



Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Cherwell District Council

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY VISTRY HOMES LTD

LAND EAST OF WARWICK ROAD, BANBURY.

LOCAL PLANNING AUTHORITY REF NO: 23/00853/OUT

PLANNING INSPECTORATE REF NO: APP/C3105/W/24/3338211

Compliance Statement in Respect of Planning Obligations

MAY 2024

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 of Case. 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

Other Material Considerations

- Saved Policies of the Cherwell Local Plan 1996
- Developer Contributions SPD (February 2018)
- National Planning Policy Framework (December 2023)
- Planning Practice Guidance (PPG)

3. REQUESTED OBLIGATIONS

3.1. Affordable Housing: 35%

- 3.2. The delivery of affordable housing is a key priority for Cherwell District Council, as established in the Council's Local Plan by Policy BSC3. This policy requires the provision of 30% affordable housing in Bicester and Banbury and at least 35% affordable housing on sites for 11 houses or more at Kidlington and elsewhere. As this site is not at Banbury or Bicester 35% affordable housing is required to be provided.
- 3.3. The timing of the delivery of affordable housing in this development is also important. It is imperative that the proposed affordable housing provision comes forward in tandem with the market housing to allow for mixed and balanced communities and to also ensure that it is delivered: if, for example, the majority of the affordable housing provision is secured towards the end of the construction process, there is the risk that adequate provision isn't made, as the incentive to build out the remaining units may well be reduced.
- 3.4. The Appellants have offered 40% on-site affordable housing provision as part of this Outline application, which is welcomed and goes above the requirements of policy BSC3. However, this affordable housing provision will need to be secured through a signed s.106 Agreement with appropriate trigger points to provide certainty of delivery.
- 3.5. 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.

3.6. **Community Hall**

3.7. A contribution of **£194,365.42** is sought towards improvements/enhancements at Hanwell Fields Community Centre and/or other community facilities in the locality. This is required to be paid prior to the occupation of 90% of the dwellings.

3.8. Community facilities enhance the sustainability and inclusiveness of communities by providing spaces where people and groups can meet and access a range of important local services. This includes community halls.

3.9. Paragraph 20, sub section C, of the NPPF (December 2024) states that strategic policies should set out an overall strategy for the pattern, scale and design quality of places, (to ensure outcomes support beauty and placemaking), and make sufficient provision for:

c) community facilities (such as health, education and cultural infrastructure)

3.10. Paragraph 97 of the NPPF states that, to *“provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:*

a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;

3.11. In line with the NPPF, Policy BSC 12 of the Cherwell Local Plan 2015 makes clear that the council will encourage the provision of community facilities to enhance the sustainability of communities.

3.12. To this end, the Council’s Developer Contributions SPD requires contributions from new development to ensure that the social infrastructure needs associated with those developments will be provided for.

3.13. The contribution towards the improvements which are required at Hanwell Fields Community Centre in order to increase the capacity / ability of the hall to accommodate more users. The contribution is based upon the information contained within the aforementioned Council’s Developer Contributions SPD, particularly appendix 11 – (See **Core Document List 5.8**). 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 0.185m² 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 78.31m². The appendix then sets out that the capital cost of new community space would be £2,482 per m². Therefore, by multiplying the cost per m² against the amount of floorspace that this site would generate, a contribution of **£194,365.42** is required towards capital costs.

3.14. The requested contribution is necessary because a development of this scale, which will deliver approximately 423 additional people close to Hanwell, will put additional pressure on the Hanwell Fields Community Centre, particularly as the appeal scheme itself is not providing any community hall facilities on site.

3.15. The increased demand on Hanwell Fields Community Centre is planned to be met through the provision of a mezzanine in order to increase capacity.

3.16. For these reasons, the contribution is directly and reasonably related in scale and kind as it will help ensure that sufficient community space is available to serve the proposed development and prevent the existing Hanwell Fields Community Centre from becoming unduly strained. The proposal also utilises the cost per sqm the Council's Developer Contributions SPD identifies.

3.17. **Sports Pitches and Maintenance**

3.18. A contribution of **£342,895.10** is sought towards the cost of an off-site outdoor sport 3G artificial grass football pitch.

3.19. The Cherwell District Council Playing Pitch Strategy identified the provision of 3G artificial grass pitch for football in Banbury as a priority.

3.20. 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.

3.21. 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.
- The NPPF at Chapter 8 (para 96) 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

3.22. 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.

3.23. The 3G pitch is due to be located at the North Oxfordshire Academy and is due to be delivered in 2025/2026 financial year. The funding contribution requested is for both the pitch facility and the associated infrastructure.

3.24. 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.

3.25. Indoor Sport

3.26. Paragraph 97 of the NPPF and policies BSC10 recognise the importance of access to high quality open spaces and sport and recreation opportunities to the health and well-being of communities.

3.27. 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.

3.28. Table 4.9 (page 47 & set out below) of Cherwell District Council's Built and Indoor Sports Facilities Assessment (May 2023) (**See Appendix CDC 2**) suggests that Spiceball Leisure Centre (SLC), which is the closest Council leisure centre to the appeal site with an indoor sports hall, is currently operating at 80% -100% 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 Spiceball Leisure Centre at peak times from the growing population of Banbury and the surrounding villages 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)

3.29. The contribution requested from this site is based upon the information set out in appendix 9 of its 'Developer Contributions' SPD for sports hall provision.

3.30. A population density of 2.49 persons per dwelling and a figure of £335.32 per person gives a contribution request of **£141,940.96**

3.31. 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.

3.32. Community Development Worker - £17,463.35

3.33. The NPPF (December 2023) (paragraph 69) makes clear that planning policies and decisions should aim to achieve healthy, inclusive and safe places and beautiful buildings by, amongst other things, taking into account and supporting local strategies to improve health, social and cultural well-being for all and deliver sufficient community and cultural facilities to meet local needs".

- 3.34. Paragraph 97 of the NPPF also promotes the health and safety of local communities. It states that planning policies and decisions should provide the social, recreational and cultural facilities and services the community needs.
- 3.35. Sub-section b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community.
- 3.36. In line with the NPPF, community development is a key priority of the Cherwell Local Plan. The Local Plan includes a series of Strategic Objectives and a number of these are to facilitate the building of sustainable communities.
- 3.37. Strategic Objective 10 of the Local Plan seeks to ensure that sufficient, accessible, good quality services, facilities and infrastructure (including green infrastructure) are delivered to meet health, education, transport, open space, sport, recreation, cultural, social and other community needs. It also seeks to reduce social exclusion and poverty and address inequalities in health and maximising well-being.
- 3.38. Paragraph B.86 of the Local Plan states that the Council wishes to ensure that new development fully integrates with existing settlements to forge one community, rather than separate communities. A community development worker, through regular engagement with the residents and by providing links to local services and social networks will help with this integration process.
- 3.39. Moreover, the evidence gathered in preparing the Cherwell Community Spaces Development Study (**See Appendix CDC1**) strongly endorses the value in having a Community Development Worker available at an early stage in a new development to kickstart the process of bringing people together by developing new activities and providing regular newsletters. In short, a Community Development Worker will help put in place the start of a strong community.
- 3.40. As the development is between 100 and 250 dwellings, according to the Planning Obligations SPD 2018 developers are expected to provide the costs of employing a community development worker for 0.4 FTE for 1 year. Costs calculated at Grade G £34,649.50 per annum plus 26% on costs. This equates to 04 of FTE = **£17,463.35**.
- 3.41. This obligation is necessary to ensure the scheme complies with development plan policies and the NPPF. The obligation is also relevant in scale and kind because it is based on the SPD formula and will be spent on the salary of a Community Development Officer and represents a proportionate contribution towards important social integration.

3.42. Conclusion

3.43. 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.

3.44. 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.

3.45. 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.

3.46. 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.

3.47. For the above reasons the Planning Inspector is respectfully requested to uphold the planning obligations sought by the Council.

Appendix CDC1

Cherwell District Council's Community Spaces Study (2016)

Appendix CDC2

Cherwell Built Indoor Sports Facilities Strategy (2023)

Appendix CDC3

Cherwell District Council's Playing Pitch and Outdoor Sports Strategy (2023)