



***Cherwell***

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Cherwell District Council**

**TOWN AND COUNTRY PLANNING ACT 1990**

**Appeal by Firethorn Trust**

**Land at North West Bicester**

**Charlotte Avenue**

**Bicester**

**Oxfordshire**

**OX27 8AS**

LPA Reference: 21/01630/OUT

**PLANNING INSPECTORATE REF NO:**

**APP/C3105/W/23/3315849**

# Compliance Statement in Respect of Planning Obligations

**MAY 2023**

## **1. INTRODUCTION**

- 1.1. The following statement is made without prejudice to the District Council's case and its position that the appeal should be refused for the reasons set out in its statement. This document has been prepared by the Local Planning Authority to support the obligations sought under S106 of the Town and Country Planning Act 1990 (as amended) in the event that the Planning Inspector is minded to allow the appeal. It is considered that the obligations are required to adequately mitigate the negative impacts of the proposed development.

## **2. POLICY BACKGROUND**

- 2.1. Paragraphs 55 to 58 of the National Planning Policy Framework set out the Government's policy in respect of planning obligations and, in particular, provide that planning obligations should be (para 57):

- necessary to make the proposed development acceptable in planning terms;
- directly related to the proposed development; and
- fairly and reasonably related in scale and kind to the proposed development.

Equivalent legislative tests are contained within the Community Infrastructure Levy (CIL) Regulations 2010.

### **Relevant Development Plan policies**

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2015)

- INF1 – Infrastructure
- PSD1 – Presumption in Favour of Sustainable Development
- SLE4 – Improved Transport and Connections
- BSC1 – District Wide Housing Distribution
- BSC2 – Effective and Efficient Use of Land
- BSC3 – Affordable Housing
- BSC4 – Housing Mix
- BSC7 – Meeting Education Needs
- BSC8 – Securing Health and Well-Being
- BSC9 – Public Services and Utilities
- BSC10 – Open Space, Outdoor Sport and Recreation Provision
- BSC11 – Local Standards of Provision – Outdoor Recreation
- BSC12 – Indoor Sport, Recreation and Community Facilities
- ESD1 – Mitigating and Adapting to Climate Change

- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD4 – Decentralised Energy Systems
- ESD5 – Renewable Energy
- ESD6 – Sustainable flood risk management
- ESD7 – Sustainable Drainage Systems
- ESD8 – Water Resources
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 – The Character of the Built and Historic Environment
- ESD17 – Green Infrastructure
- Bicester 1 – North West Bicester Eco Town
- Bicester 7 – Open Space

#### Other Material Considerations

- Saved Policies of the Cherwell Local Plan 1996
- Developer Contributions SPD (February 2018)
- National Planning Policy Framework (2021)
- Planning Practice Guidance (PPG)
- North West Bicester SPD (February 2016)

### **3. REQUESTED OBLIGATIONS**

#### **3.1. Affordable Housing**

3.2. There is significant need for affordable housing provision in Cherwell. Further details are set out in Tom Webster's Proof of Evidence. In light of this need, the delivery of affordable housing is a key priority for Cherwell District Council as established in the Council's Local Plan by Policy BSC3 and Bicester 1.

3.3. The appellant's have offered 10% on-site affordable housing provision as part of this Outline application. Following further sensitivity analysis by the Council's Viability Consultant (Mr.Simkin) it is accepted that, at the present time, the proposal cannot deliver further affordable housing provision. However, the policy requirement is for 30% affordable housing to be provided on site, and 10% is significantly below that requirement.

3.4. The Council's Adopted Developer Contributions SPD (2018) states that, in exceptional circumstances (paragraph 3.18), viability review mechanisms will be required through Section 106 agreements. The purpose of such reviews is to determine whether greater compliance with the Development Plan can viably be achieved. For example, where a proposal, such as this Appeal scheme, does not

meet the strategic and site allocation affordable housing requirement in full at the time permission is granted. Moreover, the size and scale of the scheme means that it will take a number of years to build out which means there could be significant changes in values and costs of the scheme between the grant of permission and the point at which values and costs are realised.

- 3.5. It is noted that the appellant has accepted the principle of a viability review mechanism, which is welcomed. In their suggested amendments to the draft s106 agreement, the appellant has proposed three trigger points which are 'based' on the Mayor of London's 'Affordable Housing and Viability Supplementary Planning Document (SPD) 2017. This SPD and its subsequent consultation process advises that, for major developments there should be an 'Early Stage Review', a 'Mid Stage Review' and a 'Late Stage Review'.
- 3.6. The Council accepts the principle of having three trigger points, given they are firmly set out in the long established and well-regarded Mayor of London's 'Affordable Housing and Viability SPD 2017 (See **Appendix CDC1**).
- 3.7. However, as there is a vital need for affordable housing in Cherwell, and there is a current shortfall in affordable housing provision on the appeal site, it is imperative that the timings of the review in each of the three stages are appropriate.
- 3.8. The Council's position is that the Early Review should be triggered if 'substantial implementation' is not achieved with 2 years of the grant of consent. The Council defines substantial implementation as being the build out of the ground floors for the first phase.
- 3.9. The Council's view is that the Mid Stage Review should be halfway through the development programme (50%), prior to the later phases, and should assess the scheme as a whole. The appellant has suggested a trigger point of 55% on the basis that there is a later review at 95% both of which, the Council considers to be too late.
- 3.10. Regarding the Late Stage Review, the Council's position is that 75% of the homes being delivered would be the most appropriate trigger point, which is what the Mayor London's SPD suggests (see paragraph 3.61).
- 3.11. As noted above, the appellant has proposed 95% of the scheme being delivered before the late stage viability review is triggered. However, the Council's view is that this would be too late. There would be the danger of the scheme being completed at 94% thus avoiding the 95% trigger point; and, in the event the 95% review mechanism was triggered, by that stage, it would be unlikely that the remaining affordable housing provision could be provided on site and the Council would therefore be reliant on an off-site contribution. Whilst policy BSC3 allows for

off-site contributions, Policy Bicester 1 requires the affordable housing to be on site. In such circumstances, it would be an unsatisfactory arrangement, especially if the proposal does not deliver a true carbon scheme on site: collectively, the proposal would significantly breach Policy Bicester 1.

3.12. In summary, the Council's proposed viability review mechanism will help to ensure that the scheme provides the maximum amount of affordable housing (capped at 30%) in line with the Local Plan policy Bicester 1 and makes a necessary contribution towards meeting the significant housing need identified in the district.

3.13. The Council's Developer Contributions SPD also sets out other guidance required for affordable housing including standards around clustering, the size of affordable housing units and the proportion of units which are required to meet Building Regulation requirements at Part M4(2) (Accessible and Adaptable dwellings) and Part M4(3) (Wheelchair User Dwellings). This is to ensure that the affordable dwellings provided meet needs, they are flexible, and that a mixed and balanced community can be provided with affordable housing interspersed with market housing.

#### **3.14. True Zero Carbon**

3.15. The absence of evidence showing that a policy compliant true zero carbon proposal can be delivered means that it is critical that measures are put in place through a S106 agreement to ensure that the proposal will deliver the appropriate carbon reductions in emissions from energy use within each dwelling. Such true carbon zero measures will need to include (but are not limited to) orientation, glazing ratio, form factor and roof space.

3.16. The Council's position is that there will need to be a similar schedule in the S106 agreement for this appeal scheme to schedule 11 inside the S106 Agreement for 14/02121/OUT (known as Himley Village). This schedule required a site wide True Carbon Zero Plan to be delivered before reserve matters applications were submitted and then further, more detailed, plans to be submitted as part each Reserved Matter.

3.17. A concern for the Council is that, to date, the appellant has not undertaken an assessment which shows what the carbon emissions would be for 530 regular houses and what the reduction in carbon emissions would be with known internal carbon reduction measures.

3.18. In light of the above, I consider these measures to be reasonable in scale and kind, directly related to the development and necessary to make the development acceptable in planning terms (and bring the proposal in line with the site allocation policy Bicester 1 and deliver a True Zero Carbon Scheme).

### 3.19. Health

3.20. A contribution of **£190,080.00** at Q2 2023 has been sought by the NHS Buckinghamshire, Oxfordshire and Berkshire West Integrated Care Board (ICB).

3.21. The contribution is sought because this PCN area is already under pressure from nearby planning applications and this application directly impacts on the ability of Bicester GP practices to provide primary care services to the increasing population. Primary care infrastructure funding is therefore requested to support local plans to surgery alterations in the form of re-purposing/ refurbishing annex accommodation at Bicester Health Centre for primary care use purposes to allow additional primary care estate capacity to mitigate the demand created by the proposed housing development.

3.22. The ICB is actively considering the refurbishment of c. 440sqm of accommodation (used for health purposes) adjoining the Bicester Health Centre to help increase capacity. It is provisionally estimated that the cost of re-purposing this accommodation will likely exceed £2,200 per sqm including VAT and fees therefore including VAT, the cost will be a minimum of £968,000.

3.23. The Council's Developer Contributions SPD utilises a cost of £360 per person which is based upon the formula and approach adopted by the Oxfordshire Clinical Commissioning Group in July 2017. The ICB originally sought a contribution from this development towards new build premises based upon £360 per person (giving a total of £457,920 utilising an average occupancy of 2.4 persons per unit). This was based upon new build premises because, at the time, a local medical group were actively pursuing a new build practice though there is now uncertainty over this project (with a unit development cost of £5,300 per sqm at 2021 levels of build cost). Nevertheless, health provision on site at NW Bicester is identified as a requirement by Policy Bicester 1.

3.24. Due to this uncertainty, the ICB have revised their request as summarised above to relate to an extension to a local practice. They have therefore calculated the requested contribution by pro-rata-ing the originally sought contribution as follows:

2,200 (sqm) X £457,920 divided by 5,300 (sqm) which gives the figure of £190,080 at Q2, 2023.

3.25. A contribution towards health provision is justified by Policies:

- BSC8 – which sets out that the Council will support the provision of health facilities in sustainable locations which contribute towards health and well being including the replacement of Bicester Community Hospital.
- Bicester 1 – which sets out that the site should provide for a 7 GP surgery to the south of the site and a dental surgery

- North West Bicester SPD – paragraph 6.15, criterion 3, requires Heads of terms to include provision towards Health Facilities
- INF1 – which sets out that development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities. (Emphasis added)
- The NPPF identifies at para 8 that the social objective of achieving sustainable development includes ‘to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural wellbeing. Paragraph 34 also identifies that Plans should set out the contributions expected from development including ‘other infrastructure’ (such as that needed for ... health ...). Chapter 8 refers to promoting healthy and safe communities and this and other references through the NPPF highlight the importance of health and wellbeing as a key part of sustainable development. (emphasis added)

3.26. The contribution is necessary to make the development acceptable in planning terms because the ICB have advised that the PCN area is already under pressure from nearby planning applications and this application directly impacts on the ability of Bicester GP practices to provide primary care services to the increasing population. A contribution towards primary care provision therefore ensures that the site contributes towards expanded provision to meet the health needs of the residents resulting from the development.

3.27. The contribution is directly related to the development because the proposed development would result in increased population that would need to access primary health care provision. As the ICB have identified that the PCN area is already under pressure, expansion of local provision would be required to ensure the increased population can access the services required.

3.28. The contribution is fairly and reasonably related in scale and kind as the requested contribution is based upon the cost of new build accommodation (and the scale of new build accommodation this site would have contributed to) and the contribution this site would have been required to pay, pro-rata’d against the cost of re-purposing accommodation at a local Health Centre. The requested contribution is therefore directly related to the scale of this development.

### 3.29. **Neighbourhood Police**

3.30. Thames Valley Police have provided detailed justification for their requested contribution of **£84,508** which accompanies this statement (see **Appendix CDC2**). This is therefore not repeated here but to summarise, TVP have identified the level of additional Officers/ Staff likely to be required to deal with the additional demand generated by the development and have then utilised this to identify the costs of

additional infrastructure relating to staff set up, vehicles, mobile IT, ANPR cameras and premises.

3.31. A contribution towards police provision is justified by Policies:

- PSD1 reflects the presumption in favour of sustainable development set out in the NPPF and therefore the three objectives including that related to social sustainability.
- BSC9 identifies that the Council will support proposals which involve new or improvements to public services/ utilities if they are required to enable the successful delivery of sites and where they accord with other relevant policies in the Plan. (emphasis added)
- North West Bicester SPD – paragraph 6.15, criterion 3 requires Heads of terms to include provision towards Neighbourhood Police
- Paragraph 8 of the NPPF is identified above and this identifies that the creation of ‘safe places’ is a key part of the social objective of sustainable development. Paragraph 20 identifies that sufficient provision should be made for ‘infrastructure for ... security ...’ and paragraph 92 identifies that planning policies and decisions should aim to achieve healthy, inclusive and safe places which (second bullet) ‘are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion’....

3.32. The contribution is necessary to make the development acceptable in planning terms because the increased population resulting from the development will put pressure onto local policing services as identified by Thames Valley Police. TVP have identified the level of additional infrastructure required to support the future population generated and have identified the breakdown.

3.33. The contribution is directly related to the development because the development would result in an increased population and so it would directly increase pressure on the local police force. The contribution to support increased police capacity to police the development would therefore be directly related to the development.

3.34. The contribution is fairly and reasonably related in scale and kind to the development as Thames Valley Police have identified the level of additional capacity required related to the likely increase in population from this development and the capital costs this would incur. The cost identified is based upon the scale of this development, so it is fairly and reasonably related and it is proportionate to the cost of providing infrastructure for the local police force.

### 3.35. **Community Building Provision and Maintenance**

3.36. A contribution of **£560,046.84** at Q2 2023 is sought towards the capital costs of new community building provision to provide for the new community. A contribution of £87,943.09 at Q2 2023 is sought towards the maintenance of new community building provision.



3.37. The contribution sought has been calculated based upon the information contained within the Council's Developer Contributions SPD, particularly appendix 11. This sets out that in accordance with the recommendation of the 2017 Cherwell Community Spaces and Development Study, a required community hall facility standard of 0.185m<sup>2</sup> per person will be applied. Using a population density of 2.49 persons per dwelling, this provides for a need for community building provision from this site of 244m<sup>2</sup>. The appendix then sets out that the capital cost of a 1 storey community hall would be £2,315 per m<sup>2</sup> so, multiplying the cost per m<sup>2</sup> against the amount of floorspace that this site would generate a need gives a contribution request for the site towards capital costs of £564,860 at Q2 2017. However, the scheme has been requested to make provision for a crossing across the B4100 to the Church of St. Laurence at Caversfield to make this facility more accessible and available for use by the community. The cost of this crossing is £100,507 and this has been deducted from the total \$106 cost to acknowledge the community benefits that this would have. The cost as set out above applies indexation from Q2 2017 to bring this to Q2 2023 costs.

3.38. The maintenance contribution sought is also calculated based upon the information contained within the Council's Developer Contributions SPD at appendix 11. This sets out that the estimate for commuted sums for maintenance is £298.88 per m<sup>2</sup> (2017) for a 15-year period. Utilising this rate against the 244m<sup>2</sup> area this site generates a need for, gives a cost of £72,926 at Q2 2017 costs. Indexation has then been applied to give the cost above at a Q2 2023 cost. Appendix 11, identifies the following typical maintenance tasks and costs required that are annual and one off:

| Annual Costs (Repeated Each Year) | One off costs                    |
|-----------------------------------|----------------------------------|
| Fire alarms and extinguishers     | Electrical testing               |
| Intruder alarms                   | Internal decoration              |
| Boiler service and gas safety     | Replacement boiler/water heaters |
| Water monitoring and legionella   | Replacement extract fans         |
| Emergency light maintenance       | Replacement external lighting    |
| Lift maintenance                  | Replacement shower fittings      |
| Miscellaneous repairs             | Replacement light fittings       |
| Business rates                    |                                  |
| Water rates                       |                                  |
| Insurance                         |                                  |
| Gas                               |                                  |
| Electricity                       |                                  |

3.39. This site has not been requested to make community building provision itself given it is part of a wider development allocation and the Masterplan does not identify provision within this area. It is anticipated that the proposed development to the south of this site (north of the railway line) and part of the allocated site at NW Bicester will be required to provide community hall provision in accordance with the Masterplan set out in the NW Bicester SPD. The contribution sought from this development would be put towards that provision with that developer being requested to size the community building provision to also serve this development.

3.40. A contribution towards community hall provision is justified by policies:

- BSC12 – which sets out that the Council will encourage the provision of community facilities to enhance the sustainability of communities and encourage partnership working to ensure that built sports provision is maintained in accordance with local standards of provision by (third bullet point) ensuring that development proposals contribute towards the provision of new or improved facilities where the development would generate a need for sport, recreation and community facilities which cannot be met by existing provision.
- Bicester 1 – identifies that an infrastructure need for the allocated site at NW Bicester is ‘community facilities’ – it identifies that each neighbourhood of approximately 1000 houses to include provision for community meeting space suitable for a range of community activities including provision for older people and young people.
- North West Bicester SPD -criterion 1 and 6 of paragraph 6.17 states that the requirements of planning obligations should include Community Halls – including management and maintenance;
- The NPPF as summarised above identifies the ‘social objective’ as being a key part of sustainable development in creating strong, vibrant and healthy communities. It identifies at paragraph 20 that strategic policies should set out an overall strategy ... and make sufficient provision for C) community facilities. Paragraph 93 similarly identifies that planning policies and decisions should provide the social, recreation and cultural facilities and services the community needs by planning positively for the provision and use of shared spaces, community facilities and other local services to enhance the sustainability of communities and residential environments.

3.41. The requested contribution is necessary because the development would generate additional population who would have a demand for community hall space. This demand is planned to be met by provision to be provided elsewhere on the NW Bicester site and therefore this site contributing in a proportionate way would be necessary to make the development acceptable in planning terms. A discount to account for the crossing to the local church to make that building more accessible has been accepted by the Council.

3.42. The contribution is directly related to the development as it is based upon the scale of community building provision this development is anticipated to generate a need for and utilises the per sqm cost the Council’s Developer Contributions SPD identifies to work out the contribution sought towards both capital and maintenance costs (with a deduction for the crossing to the local church allowed for). Community hall space is required on the wider NW Bicester site of which this site forms a part and therefore the contribution is directly related to ensuring that sufficient community space is available to serve the proposed development.

3.43. The contribution is fairly and reasonably related in scale and kind to the development because it is based upon the costs within the Council’s SPD and the rate of community space this development is anticipated to generate a need for.

### 3.44. Sports Pitches and Maintenance

3.45. A contribution of **£1,288,402.55** at Q2 2023 is sought towards the cost of new sports pitches and their maintenance which includes an aspect of the contribution towards sports pavilion provision.

3.46. The cost is calculated based upon the information contained within the Council's Developer Contributions SPD, particularly appendix 6. This sets out that the cost of sports pitch provision (in lieu of on-site provision), is £2017.03 per dwelling at Q2 2017 costs. Indexation has then been applied to generate the cost identified above.

3.47. Moreover, paragraph 1.1 (table 1.1) of Cherwell District Council's Playing Pitch and Outdoor Sports Strategy (February 2023 -see **Appendix CDC3**) shows that there is a shortfall of Rugby and Football Sport's pitch provision in Bicester, which means it is very important that North West Bicester meets its own needs and doesn't exacerbate the strain on the current facilities which are under strain.

3.48. The NW Bicester Masterplan identifies a single area for sports pitch provision on land to the south of the railway line with an associated pavilion to enable 15.2ha of sports pitches to be provided. A large proportion of the land has been secured for transfer to the Council from a site to the south. This will enable a higher standard of provision, to create a focal area for sport and to facilitate long term maintenance and management. This site is not therefore expected to provide sports pitch provision onsite itself, but it is expected that it would make a proportionate contribution towards the capital and maintenance costs of the sports pitches to be provided elsewhere.

3.49. A contribution towards the provision of sports pitches and their maintenance is justified by policies:

- BSC10 – which sets out that the Council will encourage partnership working to ensure that sufficient quantity, quality of, and convenient access to open space, sport, and recreation provision is secured through the following measures (bullet three) – ensuring that proposals for new development contribute to open space, sport and recreation provision commensurate to the need generated by the proposals.
- BSC11 – sets out local standards of provision for outdoor recreation and identifies the quantitative standard, accessibility standards and the threshold provision for on site delivery.
- Bicester 1 – sets out that a key infrastructure need is for green infrastructure which identifies that 40% of the total gross site area will comprise green space and this should include various types of green space including 'sports pitches'.
- North West Bicester SPD -criterion 13 of paragraph 6.17 states that the requirements of planning obligations should include sports facilities – including management and maintenance;

- The NPPF at Chapter 8 (para 92) identifies that planning policies and decisions should aim to achieve healthy, inclusive and safe places which C) enable and support healthy lifestyles ... for example through the provision of ... sports facilities ....

3.50. The requested contribution is necessary to make the development acceptable because the proposal would generate an increase in population who would generate a demand for outdoor sport capacity. Sports pitch space is identified as being a key infrastructure requirement for the wider NW Bicester site of which this site is part and the contribution is a proportionate contribution towards the provision of those sports pitches and their ongoing maintenance.

3.51. The contribution is directly related to the development because the contribution has been calculated based upon the standard costs the Council uses which are set out in its Developer Contributions SPD. The development would generate additional population with a demand for outdoor sport space and it is therefore expected to contribute on a proportionate basis.

3.52. The contribution is fairly and reasonably related in scale and kind to the development as it is based upon the standard costs the Council uses as set out in its Developer Contributions SPD which is based upon a per dwelling cost. The contribution calculated utilises the per dwelling cost against the number of dwellings proposed by this development therefore it is proportionate and fairly and reasonably related in scale and kind.

### 3.53. **Burial Ground**

3.54. A contribution of **£6,425.95** at Q2 2023 has been sought towards the provision of burial ground space to serve Bicester.

3.55. The existing Bicester cemetery is close to or at capacity and it has recently been publicised that it is unable to accommodate future burials. Policy Bicester 9 identifies that a new cemetery is required to meet the needs of both the existing population and future development in the town. Policy Bicester 1 identifies that a key infrastructure requirement is for the site to provide a site of a minimum of 4ha for a burial ground which does not pose risks to water quality. The NW Bicester SPD Masterplan identifies a site for the burial ground and the Council is currently considering a planning application which includes this requirement (although this is currently proposed in an adjacent position to that shown on the Masterplan). The requested contribution would be used towards this provision.

3.56. The contribution has been based upon £10.06 per dwelling at 2Q 2017 costs (the total has then been re-indexed to Q2 2023 costs to give the total above). The Council's 2018 Developer Contributions SPD does not include a specific contribution to be requested but it does set out a methodology to be used. Historic work utilised this methodology to provide for a per person rate and this has continued to be used. Whilst the Council has limited information to validate that this remains correct or to update the calculation, the contribution sought is very

modest and would make a valuable contribution towards new burial ground provision acknowledging that this would provide for a far greater need than just that generated by new development.

3.57. The contribution towards burial ground provision is justified by policies:

- BSC9 and Bicester 1 as summarised above and the North West Bicester SPD

3.58. The contribution is necessary because the existing Bicester cemetery is close to capacity and the NW Bicester Masterplan identifies land to help to meet this need. To ensure that there is adequate burial space to meet the needs of the growing community, contributions towards the provision of additional burial space is therefore required and necessary to make the development acceptable in planning terms.

3.59. The contribution is directly related to the development because the proposal would result in increased population, a proportion of which would require burial space.

3.60. The contribution is fairly and reasonably related in scale and kind because the contribution is based upon a per dwelling rate and then the scale of this development is used against this rate.

**3.61. Play Areas, amenity space, allotments and their maintenance.**

3.62. The S106 will need to provide for the provision of various types of open space, play areas and allotments and to secure the timing and quality of their provision. In addition, the arrangements for their future maintenance will be required to be secured including the financial arrangements for this. Commuted sums for future maintenance are based upon the Council's current contractual rates which are either due to the Council at the time of transfer or, set aside in escrow accounts to be drawn on where required if a Management Company (ManCO) were to manage/ maintain the open space on this site.

3.63. The requirement to provide for the various types of open space and their ongoing maintenance is justified by policies:

- BSC11 which sets out the local standards of provision for outdoor recreation and sets out the quantitative standard, accessibility standard, minimum size of provision and the threshold for on site provision for general green space, play space, outdoor sport and allotments. It sets out that development proposals will be required to contribute to the provision of open space, sport and recreation, together with secure arrangements for its management and maintenance.
- Policy Bicester 1 identifies a key infrastructure need as being the provision of green infrastructure. It sets out that a minimum of 40% green infrastructure is required, of which at least half will be publicly accessible and consist of a network of well-managed, high quality green/ open spaces which are linked to the open countryside. It identifies that this should include

sports pitches, parks and recreation areas, play spaces, allotments, the required burial ground and SUDs.

- North West Bicester SPD -Paragraph 6.17 which requires these facilities to be included in Heads of Terms.
- The NPPF at para 8 is highlighted above but this refers to accessible services and open spaces that reflect current and futures needs as a key part of creating a socially sustainable development. These will support the community's health, social and cultural wellbeing. Open space is also identified in chapter 8 (promoting healthy and safe communities) and paragraph 98 specifically identifies that access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and wellbeing of communities and can deliver wider benefits for nature and support efforts to address climate change.

3.64. This requirement is necessary because it is important that all types of open space provision (general green space, play areas and allotments) are provided to meet the needs of the increased population, to support the wellbeing of the increased population and to contribute towards biodiversity gains and to mitigating the effects of future climate change. It is necessary to then maintain those areas to ensure that the provision remains high quality and continues to have benefits into the future.

3.65. The requirement is directly related to the development as it generates a need for open space and play provision to serve the increase population and to meet Policy requirements taking into account the 40% Green infrastructure requirements. The arrangements for long term management and maintenance are directly related to the future scheme for open space areas and any type of feature within it as well as for play areas and allotments.

3.66. The requirement is fairly and reasonably related in scale and kind because the level of provision is based upon the policy and guidance provisions adopted by the Council including specifically for NW Bicester. The arrangements for management and maintenance and the costs associated with this are based upon tendered contractual rates and the activities associated with maintaining areas to an appropriate level for 15 years.

### **3.67. Community Management Organisation - £301,902.44**

3.68. Policy Bicester 1 identifies that a key infrastructure need for the site is 'the submission of proposals to support the setting up and operation of a financially viable Local Management Organisation by the new community to allow locally based long term ownership and management of facilities in perpetuity'. This is further expanded upon within the NW Bicester SPD at Development Principle 13, which explains that a long-term approach is necessary to ensure that the new development retains its integrity and is able to manage change in a planned way. It identifies that planning applications should be accompanied by long term governance structures for the development to ensure that:

- Appropriate governance structures are in place to ensure that standards are met and maintained,
- There is continued community involvement and engagement to develop social capital
- Sustainability metrics including those on zero carbon, water, transport and waste are agreed and monitored,
- Future development continues to meet eco-town standards and
- Community assets are maintained.

3.69. As part of the Exemplar phase and through its s106 requirements, early stages of the CMO were set up to enable early governance arrangements to be embedded from the very start of the development. The Council and A2Dominion who have developed the Exemplar phase then commissioned a Business Plan to identify the likely costs of supporting a single CMO for an extended period to enable it to eventually become self-funding. This enabled a per dwelling contribution to be equated which was intended to be sought from each development across the site to support the expansion of the single CMO which was intended to result in efficiencies across the site, to ensure consistency and to avoid replication.

3.70. The Business Plan commissioned assessed costs over 25 and 35 years and the Council chose to take a mid-point to support a CMO for 30 years. It also assumed that the CMO would manage and maintain all the open space on the site however based on experience at the Exemplar phase where a Management Company were chosen, this may not be the case and therefore those costs were removed. The Council have also separately sought maintenance costs for allotments and for the community buildings which could be utilised by the CMO should they be willing to do so so those costs are not included within this calculation.

3.71. The remaining costs for the CMO to result in the contribution sought are therefore made up of three elements. The first is to support the CMO in carrying out social development works which will include: maintaining the interface between the CMO and the local community (which will include organising / arranging meetings of the CMO, properly minuted with Board papers as appropriate); having an interest in and disseminating to NW Bicester / Bicester community as relevant the outcomes from any monitoring of Eco Town standards as required by the completed S106 agreements for the site; helping to build interest and capacity for residents to be able to sit on / participate in the CMO; stimulating new activities at NW Bicester and facilitating social activities; representing the community to other stakeholders – primarily the site's developers, the local democratically elected organisations, Bicester wide organisations; liaising with CDC's / S106 funded Community Development officers as appropriate; on-going involvement in marketing and building the profile and positioning of the new community including researching and developing appropriate materials on living in NW Bicester; developing and delivering one or more key events per annum which will aim to symbolise and project the new community; working alongside the development partners; and potential for liaison with other development interests. The cost of this was estimated to be £1,911,973.50 for 30 years at 2Q17 costs.

3.72. The second was that the Business Plan identified the Staff costs for the CMO to enable it to carry out its duties for 30 years. Following some work to review this the staffing costs were calculated on the following basis:

The 2nd stage of the CMO - the Interim Partnership Board (IPB) will start up around the 400th occupation (rather than the 200th as previously anticipated) and in order to carry out the administration of the shadow board, scheme review and performance, community engagement and capacity building etc as described above the staffing requirement will be 1 PTE staff at £25,000 per annum over 3 years (assuming 250 occupations per annum) until the 1000th occupation which gives us:

$$3 \times \text{£}25,000 = \text{£}75,000$$

The 3<sup>rd</sup> stage of the Organisation – Stage 3a the fully fledged CMO will start around the occupation of the 1000<sup>th</sup> dwelling and at this stage will be likely to take on greater responsibilities as well as management and maintenance of the defined areas of open space and community halls so the staffing requirement will be 2PTE staff at £50,000 per annum over 8 years which gives us:

$$8 \times \text{£}50,000 = \text{£}400,000$$

Stage 3b 3000<sup>th</sup> - 5000<sup>th</sup> dw – the staffing requirement will be 1FTE and 2PTE at £100,000 per annum over 8 years which gives us:

$$8 \times \text{£}100,000 = \text{£}800,000$$

Stage 3c 5000<sup>th</sup> dw - 6000<sup>th</sup> dw - the staffing requirement will be 1FTE and 3 PTE at £125,000 per annum for 4 years:

$$4 \times \text{£}125,000 = \text{£}500,000$$

Total staff cost over 23 years is therefore: £1,775,000 (2Q17).

3.73. The third was related to operational costs which were identified relating to insurances, legal liability for CMO directors and staff, heating, lighting, office supplies, bought in support services – i.e. accountancy/ financial, HR, Legal etc). The Business Plan identified that this would cost £6,305,000 for 30 years but following the review of staffing costs, this was reduced to £4,263,207 at 2Q17 costs.

3.74. The total costs therefore equate to £7,950,180.50 at 2Q17 costs (£1,417.90 per dwelling based upon the full 6000 dwellings at NW Bicester minus the Exemplar phase) for 30 years.



3.75. In acknowledging the viability challenges on this site, the Council has proposed to take a pragmatic approach to this and divide the cost by 3 to give a contribution for a 10 year period. This is in acknowledgement of this site being an early phase of the overall development but still contributing to the CMO proposals for the site and therefore towards meeting the governance requirements set out by Policy Bicester 1. The contribution for a 10-year period with indexation applied to enable a Q2 2023 cost sought from this development is £301,901.23.

3.76. This contribution is necessary because Policy Bicester 1 refers to the need for the submission of proposals to support the setting up and operation of a financially viable Local Management Organisation by the new community to allow locally based long term ownership and management of facilities in perpetuity. The need for a contribution is to support the development of the early stage CMO that was started on the Elmsbrook site as the Exemplar phase of the NW Bicester site. The proposal would enable long term governance arrangements to be put in place and to ensure the site is socially sustainable. It is therefore a contribution that is necessary to make the development acceptable in planning terms.

3.77. The contribution is directly related because the proposal is for residential development on the NW Bicester site and therefore as part of the wider requirements around community governance, the requirement is for the site to contribute and benefit from the CMO. It is therefore directly related to the development.

3.78. The contribution is fairly and reasonably related in scale and kind because the contribution is based upon the costs envisaged to run the CMO originally calculated but reduced to a third of the cost to account for a 10-year period rather than a 30 year period as it was originally costed for due to viability reasons. The contribution is therefore fairly and reasonably related in scale and kind to the development.

### **3.79. Indoor Sport**

3.80. Paragraph 93 of the NPPF and policies BSC10 and Bicester 1 recognise the importance of access to high quality open spaces and sport and recreation opportunities to the health and well-being of communities.

3.81. Local Plan policy BSC 10 confirms that the council will encourage partnership working to ensure there is sufficient capacity, quantity and accessibility of sports facilities in the district.

3.82. Table 4.9 (page 47 & set out below) of Cherwell District Council's Built and Indoor Sports Facilities Assessment (May 2023) suggests that Bicester Leisure Centre is currently operating at 90% of its capacity during peak times (50hrs per week) and

cannot meet any additional demand for usage. This means that increased demand for use of Bicester Leisure Centre at peak times from Bicester’s growing population will go unmet based on the existing level of provision.

Table 4.9: Used capacity of sports halls.

| Used capacity | Site                         |
|---------------|------------------------------|
| 0-20%         | Tudor Hall School            |
| 20-40%        | The Cooper School            |
|               | Whitelands Academy           |
| 40-60%        | Wykham Park School           |
| 60-80%*       | Blessed George Napier School |
|               | Dewey Sports Centre          |
|               | Heyford Park Free School     |
|               | Sibford School               |
|               | The Warriner School          |
| 80-100%       | North Oxfordshire Academy    |
|               | KGLC                         |
|               | BLC                          |
|               | SLC                          |

(\*80% -Sport England’s guidance threshold which is considered to be a “comfortably full” sports hall)

3.83. The Swimming pool experiences particularly high demand to the extent that capacity improvement works are required to allow for a new swimming pool. The total cost of these works is in excess of £4.7m and should the proposed development proceed, funding from the scheme will be pooled with other sources to maximise the capacity improvement works.

3.84. The contribution requested from this site is based upon the information set out a appendix 9 of its ‘Developer Contributions’ SPD. Whilst this sets out that contributions would be sought towards both sports’ hall and swimming pool provision, given the viability challenges this project faces and progress which has been made on swimming pool capacity only, the contribution is based upon the

cost of an enhanced swimming pool capacity only. The SPD sets out that there is a need for 9.31sqm of swimming pool area per 1000 people or 0.0931sqm per person. The cost of construction of a new build swimming pool, using average of Swim 25 commercial product and RICS Building Cost Information Service construction costs would be £2,296 per sqm plus land costs and VAT (at 2010). The cost per person for swimming pool provision is therefore £213.76. This has been applied at Q2 2017 costs.

3.85. Using a population density of 2.49 persons per dwelling gives a contribution request of £282,099 which has been indexed up to Q2 2023 costs to give a total contribution ask from this site of **£339,989.02**.

3.86. This obligation is necessary to ensure the scheme complies with development plan policies. The obligation is also relevant in scale and kind because it is based on the SPD formula, will be spent on capacity improvement works on the closest indoor sports facility and represents a proportionate contribution towards much-needed local leisure facility capacity improvements.

**3.87. Training and Employment Plan to secure 27 apprenticeship starts.**

3.88. The requirement would be for the provision of a Training and Employment Plan to be submitted prior to the implementation of the development.

3.89. Justified by Policies:

- The pre-wording to Policy Bicester 1 at paragraph C.39 (bullet point 5) relates to employment. The last paragraph states '*An economic strategy will be required and there should be local sourcing of labour, including providing apprenticeships during construction*'. Policy Bicester 1 requires the provision of an Economic Strategy to support planning applications demonstrating how access to work will be achieved.
- NW Bicester SPD states at Development Requirement 5 – Employment, that planning applications should '*support local apprenticeship and training initiatives*'.
- Developer Contributions SPD identifies the Government commitment to supporting sustainable economic growth. The need to increase the number of apprenticeships locally is picked up by both the Oxfordshire Local Economic Partnership (OXLEP) and the South Midlands Local Economic Partnership (SEMLEP). The Council's approach to securing construction apprenticeships and skills is set out at Appendix 13 of the SPD.

3.90. Appendix 13 of the SPD identifies that the threshold for residential developments to provide apprenticeships is 50 units and that 2.5 apprenticeships per 50 units should be achieved. The number of 27 sought for this proposal is therefore proportionate to the scale of development proposed by this development.

- 3.91. In another appeal relating to elsewhere at NW Bicester, (14/01675/OUT) the Inspector accepted the justification for a Training and Employment Plan to secure apprenticeship starts finding that *'the argument that [ensuring the planning system does everything to secure sustainable economic growth] includes requiring the provision of construction apprenticeships through new development is a compelling one and so I am convinced that the requirements of Schedule 10 ... are necessary, directly related to the development and fairly and reasonably related to it in scale and kind'* (paragraph 132).
- 3.92. The proposal to secure a training and employment plan is necessary to meet the requirements of Policy Bicester 1 and the CDC Developer Contributions SPD.
- 3.93. The proposal to secure a training and employment plan is directly related to the development as the development itself is a vehicle to support an ongoing programme of skills, training and apprenticeships. The apprenticeship starts would be directly related to the construction of the development itself.
- 3.94. The proposal to secure a training and employment plan is fairly and reasonably related in scale and kind to the development because, the number of apprenticeship starts is in accordance with that set out by the SPD and therefore is fairly and reasonably related in scale and kind to the development scale.
- 3.95. **Requirement to monitor the development through the construction and post occupancy stages.**
- 3.96. The requirement would be to agree a scheme prior to the implementation of the development and to then monitor the development through the construction and then occupancy stages.
- 3.97. Justified by Policies:
- Policy Bicester 1 – Monitoring – the embodied impacts of construction to be monitored, managed and minimised and sustainability metrics, including those on zero carbon, transport, water and waste to be agreed and monitored for learning, good governance and dissemination.
  - NW Bicester SPD states that planning submissions should set out a strategy and programme for monitoring and reviewing the proposals once implemented. This will ensure that the eco-town principles and standards are measured, and the performance of the development can be managed effectively to provide feedback and potential improvements to later phases of the scheme (page 56).
- 3.98. In another appeal relating to elsewhere at NW Bicester, (14/01675/OUT) the Inspector accepted the justification for the need to monitor the development because *'the need for monitoring of development in eco-towns is a requirement unique to developments of that case'* (para 97).

3.99. The requirement to monitor the development is considered to be necessary to ensure that the development is meeting the high standards sought across NW Bicester, to learn from the site and to allow improvements to future phases of the development. It is necessary therefore to secure a scheme of monitoring from this site.

3.100. The requirement to monitor the development is directly related to the development because it relates to the development itself.

3.101. The requirement to monitor the development is fairly and reasonably related in scale and kind to the development because it would be proportionate to the development itself and therefore it is fairly and reasonably related in scale and kind to the development.

### 3.102. **CDC Monitoring Fee of £10,000**

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

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

3.104. The CDC charge is based upon its recently agreed Fees and Charges Schedule which sets out that for developments of 251+ dwelling units, a bespoke charge based upon the number of obligations and triggers with a minimum charge of £10,000 will be sought. Whilst the S106 has a significant number of requirements for the District Council, given the viability challenges, the Council is prepared to accept the minimum charge identified. The need for the monitoring fee is to ensure that the Local Planning Authority can appropriately monitor that the development is complying with its S106 including the high standards sought at the site and taking into account the complex nature of the site.

### 3.105. **Conclusion**

3.106. Given the scale and nature of the proposal and the characteristics of the surrounding area and the wider masterplan, it is considered necessary that measures are put in place to ensure that the impacts of development are addressed and that it accords with the principles of sustainable development as set out in national and local planning policies.

- 3.107. The obligations are directly related to the development because they will be mitigating the impacts of the development and used for works, which are close to the site and will help to accommodate additional use arising from this development.
- 3.108. The level of contribution is reasonable in scale and kind because it is based on standards set out in the assessment and formulas in the Developer Contributions SPD and up-to-date evidence.
- 3.109. Without a commitment to sign the S106 agreement under these terms, the application would fail to comply with planning policy, would not sufficiently mitigate its impacts or pay for necessary works surrounding the site and the proposal would not accord with the principles of sustainable development.
- 3.110. For the above reasons the Planning Inspector is respectfully requested to uphold the planning obligations sought by the Council.

## **Appendix CDC1**

**See email attachment of the Mayor of London's Affordable Housing and Viability SPD (2017)**

## **Appendix CDC2**

**See email attachment of Thames Valley Police's justification letter dated 23  
April 2023**



## **Appendix CDC3**

**See email attachment of Cherwell District Council's Playing Pitch and Outdoor Sports Strategy (February 2023)**