

STATEMENT OF COMMON GROUND
for
VIABILITY
between
FIRETHORN DEVELOPMENTS LTD
AND
NORTH WEST BICESTER ALLIANCE

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 V1 3rd May 2023)
Final Version V2 3rd May 2023

CONTENTS

1. INTRODUCTION
2. MATTERS IN DISAGREEMENT WITH THE VIABILITY STATEMENT OF COMMON GROUND BETWEEN THE CONSULTANTS ACTING ON BEHALF OF FIRETHORN DEVELOPMENTS LTD AND CHERWELL DISTRICT COUNCIL
3. OTHER MATTERS IN DISAGREEMENT RE VIABILITY BETWEEN FIRETHORN DEVELOPMENTS LTD AND NORTH WEST BICESTER ALLIANCE

1. INTRODUCTION

- 1.1 This [draft] Statement of Common Ground ('SoCG') has been prepared by the Rule 6 Party, North West Bicester Alliance ('NWBA') in order to set out agreed and disagreed areas with respect to Firethorn Developments Limited ('the Appellant') and Cherwell District Council ('CDC'), who completed a separate SoCG between themselves on 28 April 2023.
- 1.2 This SoCG has been prepared following email from the Appellant on the afternoon of 02 May 2023, confirming that their Viability SoCG with CDC existed, and that if NWBA wanted to comment in this area, a separate SoCG could be undertaken. This document is thus 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 remainder of this 'Introduction' section, plus 'Site and Planning History', 'Development Proposals' and 'Policy and Planning Guidance' sections are all, for the sake of brevity, taken to be identical to those in the "General Matters" SoCG, Draft V3, as supplied by the Appellant on 02 May 2023.
- 1.4 The remaining sections in this SoCG correspond to:
- (a) where NWBA disagrees with the Appellant and/or CDC, re areas of agreement or disagreement between these parties, following review of 'FINAL Viability SoCG - FVA - 28.04.2023 - Between HLD & Rapleys(1.2) – signed.pdf' (this review was conducted on 2-3 May 2023) [Section 2], and
 - (b) where NWBA noted disagreement with the Appellant and stated so in the "General Matters" SoCG, in sections/points 8.7 to 8.12 – these are reproduced here for convenience [Section 3].

2. MATTERS IN DISAGREEMENT WITH THE VIABILITY STATEMENT OF COMMON GROUND BETWEEN THE CONSULTANTS ACTING ON BEHALF OF FIRETHORN DEVELOPMENTS LTD AND CHERWELL DISTRICT COUNCIL

2.1 NWBA only have comments on specific rows of the tables in the document titled “Joint Statement of Common Ground: Financial Viability in Planning Between HLD (for The Authority) and Rapleys (for the Appellant)” – with filename ‘FINAL Viability SoCG - FVA - 28.04.2023 - Between HLD & Rapleys(1.2) – signed.pdf’ (sic).

2.2 For table/section 1, “Areas Agreed Between The Parties”:

- (a) Re “Sales Value” – NWBA disagree with both parties here – the average £ per square foot seem to be too low: our concerns with the analysis will be presented in Proofs of Evidence for discussion at the Inquiry.
- (b) Re “Build Costs” – NWBA are concerned regarding lack of specific information regarding water efficiency components here, because it is unclear if this includes or not the “value engineering” for rainwater/grey water harvesting, with £6.5 Million total included for these measures in MGAC (Appendix 4). If rainwater harvesting is excluded and the proposed build designs only meet Future Homes standards and apply financial carbon compensation, then this only complies with True Zero Carbon (TZC) requirement, not TZC with Code for Sustainable Homes Level 5 equivalency and with water efficiency, as mandated by the local policies and validated by the planning inspector after the March 2015 Planning Statement. (Thus, the Build Costs and calculations would need revisiting.)
- (c) Re “Developers Return for Risk (Profit)” – NWBA disagree: the 20% figure used is arbitrarily at the higher end of the NPPF margin target, and this does not seem valid or defensible under NPPF guidance: our concerns with this will be presented in Proofs of Evidence for discussion at the Inquiry.
- (d) Re “Benchmark Land Value (BLV)” – NWBA contend that using a generic value per acre does not reflect the NPPF Viability guidance that the benchmark land value should reflect policy requirements. The BLV should therefore be lower; this relates also to (e) below:
- (e) Re “Viability Methodology” – NWBA wish to highlight that the BLV calculation method does not seem to meet the test of a “sense check” against a division of value creation and returns. Our analysis of this will be presented in Proofs of Evidence for discussion at the Inquiry.

2.3 For table/section 2, ‘Areas That Require Further Engagement’ – NWBA only note that we have no sight of the current version of the S106 negotiations, and the figure quoted in this table (of £22.86 Million) is much higher than the previous iterations (which were in the order of £19M and £14M). It seems appropriate that NWBA wait until the final agreed version (or final unresolved position statement prior to the Inquiry) is delivered, such that we can assess costs which are not subject to possible subsequent changes.

3 OTHER MATTERS IN DISAGREEMENT RE VIABILITY BETWEEN FIRETHORN DEVELOPMENTS LTD AND NORTH WEST BICESTER ALLIANCE

As noted in section 1.4, the following six points were stated in the “General Matters” SoCG, in sections/points 8.7 to 8.12 – these are reproduced here (with new numbering) for convenience:

- 3.1 The NPPF does not consider the possibility of waiving non-contribution policy requirements on the grounds of financial viability – e.g., true zero carbon build and water efficiency. The Application appears to go against the “manoeuvrability” allowed here.
- 3.2 The Appellant should therefore not be allowed an exemption from the local policy mandatory level of affordable housing, set at a minimum level of 30%.
- 3.3 At time of writing, the Appellant has not made all the financial viability assessment documents available. NPPF ‘Viability guidance’ states all documentation should be available apart from in ‘exceptional circumstances’ – the Appellant has not informed of any such.
- 3.4 Based on the first viability assessment presented by the applicant, assuming the value creation from the development is shared between the landowner and the developer, there is room for both parties to agree a land price that generates a return on investment of 15-20% for both the Appellant and the landowner. At time of writing, we have no information that the Appellant has now considered this point which was raised in June 2022. Related to this, the Appellant’s requirement of 17% GDV is not defensible under NPPF guidance, especially considering the 30% affordable housing requirement.
- 3.5 The Appellant has not demonstrated a compelling reason why any ‘circumstance changes’ since the Local Plan was written should enable a viability assessment for their proposed development to be allowed when the next 3 proposed Ecotown developments due to reach Planning Committee within months have submitted documentation stating their intention to meet all Local Plan requirements including 30% Affordability and as close to TZC as possible. (These are: 2x at Outline: Hallam, A2Dominion, and Detailed Planning for Himley Village Phase 1, which has Outline already accepted.) The Appellant’s viability argument to be allowed lower Zero Carbon and % Affordability does not seem valid or sustainable, and therefore to support it would go against NPPF guidance.
- 3.6 Analysis of documents supplied regarding Building Costs and Contributions indicates that the TZC option (as specified by Gardiner and Theobald) is Viable, including at or around 30% Affordable housing, and with enough profit for the Appellant as required under NPPF viability guidance.

Signed on behalf of the Appellant:



Nicholas Fell MRICS

Dated: 03 May 2023

Signed on behalf of North West Bicester Alliance



Rob Fellows

Dated: 03 May 2023