



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

Supplement Compliance Statement in Respect of Planning Obligations

June 2023

1. INTRODUCTION

- 1.1. This statement should be read alongside the Council's main Compliance statement in respect of Planning Obligations dated May 2023. It deals with changes that have occurred since that statement was completed and additional information relating to the topics set out below.

2. REQUESTED OBLIGATIONS

2.1. Affordable Housing

- 2.2. Following further discussion regarding the appropriate timescales for the viability review, the Local Planning Authority have negotiated an alternative position compared to that set out in its original compliance statement. That new position being two stage reviews; a mid-stage review up to 6 months in advance of, and no later than the date of practical completion of 40% of the dwellings and then, a late stage review up to 6 months in advance of, and no later than the date of practical completion of 70% of the dwellings.
- 2.3. In the circumstances, the view of the Local Planning Authority is that the two stage process results in a pragmatic and appropriate way forward.
- 2.4. In noting that the reviews should be spaced apart as far as possible to avoid reviews occurring too close together and to maximise the opportunity for that review to be beneficial to the Council where there are market improvements, two, reviews are now considered appropriate.
- 2.5. In addition, the Council's preference is to achieve additional affordable housing provision on site rather than to seek contributions for offsite provision. It is noted that the Mayor of London's guidance states that 'Late Stage Reviews should: *'be applied once 75 per cent of homes are sold, or at a point agreed by the LPA'*. It also states that: *'the outcome of this review will typically be a financial contribution towards off-site affordable housing provision'*. The negotiated provision therefore is most likely to enable the achievement of additional affordable housing on site, which is the Council's aim in accordance with Policies BSC3 and Bicester 1 of the Cherwell Local Plan Part 1 2011-2031.

2.6. Primary School Forward funding

- 2.7. The justification for the primary school contribution is set out within the compliance statement of Oxfordshire County Council. However, part of this contribution is to repay funding which was forward funded by Cherwell District Council using Eco Town Funding. There is a legal agreement between Oxfordshire County Council and Cherwell District Council which requires Oxfordshire County Council to seek to recover the forward funding to be re-paid to the District Council. The contribution requested has been calculated by the County based on the cost of pupil places which already exist but were forward funded by the District.
- 2.8. The aim of the District was to bring forward the provision of the school to an earlier stage in the development than would otherwise be the case with the intention that the forward funding would subsequently be recovered by future education contributions (as evidenced in a CDC Executive Report dated 4th July 2016).
- 2.9. *“4.11. There is a commitment to spend £6.25m of capital funding to support the early delivery of a primary school on the development at NW Bicester, which is currently under construction. A school has been seen as important to supporting the formation of the new community and establishing sustainable patterns of travel. Normally schools on new development are funded through developer contributions and therefore are only viable on large scale developments (about 1000 dwellings) and often are not delivered until developments have a considerable number of occupations. The purpose of identifying funding is to ensure the delivery of the school as early as possible. It is proposed funding will be recouped through developer contributions as the first phase builds out and from later phases of the development.”*
- 2.10. The forward funding was provided from the District’s ‘Eco Town Fund’ which was established with the aim of bringing forward early delivery of development in a wide number of areas including education. The initial funding of the fund came from the DCLG and, from the outset it was intended that the funding should be recycled and be available for re-use. The funding was not, as we understand it, provided by the DfE as the District is not the LEA and is not involved in the provision or funding of schools.
- 2.11. The District entered into an agreement dated the 9th of July 2012 with the County (“the Funding Agreement”); which provided for staged payments for the cost of the school to be paid to the County from the Eco Towns Fund (£6.25m plus indexation). The District was to recover the funding payment from contributions due from the 1st phase (which were payable to the district) and from repayments made by the County on receipt of subsequent S106 contributions once the build costs of the school were covered.
- 2.12. The Funding agreement provides a mechanism for directing these contributions back to the District in addition to requiring an account to be taken on completion of the school and appropriate balancing payments being made with the requirement that any payment by the County should be placed in the Eco Town Fund with the intention of it subsequently being re-circulated for future investment.

2.13. In short, Cherwell forward funded the build of the school and the County are legally obliged to repay that funding once the cost of construction had been reclaimed from developer contributions. Once those monies are returned to the District then they will become part of the Eco Town Fund.

2.14. It is also noted that the Department for Education guidance document 'Securing developer contributions for education' dated November 2019 deals with forward funding at paragraph 7 where it states:

There are other options besides basic need grant for forward-funding school places, including the use of local authority borrowing powers where necessary. Where new schools or school expansion is necessary to mitigate the impacts of development, and those new facilities are to be forward funded (for example by local authorities borrowing money to fund school development prior to receiving Section 106 monies or by using capital reserves), it may be possible to secure developer contributions to recoup the monies spent, including interest, fees and expenses as well as the principal sum spent. Where this model is envisaged, we recommend that you engage with the local planning authority before forward funding occurs to ensure that the local planning authority supports this approach. The CIL Regulations prohibit borrowing against future CIL receipts, so this method of forward-funding only applies to planning obligations.

2.15. The Local Planning Authority are content that this element of the primary school funding is CIL Reg compliant. The provision of adequate school places to serve a development is necessary to make a development acceptable in planning terms. The fact that some of those places that exist were forward funded was to enable early delivery of the school and to assist the development at the earliest stages acknowledging the scale of the Exemplar phase. The intention that that funding would be recycled to benefit the development more widely is critical to why this money was made available in the way that it was. It therefore seems to the Planning Authority that it is necessary for this funding to be paid to make the development acceptable in planning terms. This element is directly related to the development as it would repay funding for education places that this development would benefit from that would not have been available had forward funding in this way not been available. It is also related in scale and kind to the development as it is based upon the proportionate share of the cost of the primary school to provide for a cost per pupil.

2.16. It is understood that this contribution has been agreed with the Appellant.

2.17. **Cultural Wellbeing**

2.18. The Local Planning Authority are seeking to embed cultural wellbeing within the development of each site. This intention is expanded upon at Appendix V of the NW Bicester SPD (CD. 4.5). The intention is that cultural enrichment will be secured by a combination of activities that positively influence physical form and function to secure high quality design (such as projects where an artist has

participated in the design or master planning of buildings, townscapes or landscapes to the design and making of individual physical elements within them) as well as activities that engage with the emerging community.

- 2.19. The NPPF notes that the social objective of achieving sustainable development, states: 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 well-being (our emphasis). Paragraph 93 also refers to the need for planning policies to take into account and support the delivery of local strategies to improve health, social and cultural wellbeing for all sections of the community (our emphasis).
- 2.20. Policy Bicester 1 sets out that one of the key site specific design and place shaping principles for the site is to secure 'the provision of public art to enhance the quality of the place, legibility and identity'. Therefore, rather than seeking contributions or pieces of public art only, the approach to seek a cultural wellbeing strategy enables flexibility and a way of embedding cultural wellbeing within the development of the site.
- 2.21. The Local Planning Authority believes that this approach is necessary to make the development in planning terms and to achieve policy compliance by ensuring that the new community at NW Bicester is socially sustainable. The ultimate approach will be directed related to the circumstances of the application and would be fairly and reasonably related in scale and kind to the development itself.