

STATEMENT OF COMMON GROUND

Specific to the topic of
HIGHWAYS AND ACCESS

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, prepared by VTP, 19th April 2023)

(Draft V2, updated by representatives of the NWBA, 25th April 2023)

(Draft V3, updated by VTP, 27th April 2023)

(Draft V4, updated by NWBA, 1st May 2023)

(Draft V5, finalised by VTP, 2nd May 2023)

(Final Version V6, sent to NWBA for signing, 3rd May 2023)

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1. INTRODUCTION

- 1.1 This Highways and Access topic-specific Statement of Common Ground ('SoCG') has been prepared by Velocity Transport Planning ('VTP') on behalf of Firethorn Developments Limited ('the Appellant'), and the Rule 6 Party, North West Bicester Alliance ('NWBA').
- 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 NWBA SoC, separate SoCG have been prepared for CDC 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).
- 1.11 This SoCG is focussed specifically on the topic of Highways and Access points, and is an 'adjunct' to the overall Statement of Common Ground, prepared by Barton Willmore, now Stantec, and combining areas of common and uncommon ground for all 4 parties.

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:
- National Planning Policy Framework ('NPPF') (July 2021);
 - National Planning Practice Guidance ('NPPG') (June 2021);
 - Department for Transport (DfT) Local Transport Note (LTN) 1/20 'Cycle Infrastructure Design' (July 2020);
 - Oxfordshire County Council (OCC) 'Local Transport and Connectivity Plan' (July 2022);
 - North West Bicester Supplementary Planning Document ('NWSPD') (June 2016); and
 - Manual for Streets (first published 2007).
- 4.5 In addition, NWBA have highlighted the following as being relevant:
- DMRB CD-195 Designing for Cycling Traffic (version 1.0.1, March 2021)
 - Future Homes 2025 Consultation response report (January 2021);
 - Code for Sustainable Homes Technical Guide (2010)
 - Climate Change Act 2008 (+ updates);
 - Tree Policy for Oxfordshire (2022); and
 - OCC 'Parking Standards for New Developments' (October 2022).

5. MATTERS OF COMMON GROUND WITH NORTH WEST BICESTER ALLIANCE

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

Common Ground	NWBA Additional Comments
"OCC has satisfied itself that there is not a sustainable Reason for Refusal on highway grounds" (ref. paragraph 2.25)	While NWBA concur that this is a statement of fact, we note that there is clear supporting evidence that OCC Highways <i>were wrong to remove <u>all</u> their original Objections</i> ;
"A contribution towards bus provision and infrastructure (Appendix 1 of CDC Committee Report)" (ref. paragraph 3.17)	While NWBA concur that this is a statement of fact, please see item 6.1(c)(vi) below, where NWBA extend this point.

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

6. MATTERS OF UNCOMMON GROUND WITH NORTH WEST BICESTER ALLIANCE

6.1 The matters of uncommon ground relevant to highways and access with the NWBA have been identified by reviewing the SoC and are considered to be as follows:

- (a) That the highways and access strategy contains significant technical errors within the highway design and simulation results which omit crucial features required to robustly model the existing roads involved (SoC paragraph 2.26); this affects many of the following points:
- (b) That the Appellant's highways and access strategy contravenes the requirements of:
 - (i) NPPF paragraphs 2 and 134: the proposed strategy and details are not in accordance with the development plan, as they contravene >30 national and >50 local policies, plans, standards and guidance, including ~40 clauses/policies from the Local Plan/SPD/Masterplan (SoC paragraph 2.27);
 - (ii) NPPF paragraphs 106 and 110 and the Oxfordshire Local Transport and Connectivity Plan, Policy 2(b): because the proposed strategy and details would render the access less safe for pedestrians and cyclists (106(d) and 110(b)), proposed designs go against National guidance/standards (110(c)); and would cause unmitigated severe impacts (110(d)) (SoC paragraph 2.27);
 - (iii) NPPF paragraph 95(b) and the Oxfordshire Local Transport and Connectivity Plan, Policy 11: because since an initial conversation, the Appellant has not "worked with" Gagle Brook School regarding critical highways-related Health & Safety issues; in fact, the concerns raised in the single initial meeting – and the Objections Raised on multiple occasions subsequently during 2021-2023, by the School's Chair of Governors and other representatives of the school, have been completely ignored (SoC paragraph 2.27);
 - (iv) NPPF paragraphs 104 and 132 and the Oxfordshire Local Transport and Connectivity Plan, Policy 2(c): because the Appellant has not addressed critical transport issues raised in objections/discussions - as required in consultation responses from OCC Highways, and have not responded to emails, nor undertaken any further consultations with key local stakeholders since the 13th of September 2021 (SoC paragraph 2.28);
 - (v) NPPF paragraph 112 and the Oxfordshire Local Transport and Connectivity Plan, Policy 1: because the proposals prioritise vehicles over pedestrians and cyclists (SoC paragraph 2.27);
 - (vi) NPPF paragraph 111: because the application fails to prove that the consequences of traffic congestion will not be "severe" - impacting several key junctions, including the B4100/Charlotte Avenue, the B4100/Braeburn Avenue, the B4100/A4095, and junctions beyond along the B4100, beyond the A4095, and up to the A43 and the M40 Junction 10 (SoC paragraph 2.27); this has the added significant impact of reducing safety for pupils crossing roads, walking and cycling to Gagle Brook Primary School;
 - (vii) NPPF paragraph 131 and the Tree Policy for Oxfordshire Policies 11, 19 and 20: because of the potential requirement (stated in the Officers Report to CDC Planning Committee, paragraph 9.94) for the removal of existing street-lining (integrated canopy) trees as part of the proposed modifications to Charlotte Avenue (SoC paragraph 3.6);

- (viii) Oxfordshire Local Transport and Connectivity Plan, Policy 36; because OCC Highways and the Appellant's legal team have indicated that alternative (access) options for 6.1(b)(vii), were not submitted for consideration;
 - (ix) Oxfordshire Local Transport and Connectivity Plan, Policies 45 and 46; because the Bicester Traffic Model (BTM) was used without "calibration against baseline data" (45), and the Appellant has refused to "establish this feedback loop" when reliable data (published "monitoring and evaluation" (46)) for the NWB Exemplar traffic exists and has been ignored by the Appellant;
 - (x) Manual for Streets, paragraph 4.6.2 (Crime Prevention): the proposed design assumes possible pedestrian and cycle permeability into the Elmsbrook development at points that are suggested to be unadopted roads – according to recent information supplied by OCC Highways (SoC paragraph 3.15);
- (c) Further matters of uncommon ground relevant to Highways and Access are:
- (i) That the Technical Notes proposing to modify the A4095 – Bucknell Road junction are completely separate in their considerations from the Hawkswell Village application, due to come to Planning Committee in May 2023. Both Applications' solutions look very similar, but only consider the traffic added by *their own* development – meaning that the compound effect of the two applications has not been modelled; this therefore fails to provide a robust assessment of the likely future impact. (Ref. Manual for Streets, paragraphs 3.6.19, 3.8.3, 4.5.5);
 - (ii) That the Parking requirements for the school have not been addressed at all: that these are not only required for robust assessment with respect to congestion impact onto the B4100 etc, but that the proposed design exacerbates the issue by adding many more homes, going against NWBSPD paragraph 4.112, and contributing to the impacts relating to NPPF paragraph 111 [see (6.1(b)(vi)) above];
 - (iii) That modelling using only 40% trips by car is not robust enough (NB: see Officers Report 9.96 – what is stated there does not agree with the actual wording in the original Transport Assessment for NW Bicester). A robust and reliable impact analysis is required to satisfy NPPF paragraph 111 [see (6.1(b)(vi)) above];
 - (iv) That the Appellant's proposed design drawings supplied as part of the Site Itinerary information contain key technical errors (the drawings are titled as follows: 4600-1100-T-XXX-A where XXX = 029, 073, 075, 076, 077);
 - (v) That it is possible to amend Access E to provide a junction meeting standards for permanent access (SoC paragraph 4.5); and in fact, the proposed design drawings show a solution which is unsafe for construction access;
 - (vi) That the Applicant does not provide anything besides funding as input to improvements to the public transport services, and does not identify *sufficient* funding for the improvements to the public transport services, commensurate with the Exemplar Phase (even without adjustment for the number of homes involved); this does not seem fair/appropriate, based on the requirements of Policy Bicester 1 and NWBSPD (SoC paragraph 3.17);
 - (vii) That it is not possible for cyclists to share the Charlotte Avenue carriageway or footpath for the bridge crossing section east of school, based on errors in the proposed design and AADT figure evidence.

6.2 A summary table of the matters of uncommon ground with NWBA relevant to highways and access is provided at **APPENDIX A** of this SoCG.

Signed on behalf of the Appellant:

A handwritten signature in blue ink, appearing to read 'Mark Kirby', written in a cursive style.

Mark Kirby

Dated: 2nd May 2023

Signed on behalf of North West Bicester Alliance

A handwritten signature in blue ink, appearing to read 'Rob Fellows', written in a cursive style.

Rob Fellows

Dated: 3rd May 2023

APPENDIX A – SUMMARY OF HIGHWAYS AND ACCESS COMMON GROUND WITH NORTH WEST BICESTER ALLIANCE (RULE 6 PARTY)

Item	Comment Summary	Common Ground Reached (Y/N)	Status or Resolution Possible?
A1	OCC has satisfied itself that there is not a sustainable reason for refusal on highway grounds.	[Y]	Confirmed by OCC’s position of “No Objection” Agree as statement of fact; don’t agree that OCC was <i>correct</i> to satisfy itself/remove all Objections
A2	A contribution of £696,118 towards bus provision and infrastructure.	[Y]	As noted within the Draft S106 Heads of Terms (included within the Planning Committee report). But: see 6.1(c)(vi)/A19, re overall provision with regards public transport, and sufficiency thereof.
A3	That the highways and access strategy contain significant technical errors, which affect results and conclusions.	[N]	To be addressed within Proof of Evidence, and discussed at the Inquiry
A4	NPPF paragraphs 2 and 134 not met, as >30 national and >50 local policies/etc not met	[N]	To be addressed within Proof of Evidence, and discussed at the Inquiry
A5	NPPF paragraphs 106 and 110 are not met, because designs contrary to national and local standards render access less safe for pedestrians and cyclists, without mitigation	[N]	To be addressed within Proof of Evidence, and discussed at the Inquiry
A6	NPPF paragraphs 95(b) is not met, because the Appellant has not worked with Gagle Brook School, and has ignored key issues raised	[N]	To be addressed within Proof of Evidence, and discussed at the Inquiry

Item	Comment Summary	Common Ground Reached (Y/N)	Status or Resolution Possible?
A7	NPPF paragraphs 104 and 132 are not met, because the Appellant has not addressed critical issues raised as per OCC request	[N]	To be addressed within Proof of Evidence, and discussed at the Inquiry
A8	NPPF paragraph 112 is not met, because the proposals prioritise vehicles over pedestrians and cyclists	[N]	To be addressed within Proof of Evidence, and discussed at the Inquiry
A9	NPPF paragraph 111 is not met, as the application fails to prove that the traffic congestion will not be “severe” at several key junctions. This increases risk for safety of pupils attending Gagle Brook Primary School.	[N]	To be addressed within Proof of Evidence, and discussed at the Inquiry
A10	NPPF paragraph 131 is not met, as CDC Planning have stated that tree removal would be required, but the tree removal in question does not meet with local or national conditions for such removal	[N]	To be addressed within Proof of Evidence, and discussed at the Inquiry
A11	Oxfordshire Local Transport and Connectivity Plan, Policy 36 is not met, because alternative design options were not submitted for consideration	[N]	To be addressed within Proof of Evidence, and discussed at the Inquiry
A12	Oxfordshire Local Transport and Connectivity Plan, Policies 45 and 46(b) are not met, because calibration via published monitoring and traffic survey data has been ignored	[N]	To be addressed within Proof of Evidence, and discussed at the Inquiry
A13	Manual for Streets 4.6.2 is not met, because the proposed design assumes possible pedestrian and	[N]	To be addressed within Proof of Evidence, and discussed at the Inquiry

Item	Comment Summary	Common Ground Reached (Y/N)	Status or Resolution Possible?
	cycle permeability into Elmsbrook development at points that are slated to be unadopted roads.		
A14	TNs proposing modifications to the A4095 – Bucknell Road junction do not provide a robust assessment of traffic impact in the likely near future traffic scenarios	[N]	To be addressed within Proof of Evidence, and discussed at the Inquiry
A15	Parking requirements for the school have not been addressed at all, and this impacts traffic congestion (re NPPF paragraph 111, see A9 above)	[N]	To be addressed within Proof of Evidence, and discussed at the Inquiry
A16	The traffic impact analysis is not robust nor reliable, as is required to satisfy NPPF paragraph 111 [see A9 above]	[N]	To be addressed within Proof of Evidence, and discussed at the Inquiry
A17	The diagrams provided for the Site Visit Itinerary (for this Appeal) also contain key errors	[N]	To be addressed within Proof of Evidence, and discussed at the Inquiry
A18	It is possible to amend Access E to provide a junction meeting standards for permanent access; and it is unsafe for construction access based on what is shown on the design drawings.	[N]	To be addressed within Proof of Evidence, and discussed at the Inquiry
A19	That the Applicant does not identify <i>sufficient</i> funding nor non-financial component(s) to the improvements to the public transport services.	[N]	A contribution towards bus provision and infrastructure is provided; but its sufficiency is questioned w.r.t. fairness for sustainable financial contributions to the Ecotown.

Item	Comment Summary	Common Ground Reached (Y/N)	Status or Resolution Possible?
A20	It is not possible for cyclists to share the Charlotte Avenue carriageway or footpath for the bridge crossing section east of school	[N]	To be addressed within Proof of Evidence, and discussed at the Inquiry