

STATEMENT OF COMMON GROUND

HIGHWAYS AND ACCESS

FIRETHORN DEVELOPMENTS LTD

AND

CHERWELL DISTRICT COUNCIL

IN RESPECT OF THE APPEAL AGAINST THE DECISION OF CHERWELL
DISTRICT COUNCIL FOR THE DEVELOPMENT OF

LAND AT NORTH WEST BICESTER, CHARLOTTE AVENUE,
BICESTER, OX27 8BP

PLANNING INSPECTORATE REFERENCE NUMBER – APP/C3105/W/23/3315849

LOCAL PLANNING AUTHORITY REFERENCE NUMBER – 21/01630/OUT

(Draft 19th April 2023)

(Draft V2, CDC update, 3rd May 2023)

(V3, signed, 3rd May 2023)

CONTENTS

1. INTRODUCTION
2. SITE AND PLANNING HISTORY
3. DEVELOPMENT PROPOSALS
4. PLANNING POLICY AND GUIDANCE
5. MATTERS OF COMMON GROUND WITH CHERWELL DISTRICT COUNCIL
6. MATTERS OF UNCOMMON GROUND WITH CHERWELL DISTRICT COUNCIL

APPENDICES

- A. Summary of Common Ground with Cherwell District Council

1. INTRODUCTION

- 1.1 This Statement of Common Ground ('SoCG') has been prepared by Velocity Transport Planning ('VTP') on behalf of Firethorn Developments Limited ('the Appellant'), and the Local Planning Authority, Cherwell District Council ('CDC').
- 1.2 The SoCG is submitted in relation to the appeal made by the Appellant under Section 78 of the Town and Country Planning Act 1990 ('the Appeal') [appeal ref. APP/C3105/W/23/3315849] in respect of an outline Planning Application (CDC ref. 21/01630/OUT), hereafter referred to as 'the Planning Application' or 'the Proposed Development'.
- 1.3 The Planning Application relates to land at North West Bicester, Charlotte Avenue, Bicester, OX27 8BP ('the Site').
- 1.4 The Planning Application was submitted to Cherwell District Council (CDC) on 5th May 2021 and was validated on 6th May 2021.
- 1.5 Following an earlier deferral by members in the committee meeting on 12th January 2023 which led to the appeal being lodged on the basis of non-determination, the application was presented to CDC Planning Committee on 9th March 2023 with a recommendation for approval (in the event that the Appeal had not already been lodged).
- 1.6 Members commented that had the Appeal not already been lodged on non-determination grounds, they would have refused planning permission, with two of the five putative Reasons for Refusal related to highways and access.
- 1.7 In addition, two separate groups objecting to the Planning Application have been granted Rule 6 Party status, namely the North West Bicester Alliance (NWBA) and the Bicester Bike Users Group (BBUG) who have raised comments relating to highways and access each as part of their respective Statements of Case ('SoC').
- 1.8 As this SoCG relates to the matters set out within the CDC SoC, separate SoCG have been prepared for NWBA and the BBUG.
- 1.9 The purpose of this SoCG is to set out the matters agreed between the parties (common ground) and those that are not (uncommon ground), the aim being to focus on the issues that separate the parties in respect of the Proposed Development and narrow the areas of disagreement.
- 1.10 This SoCG has been prepared in accordance with the Government's 'Planning Appeals: Procedural Guide (as updated in December 2022).

2. THE SITE AND PLANNING HISTORY

2.1 The Site is located to the north west of the centre of Bicester and forms part of the strategic allocation for 6,000 dwellings at North West Bicester, Policy Bicester 1. It is 2.5km to the north west of Bicester Town Centre, south east of the village of Bucknell and north west of Caversfield. The land and boundaries of the Site comprise Banbury Road (B4100) and the ongoing construction works associated with the first phase of the North West Bicester allocation (the Exemplar site); completed housing associated with the same development; and fields, hedgerows, and trees to the north, north west, and west. Further to the south lie fields running up to Lords Lane (A4095) which is approximately 550m to the south and currently forms the northern edge of Bicester.

2.2 The land separating the two parcels of the Site comprising the first phase of the North West Bicester allocation (the Exemplar Site) is part complete and part under construction. The Exemplar Site was granted planning permission by CDC on the 10th of July 2012 for the following:

“Development of Exemplar phase of NW Bicester Eco Town to secure full planning permission for 393 residential units and an energy centre (up to 400 square metres), means of access, car parking, landscape, amenity space and service infrastructure and outline permission for a nursery of up to 350 square metres (use class D2), a community centre of up to 350 square metres (sui generis), 3 retail units of up to 770 square metres (including but not exclusively a convenience store, a post office and a pharmacy (use class A1)), an Eco-Business Centre of up to 1,800 square metres (use class B1), office accommodation of up to 1,100 square metres (use class B1), an Eco-Pub of up to 190 square metres (use class A4), and a primary school site measuring up to 1.34 hectares with access and layout to be determined.”

2.3 An estate road, the Elmsbrook Spine Road, comprising Charlotte Avenue to the south of the Bus Gate and Braeburn Avenue to the north of the Bus Gate, separates the two parcels of land comprising the Site.

2.4 The Site comprises two parcels of land, with a total area of 23.97ha, made up of an Eastern and Western Parcel. The land is predominantly grassland with fields bounded by hedges with some large trees, woodland, and plantation. The land is classified as good to moderate value (primarily Grade 3b) under the Agricultural Land Classification system.

2.5 The west of the Site contains two distinct areas of woodland, and the most northern area of woodland contains a dry pond. There is a historic hedgerow which runs along the north eastern border of the Site and is a drainage feature running through the south of the Site. The Site is relatively flat rising gradually to the north west.

2.6 Furthermore, it is agreed that:

- a) The Site is not located within a Conservation Area;
- b) There are two listed buildings in close proximity to the Site - beyond Banbury Road to the east is the Church of St Laurence Grade II* Listed Building, and Home Farmhouse Grade II Listed Building is located approximately 85m to the south east at the closest point to the Site; and
- c) Part of the southern area of the site is in Flood Zone 2 and 3.

PLANNING HISTORY

- 2.7 The Relevant Planning History is set out in Section 4 of the Officer's Report to Planning Committee, as presented to Members on 9th March 2023. This is agreed between parties.

3. DEVELOPMENT PROPOSALS

3.1 The Planning Application, which forms the subject of this Appeal, was submitted in May 2021 in outline with all matters reserved for future approval, with the exception of access. The CDC reference for the Planning Application is 21/01630/OUT.

3.2 The Planning Application is for the development of up to 530 residential units, and the description of development (as amended) is as follows:

“Outline Planning Application for up to 530 residential dwellings (within Use Class C3), open space provision, access, 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.”

3.3 The Planning Application seeks approval of the following:

a) Amended Development Parameter Schedule and Plans (December 2022) including the following Plans:

- I. Location Plan (drawing ref: 1192-001 Rev J)
- II. Parameter Plan 1 - Maximum Building Heights and Footprint (drawing ref: 1192-003 Rev N);
- III. Parameter Plan 2 - Green Space (drawing ref: 1192-003 Rev N);
- IV. Parameter Plan 3 - Access and Movement (drawing ref: 1192-003 Rev M); and

b) Highways drawings as follows:

- I. Proposed Pedestrian Crossing to Church (drawing ref: 4600-1100-T-004 Rev D);
- II. Site Access A – Access to Eastern Parcel (drawing ref: 4600-1100-T-040 Rev A);
- III. Site Access A & B – Access to Eastern Parcel & Western Parcel (drawing ref: 4600-1100-T-041 Rev A);
- IV. Site Access C – Access to Western Parcel (North) (drawing ref: 4600-1100-T-042 Rev A);
- V. Site Access D – Direct Access to North of the Western Parcel (drawing ref: 4600-1100-T-010 Rev B);
- VI. Site Access E – Proposed Construction Access (drawing ref: 4600-1100-T-011 Rev F); and
- VII. Construction Access Western Parcel (drawing ref: 4600-1100-T-027 Rev B).

3.4 The description of development, and the matters for which approval is sought through the Planning Application, are agreed between parties.

4. PLANNING POLICY AND GUIDANCE

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications must be determined in accordance with the relevant development plan, unless material considerations indicate otherwise. The Planning Application which is the subject of this Appeal will therefore need to be considered against the relevant development plan policy documents and other material considerations.
- 4.2 The Statutory Development Plan for CDC currently comprises:
- a) Cherwell Local Plan 2011-2031, Part 1 (adopted July 2015);
 - b) The Cherwell Local Plan 2011-2031 (Part 1) Partial Review - Oxford's Unmet Housing Need (September 2020); and
 - c) Cherwell Local Plan 1996, Saved Policies (adopted September 2007).
- 4.3 The Officers Report to CDC Planning Committee (paragraph 8.2) listed the relevant development plan policies and is a matter of common ground.
- 4.4 Other relevant policy and guidance documents include the:
- a) National Planning Policy Framework ('NPPF') (July 2021);
 - b) National Planning Practice Guidance ('NPPG') (June 2021);
 - c) Department for Transport (DfT) Local Transport Note (LTN) 1/20 'Cycle Infrastructure Design' (July 2020);
 - d) Oxfordshire County Council (OCC) 'Local Transport and Connectivity Plan' (July 2022);
 - e) OCC 'Parking Standards for New Developments' (October 2022); and
 - f) North West Bicester Supplementary Planning Document ('NWBSD') (June 2016).

5. MATTERS OF COMMON GROUND WITH CHERWELL DISTRICT COUNCIL

5.1 The matters of common ground relevant to highways and access with CDC that have been identified from reviewing the SoC are considered to be as follows:

(a) That the appellants have not agreed the Highways and Transport obligations yet.

5.2 In addition to the CDC SoC, the Transport section of the Committee Report dated 9th March 2023 has been reviewed (paragraphs 9.62 – 9.109). The matters of common ground relevant to highways and access with CDC that have been identified from reviewing the Committee Report are considered to be as follows:

(a) Paragraph 111 of the NPPF stipulates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be “severe” (paragraph 9.69);

(b) It is not possible to impose a Grampian Condition with respect to the site, which prohibit development, or a certain trigger point of development from happening, until a specified action has been completed, i.e. the A4095 diversion/strategic link road (paragraph 9.81);

(c) OCC have confirmed that in their view, there would not be a sustainable reason for refusal based on transport grounds (paragraph 9.95). It is agreed that that OCC took a broad view of the proposals being acceptable in the round

(d) OCC have requested a contribution towards their identified alterations to the bridge located to the southeast of the school.

(e) OCC have requested a contribution towards a potential improvement scheme to Charlotte Avenue to the north of the school.

(f) That the maximum number of dwellings to be accessed from Access A would be 138 and the maximum number of dwellings to be accessed from Access B would be 69 rather than 67 (paragraph 9.98), these being the two access points served by Charlotte Avenue.

(g) In the appellant’s analysis, that the capacity of the Braeburn Avenue junction with the B4100 is showing plenty of available capacity (paragraph 9.99);

(h) That due to the predicted traffic volumes on Braeburn Avenue (north of the bus gate) and Charlotte Avenue (north of the school and south of the bus gate), segregated cycleways are not required (paragraph 9.100);

(i) That whilst local residents have queried the suitability of the traffic assessment along the Elmsbrook Spine Road, particularly along Charlotte Avenue, OCC have found that the Bicester Transport Model (BTM) is acceptable for developing baseline traffic figures for use in modelling junction capacity for developments in the area (paragraph 9.102);

- (j) OCC have concluded that the impact upon the road network within Elmsbrook is acceptable (paragraph 9.102); It is agreed that that OCC took a broad view of the proposals being acceptable in the round
- (k) Whilst it has been suggested that an alternative access to the Eastern Parcel directly from the B4100 would be preferable, the Planning Application does not include this arrangement and that OCC have found the access proposals to be acceptable (paragraph 9.102); and
- (l) For the car parking provision to be addressed at the reserved matters stage (paragraph 9.103).

5.3 A summary table of the matters of common ground with CDC relevant to highways and access is provided at **APPENDIX A** of this SoCG.

6. MATTERS OF UNCOMMON GROUND WITH CHERWELL DISTRICT COUNCIL

6.1 The matters of uncommon ground with CDC relate to the putative highways and access Reasons for Refusal by Members following the Committee Meeting on 9th March 2023.

6.2 For completeness, the suggested Reasons for Refusal relevant to highways and access were set out within CDC's SoC and are replicated below.

6.3 Reason for Refusal 2

“The access arrangements to the site would be unsatisfactory as there would be an inability to provide for suitable pedestrian and cycle facilities along Charlotte Avenue. Any localised proposals to the road have not been proven to be possible, and are likely to raise safety concerns relating to users of the highway within proximity to Gagle Brook School, and would result in the loss of street trees and would impact on the character of the existing Eco Town. The proposal would not meet the requirements of LTN1/20 and would conflict with Oxfordshire County Council's 'Local Transport and Connectivity Plan' Policies 1, 2b, 8, 9, 11, 35, 45 and 46b, Oxfordshire County Council's 'Tree Policy for Oxfordshire' Policies 11, 18, 19 and 20, Policies SLE4 and Bicester 1 of the Cherwell Local Plan Part 1 2011-2031 and the North West Bicester SPD 2016.”

6.4 Reason for Refusal 3

“The proposed development would result in congestion at the junction of Charlotte Avenue with the B4100, particularly during the peak period. This would result in a severe transport impact and the development would therefore conflict with Government guidance contained within the National Planning Policy Framework and Policies SLE4 and Bicester 1 of the Cherwell Local Plan Part 1 2011-2031.”

6.5 Further review of the CDC SoC has identified the following matters of uncommon ground relevant to highways and access:

- (a) That the localised proposals to the road [Charlotte Avenue] are not acceptable (paragraph 6.8);
- (b) That the potential loss of street trees has not been adequately justified (paragraph 6.9);
- (c) That the proposed development would result in unacceptable congestion at the junction of Charlotte Avenue with the B4100 (paragraph 6.11); and
- (d) That the proposed development would result in a “severe” transport impact (paragraph 6.12).

Signed on behalf of the Appellant:



Mark Kirby

Dated: 3rd May 2023

Signed on behalf of Cherwell District Council



Patrick Moss – Consultant to Cherwell District Council

Dated: 3rd May 2023

APPENDIX A – SUMMARY OF COMMON GROUND WITH CHERWELL DISTRICT COUNCIL

Item	Comment Summary	Common Ground Reached (Y/N)	Status or Resolution Possible?
A1	That the extent of planning obligations related to highways and transport are acceptable yet to be agreed.	[Y]	Section 106 contributions to be finalised and agreed
A2	That development would not result in an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be “severe”.	[Y]	Confirmed by OCC
A3	It is not possible to impose a Grampian Condition with respect to the site.	[Y]	Confirmed by CDC
A4	Off-site impacts of the traffic associated with the Proposed Development on the A4095 would be temporary and would not result in a “severe” impact.	[Y]	Confirmed by OCC
A5	OCC have confirmed that in their view, there would not be a sustainable reason for refusal based on transport grounds.	[Y]	Confirmed by OCC
A6	That the Applicant has offered a contribution towards an agreed widening scheme along Charlotte Avenue, which may result in the loss of street trees, but that the loss of the trees could potentially be mitigated for on the site itself.	[Y]	Confirmed by CDC
A7	That the Applicant’s offered contribution would include for the identified alterations to the bridge located to the	[Y]	Confirmed by CDC

Item	Comment Summary	Common Ground Reached (Y/N)	Status or Resolution Possible?
	southeast of the school, which would better cater for two-way traffic and cyclists.		
A8	That the maximum number of dwellings to be accessed from Access A would be 138 and the maximum number of dwellings to be accessed from Access B would be 69.	[Y]	Confirmed by OCC
A9	That the capacity of the Braeburn Avenue junction with the B4100 is showing plenty of available capacity.	[Y]	Confirmed by OCC
A10	That due to the predicted traffic volumes on Braeburn Avenue (north of the bus gate) and Charlotte Avenue (north of the school), segregated cycleways are not required.	[Y]	Confirmed by OCC
A11	OCC have found that the Bicester Transport Model (BTM) is acceptable for developing baseline traffic figures for use in modelling junction capacity for developments in the area.	[Y]	Confirmed by OCC
A12	OCC have concluded that the impact upon the road network within Elmsbrook is acceptable in the round.	[Y]	Confirmed by OCC
A13	That whilst an alternative access to the Eastern Parcel directly with the B4100 would be preferable, the Planning Application does not include this	[Y]	Confirmed by OCC

Item	Comment Summary	Common Ground Reached (Y/N)	Status or Resolution Possible?
	arrangement and that OCC have found the access proposals to be acceptable.		
A14	For the car parking provision to be addressed at the reserved matters stage.	[Y]	Confirmed by CDC
A15	That the proposed access arrangements to the site would be unsatisfactory due to an inability to provide for suitable pedestrian and cycle facilities along Charlotte Avenue.	[N]	To be addressed within Proof of Evidence
A16A15	That the localised proposals to the road [Charlotte Avenue] are not possible/acceptable.	[N]	To be addressed within Proof of Evidence
A17A16	That the potential loss of street trees has not been adequately justified.	[N]	To be addressed within Proof of Evidence
A18A17	That the proposed development would result in unacceptable congestion at the junction of Charlotte Avenue with the B4100.	[N]	To be addressed within Proof of Evidence
A19A18	That the proposed development would result in a "severe" transport impact.	[N]	To be addressed within Proof of Evidence