainability measures and this is now set out in the Statement of Common Ground on Viability<sup>28</sup> (SoCG on Viability).
- 6.24 The SoCG on Viability confirms all the inputs to the development appraisals. These include:

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<sup>24</sup> CD/2.46 – October 2021 FVA, Conclusion, pages 23 & 24

<sup>25</sup> CD/3.4

<sup>26</sup> CD/3.4 – Officer's Report to Members, page 124, para 9.258

<sup>27</sup> CD/3.4

<sup>28</sup> CD/10.4

- i. The assumed area schedule and affordable housing mix for a 30% affordable housing scheme. This is based on a policy compliant mix of 70% Affordable Rent and 30% Shared Ownership.
- ii. The assumed area schedule and affordable housing mix for a 10% affordable housing scheme. This is based on a policy compliant mix of 70% Affordable Rent and 30% Shared Ownership.
- iii. The current estimated sale value for each of the residential dwelling types. Based on a 100% private tenure scheme this would generate a Gross Development Value (GDV) of £197,200,000. The residential values were subject to detailed review between the Parties. The final round of negotiations reflected that the Parties were less than 3% apart on the overall values and therefore the Appellant agreed to adopt HLD's assessment. This is attached to the SoCG on Viability at Annex 3.
- iv. The Parties have agreed set percentages of the private market values for the affordable tenure units. These are 35% for social rent tenure, 55% for affordable rent tenure and 65% for shared ownership tenure.
- v. The build costs have also been subject to extensive review and negotiation between the Parties respective cost consultants, MGAC on behalf of CDC and G&T on behalf of the Appellant. The MGAC Q2 2023 assessment of total costs was £122,042,000. G&T's assessment as of the same date was £123,640,000. The Parties were therefore only £1,598,000 apart, equivalent to 1.3%. In order to reach a settled position, the Appellant has therefore agreed to adopt CDC's build cost assessment. The cost plan is attached at Annex 4 of the SoCG on Viability.
- vi. The agreed cost plan included contingency allowances of 10% on the entire build costs. I have agreed with HLD to vary this, and it has been agreed, and confirmed in the SoCG on Viability, that a contingency allowance of 10% is to be applied to the cost of the Infrastructure Works and 5% is to be applied to the cost of the 'Construction – Houses & Apartments'<sup>29</sup>. This is reflected in the development appraisals. The rationale for this amendment to the agreed costs is that traditional viability testing adopts a 3-5% allowance for house building costs, rather than 10%. The impact is that there is a reduction in the overall costs to reflect the lower contingency allowance adopted to the house building element of the scheme<sup>30</sup>.
- vii. During the preparation of the original FVA in 2021 there remained some uncertainty whether the Appellant would receive any of the £6.7m Housing Infrastructure Funding (HIF) that was awarded by Homes England to assist CDC in funding the construction of the new rail-over-road bridge that is required to facilitate the re-alignment of the A4095 in the vicinity of Howes Lane and Lords Lane in Bicester. It was therefore agreed that we would hold a notional £1 in the appraisal titled HIF Funding. It was subsequently confirmed that the HIF has already been received by Oxfordshire County Council (OCC) for the delivery of infrastructure in the wider North-West Bicester Eco-town allocation and therefore no HIF would be allocated to the Appellant.
- viii. Professional fees have been agreed at 8% to be applied to both the construction and contingencies in the normal manner.
- ix. The phasing and timing of construction and sales has been agreed, including the initial upfront construction works (the enabling works) that need to take place in the first 6 months.
- x. Site acquisitions costs have been adopted at standard levels.
- xi. Marketing and disposal fees have been adopted at standard levels.

<sup>29</sup> CD/10.4 – Annex 4 of SoCG on Viability: MGAC Cost Plan, page 4 Construction Cost Summary

<sup>30</sup> The total construction cost for the houses & apartments is £91.033m, see MGAC Cost Plan, Construction Cost Summary, page 3. 10% contingency allowance would be £9.103m. The contingency allowance agreed in the SoCG on Viability for this element is 5%, equivalent to £4.551m. Therefore, the total build cost adopted in the Viability Development Appraisals (**Appendix 1a, 1b & 1c** of this Proof) is £122.042m - £4.551m = £117.49m.

- xii. Finance has been agreed at 6.75%.
- xiii. Developer's profit has been agreed at 20% on Gross Development Value (GDV) for the Private units and 6% on the GDV of any affordable tenure units. This falls within the guidance provided by the PPG on Viability<sup>31</sup>.
- xiv. The Parties have also agreed the Benchmark Land Value (BLV) at £150,000 equivalent to £8.85m. Whilst I believe this is at the lower end of the BLV range for the existing site, it is still within the original range as set out in my October 2021 FVA<sup>32</sup>.

6.25 The only area that remains outstanding within the SoCG on Viability is the quantum of S.106 financial contributions that the scheme will need to provide. At the time of preparing this Proof of Evidence both CDC, Oxfordshire County Council (OCC) and the Appellant are in on-going discussion to confirm the level of contributions. At this stage I have therefore agreed with HLD that we will adopt the full list of contributions as provided to the Appellant by CDC and OCC<sup>33</sup>. This currently stands at £22,862,468. There is an expectation that the level of financial contributions will reduce as the Parties work through the CIL 122 tests for each obligation. Further down in my Proof I look at the impact on the viability of the Proposed Development of reducing the S.106 financial contributions.

6.26 Adopting the agreed inputs as set out in the SOCG on Viability as well as the current £22.86m of S.106 financial contributions, I have undertaken three development appraisals for the Proposed Scheme<sup>34</sup> based on differing levels of affordable housing provision:

- i. **30% Affordable Housing** (CDC Target level) based on a policy compliant mix of 70% affordable rent and 70% shared ownership.
- ii. **10% Affordable Housing** based on a policy compliant mix of 70% affordable rent and 70% shared ownership.
- iii. **0% Affordable Housing**.

6.27 I have used Argus Visual Developer Version 8.1 (Argus) to appraise the development proposals. Argus is a commercially available development appraisal package in widespread use throughout the industry. It has been accepted by the majority of local authorities for the purpose of viability assessments and has also been accepted at planning appeals. Banks also consider Argus to be a reliable tool for secured lending purposes.

6.28 In the table below I set out the resulting Residual Land Value (RLV) generated for the above three scenarios and compare this to the agreed Benchmark Land Value to determine if there is a viability surplus or deficit.

Affordable Housing Scenario	Residual Land Value	Benchmark Land Value	Viability Surplus / Deficit
30% (70% AR / 30% SO)	-£11.115m (negative)	£8.85m	Deficit of £19.965m
10% (70% AR / 30% SO)	-£3.231m (negative)	£8.85m	Deficit of £12.081m
0%	£0.389m (positive)	£8.85m	Deficit of £8.461m

6.29 Therefore, based on the agreed inputs, as set out in the SoCG on Viability, the Proposed Scheme cannot viably deliver on CDC's affordable housing target of 30% whilst also delivering on CDC's True Zero Carbon and sustainability policies.

<sup>31</sup> PPG Viability, Paragraph: 018 Reference ID: 10-018-20190509

<sup>32</sup> CD/2.46 - Page 22, para 15.12

<sup>33</sup> Appendix 2 & 3 of this Proof

<sup>34</sup> Appendix 1a, 1b & 1c of this Proof

- 6.30 The viability modelling shows that it is actually not viable to deliver any affordable housing whilst also delivering on CDC's True Zero Carbon and sustainability policies. This is consistent with the original financial viability modelling that was set out in my October 2021 FVA<sup>35</sup>. The viability deficit has grown since October 2021 to current date mainly because of build cost inflation, which has outstripped house price growth across the same period.
- 6.31 Therefore, in response to putative RfR4, in respect of the '*proposed development, when set against the financial viability of the scheme, would fail to provide an adequate level of affordable housing provision*'. My evidence demonstrates that:
- i. Local Plan Policy BSC3 and National Planning Policy are aligned and confirm that viability testing is an integral part of the determining viable levels of affordable housing. If a development is demonstrated to be unviable through viability testing in negotiation with CDC, it can still be bought forward in compliance with Policy BSC3.
  - ii. The approach to viability testing in this case has followed the recommended approach detailed in the PPG on Viability including the adoption of the standardised inputs. This has been agreed with HLD and confirmed in the Viability Statement of Common Ground.
  - iii. The inputs to the viability development appraisals have been agreed with CDC and set out in the SoCG for Viability.
  - iv. By adopting the agreed inputs it is demonstrated that the Proposed Scheme cannot viably deliver any affordable housing whilst delivering on CDC's TZC and sustainability policies.

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<sup>35</sup> CD/2.46 - page 20, main table.

## 7 APPELLANT'S AFFORDABLE HOUSING OFFER

- 7.1 Notwithstanding that the viability testing confirms that it is not currently viable to deliver any affordable housing within the Proposed Scheme, whilst also delivering on CDC's True Zero Carbon and sustainability policies, the Appellant is committed to trying to deliver a minimum level of affordable housing to contribute to the objective of creating mixed and balanced communities<sup>36</sup>.
- 7.2 The Appellant had been engaged with CDC Officer's in advance of the 9<sup>th</sup> March 2023 Planning Committee to work with CDC to deliver between 10%-15% affordable housing, although that was based on the VE Scheme that was rejected by Members and not the current Proposed Development, which will be delivered in accordance with all of the TZC and sustainability policies. Notwithstanding this, the Appellant is committed to delivering a minimum of 10% affordable housing across the Proposed Development.
- 7.3 As set out above the results of the current viability testing is based on S.106 financial contributions that total c.£22.86m. The Parties recognise that this is likely to fall but at this stage I do not have confirmation as to the final agreed level of financial contributions. I have therefore carried out sensitivity analysis against the 10% affordable housing model to consider the impact of a fall in the financial contributions.
- 7.4 The table below shows the impact of reducing the S.106 financial obligations in increments of £2m. The current Residual Land Value (RLV), as set out in the table at 6.28 above, is the first column. The following columns show the impact on the RLV by reducing the S.106 financial contributions.

10% AH Model	S106 £22.86m	S106 £20m	S106 £18m	S106 £16m	S106 £14m
RLV	-£3.231m	-£0.979m	£0.656m	£2.206m	£3.749m

- 7.5 The sensitivity analysis shows that even if the package of S.106 financial contributions was reduced by £6.0m - £8.0m the RLV, whilst now positive, would still fall below the BLV of £8.85m.
- 7.6 The Appellant has therefore asked me to consider how the viability position would improve if they were to accept a reduced developer's margin (profit). The currently agreed developer's margin, as set out in the SoCG on Viability, for private tenure sales units is 20% on GDV. The Proposed Development is not a traditional greenfield housing development, it is a development that is undertaken in the full knowledge that it needs to deliver on CDC's policies on True Zero Carbon and sustainability measures, which set an exceptionally high bar in terms of the necessary method of construction and associated costs. It is therefore correct that the developer margin is set at the upper end of the recognised range of 15%-20%<sup>37</sup> as set out in the PPG on Viability.
- 7.7 In order to establish that they can commit to a minimum 10% affordable housing offer I have therefore modelled the scheme on the basis that the developer margin was reduce to 17.5% and also 15% on a blended basis (i.e. there is a reduction in the margin on the private sales below 20% whilst keeping the 6% return on affordable housing consistent in all models). The reduction in developer's margin has been applied to the sensitivity analysis for the reduced S.106 financial contributions as set out in the table at para 7.4 above.

<sup>36</sup> NPPF para 63(b)

<sup>37</sup> PPG Viability, Paragraph: 018 Reference ID: 10-018-20190509

7.8 By reducing the developer's margin to a blended rate of 17.5% the impact on the viability of the Proposed Scheme is as follows:

**17.5% Developer Margin**

10% AH Model	S106 £22.86m	S106 £20m	S106 £18m	S106 £16m	S106 £14m
RLV	-£0.658m	£1.363m	£2.895m	£4.421m	£5.941m

7.9 By reducing the developer's margin to a blended rate of 15.0% the impact on the viability of the Proposed Scheme is as follows:

10% AH Model	S106 £22.86m	S106 £20m	S106 £18m	S106 £16m	S106 £14m
	£2.705m	£4.644m	£6.145m	£7.641m	£9.132m

7.10 The additional sensitivity analysis shows that if the Appellant were prepared to reduce their margin to a blended rate of 15% on GDV, the package of S.106 contributions would need to fall to £14m in order for the RLV to be above the BLV. Even in that scenario it would only generate a surplus of c.£280,000 (the difference between £9.132 and the BLV of £8.85m). If we converted this very small surplus into additional affordable housing we would still be at 10% (it would be a decimal point or two more than 10% but under 11%).

7.11 The Appellant is cognisant of the impact of the viability testing and the implication that they will need to accept a reduced developer margin in order to commit to a minimum 10% affordable housing provision. They are prepared to make this commitment and it is set out in the draft S.106 Agreement.

## 8 VIABILITY REVIEW MECHANISM

- 8.1 In addition to committing to a minimum 10% affordable housing provision, the Appellant is also committing to a viability review mechanism within the S.106 Agreement.
- 8.2 The PPG on Viability gives some guidance on how viability should be reviewed during the lifetime of a project<sup>38</sup>:

*Where contributions are reduced below the requirements set out in policies to provide flexibility in the early stages of a development, there should be a clear agreement of how policy compliance can be achieved over time. As the potential risk to developers is already accounted for in the assumptions for developer return in viability assessment, realisation of risk does not in itself necessitate further viability assessment or trigger a review mechanism. Review mechanisms are not a tool to protect a return to the developer, but to strengthen local authorities' ability to seek compliance with relevant policies over the lifetime of the project.*

- 8.3 The viability review mechanism being proposed by the Appellant accords with these principles and is an upwards only review.
- 8.4 There is limited planning and viability guidance provided on the appropriate construction of viability review mechanisms and many review structures are based on general convention within the industry and the drafting of other review mechanisms that have gone before. One of the only formal guidance documents for the construction and implementation of viability reviews is set out in the Mayor for London SPG 'Homes for Londoners'<sup>39</sup>. This sets out guidance for how early and late-stage reviews should be drafted and approached. It is an approach I have successfully adopted at Appeals outside of London.
- 8.5 In terms of the proposed structure for the viability review mechanism in the draft S.106, this is expanded upon below. Please note that the explanation provided below does not follow the exact terminology of the Defined Terms in the draft S.106 as the document is still in draft form and may be subject to change.

### EARLY STAGE REVIEW

- 8.6 There is an Early-Stage Review that is triggered two years after grant of consent. The review is dependent on the Developer having reached an agreed level of progress on the site during the intervening period. The intention is to incentivise delivery of consents and disincentivise land banking. If the agreed progress is met then the Early-Stage Review is not triggered, if sufficient progress has not been achieved the review is triggered.
- 8.7 If the Early-Stage Review is triggered, then the purpose of the review is to establish if 'surplus profit' has been generated. This is determined by establishing whether any change in development values and/ or build costs since the grant of planning permission results in a surplus scheme profit. To calculate the 'surplus profit' the review will deduct any difference in build costs between the date of planning permission and the date of the review from any difference in scheme value between the date of planning permission and the date of the review. After an allowance for developer profit on the additional scheme value has been deducted, the remaining surplus scheme profit will be available for additional on-site affordable housing.
- 8.8 Therefore if the Early-Stage Review is triggered and there is 'Surplus Profit', this will be converted into additional on-site affordable housing, above the 10% minimum affordable housing provision.

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<sup>38</sup> PPG Viability, Paragraph: 009 Reference ID: 10-009-20190509

<sup>39</sup> CD/8.4.5 – Annex A, Suggested Review Formulas, page 57

## **MID-STAGE REVIEW**

- 8.9 If the Early-Stage Review is not triggered, the Appellant is committing to a Mid-Stage Review. The form of the review is identical to the Early-Stage Review but takes place on the completion of 55% of the proposed dwellings (291<sup>st</sup> dwelling). It will again establish if any 'surplus profit' has been generated, and if so, will convert this into additional on-site affordable housing above the base 10% provision.
- 8.10 If the Early-Stage Review has taken place, then the Mid-Stage Review will not be implemented.

## **LATE STAGE REVIEW**

- 8.11 Late-Stage Reviews take place at an advanced stage of development. This enables the assessment to be based on values achieved and build costs incurred by the development, whilst enabling the review provisions to be enforced. If any surplus profit is generated at the Late-Stage Review this will be shared between the Appellant and CDC and delivered as a cash in lieu contribution to be used by CDC for additional affordable housing within the District.
- 8.12 If the Early-Stage Review has been triggered, then the Late-Stage Review will take place on the completion of 85% of the dwellings. If the Early-Stage Review is not triggered and the Mid-Stage Review has been implemented, then the Late Stage Review will take place on completion of 95% of the dwellings.
- 8.13 The proposed Viability Review Mechanisms will therefore guarantee either an Early or Mid-Stage Review which is committed to the delivery of additional on-site affordable housing, over the minimum 10% affordable housing provision. The Late-Stage Review will then further capture any surplus profit that is generated from the scheme and share this with CDC for the delivery of additional affordable housing within the District.
- 8.14 On the basis that the S.106 will be agreed between the Parties, including the Viability Review Mechanisms as outline above, **RfR5** can be overcome.

## 9 CONCLUSION

9.1 My evidence has therefore demonstrated that:

### **PUTATIVE RFR1**

9.2 In respect of RfR1 the Appellant will commit to delivering the Proposed Development to True Zero Carbon in accordance with Policy Bicester 1 and Policies ESD1-5 of the Cherwell Local Plan Part 1 2011-2031 and the sustainability measures of the North West Bicester SPD 2016. The Appellant will commit to planning conditions that ensure compliance with these policies with details provided with each reserved matters application. The Proof of Evidence of Jonathan Riggall of Stantec (APP/2/A) provides full justification for how the Proposed Development will comply with Policy Bicester 1 and Policies ESD1-5 of the Cherwell Local Plan Part 1 2011-2031 and the North West Bicester SPD 2016.

9.3 **Therefore RfR1 should not form the basis for a refusal of the Proposed Development.**

### **PUTATIVE RFR4**

9.4 Local Plan Policy BSC3 and National Planning Policy are aligned and confirm that viability testing is an integral part of determining viable levels of affordable housing. If a development is demonstrated to be unviable through viability testing in negotiation with CDC, it can still be bought forward in compliance with Policy BSC3.

9.5 The approach to viability testing in this case has followed the recommended approach detailed in the Viability Guidance Note including the adoption of the standardised inputs. This has been agreed with HLD and confirmed in the Viability Statement of Common Ground.

9.6 The inputs to the viability development appraisals have been agreed with CDC and set out in the SoCG for Viability.

9.7 By adopting the agreed inputs, it is demonstrated that the Proposed Scheme cannot viably deliver any affordable housing whilst delivering on CDC's TZC and sustainability policies.

9.8 **The approach to viability testing for the Proposed Development is in accordance with Policy BSC3 and therefore RfR4 should not form the basis for a refusal of the Proposed Development.**

9.9 Notwithstanding this the Appellant will commit to deliver a minimum 10% affordable housing provision, in a policy compliant mix, across the Proposed Development.

### **PUTATIVE RFR5**

9.10 **On the basis that the S.106 will be agreed between the Parties, including the Viability Review Mechanisms as outline above, RfR5 can be overcome and should not form the basis for a refusal.**

## 10 STATEMENT OF TRUTH AND DECLARATION

### STATEMENT OF TRUTH

10.1 I confirm that I have made clear which facts and matters referred to in this proof of evidence are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

### DECLARATION

10.2 I confirm that my proof of evidence has drawn attention to all material facts which are relevant and have affected my professional opinion.

10.3 I confirm that I understand and have complied with my duty as an expert witness which overrides any duty to those instructing or paying me, that I have given my evidence impartially and objectively, and that I will continue to comply with that duty as required.

10.4 I confirm that I am not instructed under any conditional or other success-based fee arrangement.

10.5 I confirm that I have no conflicts of interest.

10.6 I confirm that my Proof of Evidence complies with the requirements of the RICS – Royal Institution of Chartered Surveyors, as set down in the RICS practice statement *Surveyors Acting as Expert Witnesses (4th Edition)*, issued 2 July 2014.

## 11 SIGNATURE

*Nicholas Fell*

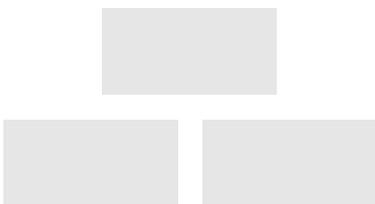
Nicholas Fell (May 9, 2023 11:29 GMT+1)

Nick Fell

LLB (Hons) PGDip MRICS

# Development Appraisals

Reference - APP/1/B



Bicester Eco Village - SoCG Assumptions

30% AH

530 units - TZC Build costs

**Bicester Eco Village - SoCG Assumptions**

**30% AH**

**530 units - TZC Build costs**

**Appraisal Summary for Phase 1**

**Currency in £**

**REVENUE**

<b>Sales Valuation</b>	<b>Units</b>	<b>ft<sup>2</sup></b>	<b>Sales Rate ft<sup>2</sup></b>	<b>Unit Price</b>	<b>Gross Sales</b>
Private Residential Houses	332	290,833	440.05	385,482	127,980,000
Private Residential Flats	39	29,367	388.87	292,821	11,420,000
Shared Ownership Houses	48	43,010	274.60	246,052	11,810,500
Affordable Rent Houses	69	72,051	226.91	236,938	16,348,750
Affordable Rent Flats	<u>42</u>	<u>24,961</u>	218.25	129,708	<u>5,447,750</u>
<b>Totals</b>	<b>530</b>	<b>460,222</b>			<b>173,007,000</b>

**Additional Revenue**

HIF Funding			1		1
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**NET REALISATION**

**173,007,001**

**OUTLAY**

**ACQUISITION COSTS**

Residualised Price (Negative land)		(11,115,270)		(11,115,270)	
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**CONSTRUCTION COSTS**

**Construction**

	<b>ft<sup>2</sup></b>	<b>Build Rate ft<sup>2</sup></b>	<b>Cost</b>	
Private Residential Houses	290,833	191.86	55,799,219	
Private Residential Flats	37,075	191.86	7,113,183	
Shared Ownership Houses	43,010	191.86	8,251,899	
Affordable Rent Houses	72,051	191.86	13,823,705	
Affordable Rent Flats	<u>31,512</u>	191.86	<u>6,045,976</u>	
<b>Totals</b>	<b>474,481 ft<sup>2</sup></b>		<b>91,033,982</b>	<b>91,033,982</b>

Infrastructure Contingency	10.00%	1,991,500
Developer Contingency	5.00%	4,551,699
Infrastructure / Abnormals		19,915,000
Health s106		572,586
Neighbourhood Police s106		96,645
Community Building Provision s106		560,047
Community Building Maint s106		87,943
Community Dev Workers s106		226,209
Community Development Fund s106		29,297
Sports Pitch and Maintenance s106		1,288,403
Burial Ground s106		6,426
Community Management Org s106		905,707
Waste s106		70,903
Bicester Leisure Centre s106		339,989
Biodiversity s106		38,976
S106 Monitoring s106		10,000
Zero Carbon Strategy s106		655,153
Primary & Nursery s106		6,551,072
Secondary Education s106		4,076,869
Secondary School Land s106		427,273
Special Education Needs s106		304,022
Household Recycling Waste s106		58,175
Library s106		33,320
Junction of Charlotte Avenue s106		56,331
Improvements to Junction B4100 s106		331,547
Local Road Improvements s106		233,614

**Bicester Eco Village - SoCG Assumptions**

**30% AH**

**530 units - TZC Build costs**

Ped / Cycle Infrastructure s106		431,768	
Public Transport Ser & Infr s106		840,739	
Travel Monitoring Plan s106		3,435	
Right of way s106		60,175	
Pedestrian / Cycle Bridge s106		17,523	
Strategic Highway Contribution s106		3,642,034	
Network Rail Shared Value s106		884,287	
Admin Fee s106		22,000	
			49,320,667

**PROFESSIONAL FEES**

Professional Fees	8.00%	9,399,374	
			9,399,374

**DISPOSAL FEES**

Private marketing, sales and legal	3.00%	4,182,000	
Affordable agency fee	0.50%	168,035	
Affordable legal fee	0.35%	117,624	
			4,467,659

**FINANCE**

Debit Rate 6.750%, Credit Rate 0.000% (Nominal)			
Land		(2,330,882)	
Construction		2,439,667	
Total Finance Cost			108,786

**TOTAL COSTS**

**143,215,199**

**PROFIT**

**29,791,802**

**Performance Measures**

Profit on Cost%	20.80%
Profit on GDV%	17.22%
Profit on NDV%	17.22%
IRR% (without Interest)	N/A
Profit Erosion (finance rate 6.750)	2 yrs 10 mths

Bicester Eco Village - SoCG Assumptions

10% AH

530 units - TZC Build costs

**Bicester Eco Village - SoCG Assumptions  
10% AH  
530 units - TZC Build costs**

**Appraisal Summary for Phase 1**

Currency in £

**REVENUE**

<b>Sales Valuation</b>	<b>Units</b>	<b>ft²</b>	<b>Sales Rate ft²</b>	<b>Unit Price</b>	<b>Gross Sales</b>
Private Residential Houses	410	367,749	435.02	390,195	159,980,000
Private Residential Flats	65	46,151	391.54	278,000	18,070,000
Shared Ownership Houses	16	14,214	275.29	244,563	3,913,000
Affordable Rent Houses	23	23,931	226.95	236,141	5,431,250
Affordable Rent Flats	<u>16</u>	<u>8,177</u>	218.94	111,891	<u>1,790,250</u>
<b>Totals</b>	<b>530</b>	<b>460,222</b>			<b>189,184,500</b>

**Additional Revenue**

HIF Funding			1		1
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**NET REALISATION**

**189,184,501**

**OUTLAY**

**ACQUISITION COSTS**

Residualised Price (Negative land)		(3,231,217)		(3,231,217)	
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**CONSTRUCTION COSTS**

**Construction**

	<b>ft²</b>	<b>Build Rate ft²</b>	<b>Cost</b>	
Private Residential Houses	367,749	191.86	70,556,323	
Private Residential Flats	58,264	191.86	11,178,552	
Shared Ownership Houses	14,214	191.86	2,727,098	
Affordable Rent Houses	23,931	191.86	4,591,402	
Affordable Rent Flats	<u>10,323</u>	191.86	<u>1,980,608</u>	
<b>Totals</b>	<b>474,481 ft²</b>		<b>91,033,982</b>	<b>91,033,982</b>

Infrastructure Contingency	10.00%	1,991,500
Developer Contingency	5.00%	4,551,699
Infrastructure / Abnormals		19,915,000
Health s106		572,586
Neighbourhood Police s106		96,645
Community Building Provision s106		560,047
Community Building Maint s106		87,943
Community Dev Workers s106		226,209
Community Development Fund s106		29,297
Sports Pitch and Maintenance s106		1,288,403
Burial Ground s106		6,426
Community Management Org s106		905,707
Waste s106		70,903
Bicester Leisure Centre s106		339,989
Biodiversity s106		38,976
S106 Monitoring s106		10,000
Zero Carbon Strategy s106		655,153
Primary & Nursery s106		6,551,072
Secondary Education s106		4,076,869
Secondary School Land s106		427,273
Special Education Needs s106		304,022
Household Recycling Waste s106		58,175
Library s106		33,320
Junction of Charlotte Avenue s106		56,331
Improvements to Junction B4100 s106		331,547
Local Road Improvements s106		233,614

**Bicester Eco Village - SoCG Assumptions**

**10% AH**

**530 units - TZC Build costs**

Ped / Cycle Infrastructure s106		431,768	
Public Transport Ser & Infr s106		840,739	
Travel Monitoring Plan s106		3,435	
Right of way s106		60,175	
Pedestrian / Cycle Bridge s106		17,523	
Strategic Highway Contribution s106		3,642,034	
Network Rail Shared Value s106		884,287	
Admin Fee s106		22,000	
			49,320,667

**PROFESSIONAL FEES**

Professional Fees	8.00%	9,399,374	
			9,399,374

**DISPOSAL FEES**

Private marketing, sales and legal	3.00%	5,341,500	
Affordable agency fee	0.50%	55,672	
Affordable legal fee	0.35%	38,971	
			5,436,143

**FINANCE**

Debit Rate 6.750%, Credit Rate 0.000% (Nominal)			
Land		(735,988)	
Construction		1,732,710	
Total Finance Cost			996,721

**TOTAL COSTS**

**152,955,671**

**PROFIT**

**36,228,830**

**Performance Measures**

Profit on Cost%	23.69%
Profit on GDV%	19.15%
Profit on NDV%	19.15%
IRR% (without Interest)	44.80%
Profit Erosion (finance rate 6.750)	3 yrs 2 mths

Bicester Eco Village - SoCG Assumptions

100% Private

530 units - TZC Build costs

**Bicester Eco Village - SoCG Assumptions**

**100% Private**

**530 units - TZC Build costs**

**Appraisal Summary for Phase 1**

**Currency in £**

**REVENUE**

**Sales Valuation**

	<b>Units</b>	<b>ft<sup>2</sup></b>	<b>Sales Rate ft<sup>2</sup></b>	<b>Unit Price</b>	<b>Gross Sales</b>
Private Residential Houses	449	405,894	433.30	391,704	175,875,000
Private Residential Flats	<u>81</u>	<u>54,328</u>	392.52	263,272	<u>21,325,000</u>
<b>Totals</b>	<b>530</b>	<b>460,222</b>			<b>197,200,000</b>

**Additional Revenue**

HIF Funding			1		1
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**NET REALISATION**

**197,200,001**

**OUTLAY**

**ACQUISITION COSTS**

Residualised Price			389,238		389,238
Stamp Duty			8,962		
Effective Stamp Duty Rate		2.30%			
Agent Fee		1.00%	3,892		
Legal Fee		0.80%	3,114		
					15,968

**CONSTRUCTION COSTS**

<b>Construction</b>	<b>ft<sup>2</sup></b>	<b>Build Rate ft<sup>2</sup></b>	<b>Cost</b>
Private Residential Houses	405,894	191.86	77,874,823
Private Residential Flats	<u>68,587</u>	191.86	<u>13,159,159</u>
<b>Totals</b>	<b>474,481 ft<sup>2</sup></b>		<b>91,033,982</b>
Infrastructure Contingency		10.00%	1,991,500
Developer Contingency		5.00%	4,551,699
Infrastructure / Abnormals			19,915,000
Health s106			572,586
Neighbourhood Police s106			96,645
Community Building Provision s106			560,047
Community Building Maint s106			87,943
Community Dev Workers s106			226,209
Community Development Fund s106			29,297
Sports Pitch and Maintenance s106			1,288,403
Burial Ground s106			6,426
Community Management Org s106			905,707
Waste s106			70,903
Bicester Leisure Centre s106			339,989
Biodiversity s106			38,976
S106 Monitoring s106			10,000
Zero Carbon Strategy s106			655,153
Primary & Nursery s106			6,551,072
Secondary Education s106			4,076,869
Secondary School Land s106			427,273
Special Education Needs s106			304,022
Household Recycling Waste s106			58,175
Library s106			33,320
Junction of Charlotte Avenue s106			56,331
Improvements to Junction B4100 s106			331,547
Local Road Improvements s106			233,614
Ped / Cycle Infrastructure s106			431,768
Public Transport Ser & Infr s106			840,739
Travel Monitoring Plan s106			3,435

**Bicester Eco Village - SoCG Assumptions**

**100% Private**

**530 units - TZC Build costs**

Right of way s106		60,175	
Pedestrian / Cycle Bridge s106		17,523	
Strategic Highway Contribution s106		3,642,034	
Network Rail Shared Value s106		884,287	
Admin Fee s106		22,000	
			140,354,649

**PROFESSIONAL FEES**

Professional Fees	8.00%	9,399,374	9,399,374
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**DISPOSAL FEES**

Private marketing, sales and legal	3.00%	5,916,000	5,916,000
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**FINANCE**

Debit Rate 6.750%, Credit Rate 0.000% (Nominal)			
Land		98,339	
Construction		1,586,433	
Total Finance Cost			1,684,771

**TOTAL COSTS**

**157,760,001**

**PROFIT**

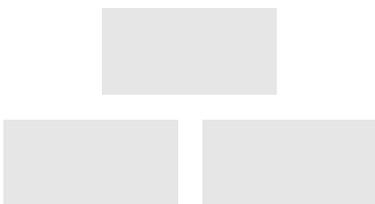
**39,440,000**

**Performance Measures**

Profit on Cost%	25.00%
Profit on GDV%	20.00%
Profit on NDV%	20.00%
IRR% (without Interest)	35.62%
Profit Erosion (finance rate 6.750)	3 yrs 4 mths

# Oxfordshire County Council S.106 Contributions List - 14 April 2023

Reference - APP/1/C



<b>Site</b>	NW Bicester (Firethorn)
<b>Application Number</b>	21/01630/OUT
<b>Date Created</b>	12/12/2022 - updated 05/04/2023

Contributions based on 530 houses, with 30% being affordable and the Cherwell SHMA housing mix applied

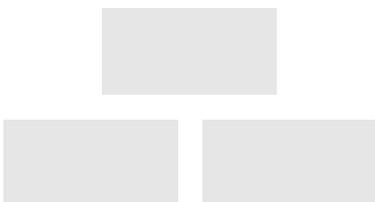
68 x 1 bed dwellings  
135 x 2 bed dwellings  
230 x 3 bed dwellings  
97 x 4 bed dwellings

Instalment Table - Negotiation Stage					Uplifted Indexation for viability study		
Contribution Type	Total Contribution	Base Date	Index	Fixed or Matrix	Revised Index Date	Revised index base	Revised contribution
<b>Education &amp; Property</b>							
Primary & Nursery Education	£5,607,855	TPI 327	BCIS	Matrix	2Q 2023	382 (forecast)	£6,551,072
Secondary Education Contribution	£3,489,885	TPI 327	BCIS	Matrix	2Q 2023	382 (forecast)	£4,076,869
Secondary Land Contribution	£349,965	Nov 20 (294.7)	RPIX	Matrix	Jan-23	359.8	£427,273
SEN Contribution	£260,249	TPI 327	BCIS	Matrix	2Q 2023	382 (forecast)	£304,022
Household Waste Recycling Contribution	£49,799	TPI 327	BCIS	Fixed	2Q 2023	382 (forecast)	£58,175
Library Contribution	£28,523	TPI 327	BCIS	Matrix	2Q 2023	382 (forecast)	£33,320
<b>Transport</b>							
Highway Works 1 - Improvements to junction of Charlotte Ave/B4100	£47,289	Dec-20	BAXTER	Fixed	Jan-23		£56,331
Highway Works 2 - Improvements to junction of B4100/A4095	£278,330	Dec-20	BAXTER	Fixed	Jan-23		£331,547
Local Road Improvements	£199,995	Q4 2021	BAXTER	Fixed	Jan-23		£233,614
Ped/cycle infrastructure	£362,465	Dec-20	BAXTER	Fixed	Jan-23		£431,768
Public Transport Services and Infrastructure	£752,412	Feb 22 (322.0)	RPIX	Fixed	Jan-23	359.8	£840,739
Travel Plan Monitoring	£2,832	Dec 20 (296.6)	RPIX	Fixed	Jan-23	359.8	£3,435
Public Rights of Way	£50,000	Jul-21	BAXTER	Fixed	Jan-23		£60,175
Ped/Cycle Bridge	£15,000	Nov-21	BAXTER	Fixed	Jan-23		£17,523
Strategic Highway Contribution	£3,117,646	Q4 2021	BAXTER	Fixed	Jan-23		£3,642,034
Network Rail Shared Value Contribution	£750,833	Jun 21 (305.5)	RPIX	Fixed	Jan-23	359.8	£884,287
<b>Non Infrastructure</b>							
Admin Fee	22,000	N/A		Fixed			22,000

**£17,974,184**

# Cherwell District Council S.106 Contributions List - 14 April 2023

Reference - APP/1/D



**Section 106 Contribution Calculation**

**Application Reference: . S106 agreement dated**

**Site: Firethorn**

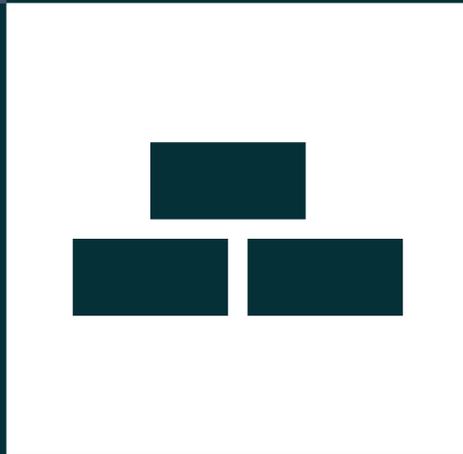
**Developer:**

**date**

<b>Contribution</b>	<b>Indexation</b>	<b>Total Contribution</b>	<b>Indexation</b>	<i>check</i>
Health	BCIS	£475,092.00	£97,494.45	£572,586.45
Neighbourhood Police	BCIS	£80,189.00	£16,455.72	£96,644.72
Community Building Provision	BCIS	£464,687.51	£95,359.33	£560,046.84
Community Building Maintenance	BCIS	£72,969.00	£14,974.09	£87,943.09
Community Development Worker	CPI	£184,153.00	£42,056.32	£226,209.32
Community Development Fund	CPI	£23,850.00	£5,446.79	£29,296.79
Sports Pitches and Maintenance	BCIS	£1,069,025.90	£219,376.65	£1,288,402.55
Burial Ground	BCIS	£5,331.80	£1,094.15	£6,425.95
Play Area Maintenance		£0.00	£0.00	£0.00
Amenity Space Maintenance		£0.00	£0.00	£0.00
Allotment Maintenance		£0.00	£0.00	£0.00
Community Management Organisation	BCIS	£751,492.30	£154,215.03	£905,707.33
Waste	BCIS	£58,830.00	£12,072.61	£70,902.61
Bicester Leisure Centre Contributions	BCIS	£282,099.00	£57,890.02	£339,989.02
Biodiversity	BCIS	£32,339.55	£6,636.45	£38,976.00
S106 Monitoring	no indexation	£10,000.00		£10,000.00
Cultural wellbeing				
developer led monitoring				
Skills and training (TEMP)				
Affordable Housing				
Construction standards				
Zero carbon strategy	BCIS	£543,600.00	£111,553.09	£655,153.09
<b>Subtotal</b>		<b>£4,053,659.06</b>	<b>£834,624.72</b>	
<b>Indexation</b>			<b>£834,624.72</b>	
<b>Total</b>		<b>£4,888,283.78</b>		

**Indexation**

Period	Q2 2017	to	Q2 2023	
BCIS All in one Tender Price	307		370	1.205211726
CPI	102.9		126.4	
	Q4 2014	to	Q2 2023	
	259		370	1.428571429



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