

CHERWELL DISTRICT COUNCIL'S REGULATION 122 COMPLIANCE STATEMENT

Location: OS Parcel 1570 Adjoining And West Of Chilgrove Drive and Adjoining And North Of Camp Road Heyford Park

Planning Application Ref: 21/04289/OUT

Appeal Reference: APP/C3105/W/23/3326761

Proposal: Outline planning application for the erection of up to 230 dwellings, creation of new vehicular access from Camp Road and all associated works with all matters reserved apart from Access

Date of Regulation 122 Statement: 6TH December 2023

1. INTRODUCTION

- 1.1. Cherwell District Council (CDC) considers that the proposed development of up to 230 dwellings is unacceptable without an agreement under Section 106 of the Town and County Planning Act 1990 (S106) which is required to mitigate the demands which will be placed on infrastructure and services as a direct result of the development. This statement by provides the justification for its requirements for contributions towards Community Developer Worker Fund, Community Development Fund, Comuity Hall Facilities Contribution, Indoor Sports Contribution, Outdoor Sports Contribution, Public Art Contribution and also justification for an administration & monitoring fee.
- 1.2. R122(2) of the Community Infrastructure Levy (CIL) regulations 2010 (as amended) introduced three tests for S106 agreements which must apply if a planning obligation is to constitute a reason for granting planning permission. It should be, a) necessary to make the development acceptable in planning terms, b) directly related to the development and c) fairly and reasonably related in scale and kind to the development. The purpose of this statement is to show that the requested contributions comply with the requirements of the three tests.

2. INFRASTRUCTURE CONTRIBUTIONS SUMMARY:

2.1. CDC considers that the development would have a detrimental impact on the local services it provides unless the contributions sought are provided as set out below:

Contribution Type	Amount
Community Development Worker Fund	£16,963
Community Development Fund	£10,350
Community Hall Facilities Contribution	£262,967.90
Indoor Sports Contribution	£192,038
Outdoor Sports Contribution	£463,917
Public Art Contribution	£51,520
CDC Monitoring Fee	£3,000

Table 1: Infrastructure Contributions

2.2. The above contributions save for the Monitoring Fee are to be indexed-linked to maintain the real values of the contributions so that they can in future years deliver the same level of infrastructure provision as currently required.

3. COMMUNITY DEVELOPMENT WORKER FUND

3.1. LEGISLATION AND POLICY

The request for the Community Developer Worker Fund contribution is compliant with the Council's following strategic objectives and policies:

Cherwell Local Plan 2011-2031

Strategic Objective - SO10

To provide sufficient accessible, good quality services, facilities and infrastructure including green infrastructure, to meet health, education, transport, open space, sport, recreation, cultural, social and other community needs, reducing social exclusion and poverty, addressing inequalities in health, and maximising well-being.

Strategic Objective – SO14

To create more sustainable communities by providing high quality, locally distinctive and well-designed environments which increase the attractiveness of Cherwell's towns and villages as places to live and work and which contribute to the well-being of residents.

Policy INF 1: Infrastructure

The Council's approach to infrastructure planning in the District will identify the infrastructure required to meet the District's growth, to support the strategic site allocations and to ensure delivery by: Working with partners, including central Government, and other local authorities, to provide physical, community and green infrastructure Identifying infrastructure needs and costs, phasing of development, funding sources and responsibilities for delivery Completing a Developer Contributions SPD to set out the Council's approach to the provision of essential infrastructure including affordable housing, education, transport, health, flood defences and open space Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.

Cherwell Community Spaces Development Study

2017 Cherwell Community Spaces Development Study strongly endorses the value in having a Community Development Worker available at an early stage in any new development to kickstart the process of bringing people together, developing new activities and putting in place the start of a strong community.

3.2 COMMUNITY DEVELOPMENT WORKER FUND CONTRIBUTIONS

3.2.1 Community Development Worker Fund contribution of £16,938.68

- (a) It is necessary to make the development acceptable in planning terms by:
- Seeking a contribution towards employment of a community development worker to work to integrate residents into the community and wider area.
- (b) It is directly related to the development by virtue of:
- The need for this infrastructure is created by the overall population increase as a result of the development.
 - Community development is a key strategic objective 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. ~~Policy~~ SO10 is a strategic objective to provide sufficient accessible good quality services, facilities and infrastructure including green infrastructure, to meet health, education, transport, open space, sport, recreation, cultural, social and other community needs, reduce social exclusion and poverty and address inequalities in health, maximising well-being.
 - 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.
 - Furthermore, evidence gathered in preparing the 2017 Cherwell Community Spaces Development Study strongly endorses the value in having a Community Development Worker available at an early stage in any new development to kickstart the process of bringing people together, developing new activities and putting in place the start of a strong community.
 - Strategic Objective SO14 seeks to create more sustainable communities.
 - The contribution shows how the developer will support the initial formation and growth of the community through investment in community development, which enhances well-being and provides social structures through which issues can be addressed.
- (c) It is fairly and reasonably related in scale and kind to the development by virtue of:
- The amount has been calculated on the increased number of dwellings resulting from the development as outlined below:
 - As the development is between 100 and 250 dwellings, 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, £33,608.50 per annum plus 26% on costs.
 - 0.4 of FTE = £16,938.68 for 1 year.

4. COMMUNITY DEVELOPMENT FUND

The request for a Community Development Fund contribution is compliant with the Council's following strategic objectives and policies:

4.1 LEGISLATION AND POLICY

Cherwell Local Plan 2011-2031

Strategic Objective - SO10

To provide sufficient accessible, good quality services, facilities and infrastructure including green infrastructure, to meet health, education, transport, open space, sport, recreation, cultural, social and other community needs, reducing social exclusion and poverty, addressing inequalities in health, and maximising well-being.

Policy INF 1: Infrastructure

The Council's approach to infrastructure planning in the District will identify the infrastructure required to meet the District's growth, to support the strategic site allocations and to ensure delivery by: Working with partners, including central Government, and other local authorities, to provide physical, community and green infrastructure Identifying infrastructure needs and costs, phasing of development, funding sources and responsibilities for delivery Completing a Developer Contributions SPD to set out the Council's approach to the provision of essential infrastructure including affordable housing, education, transport, health, flood defences and open space Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.

4.2 COMMUNITY DEVELOPMENT FUND CONTRIBUTIONS

4.2.1 Community Development Fund contribution of £10,350.00

- (a) It is necessary to make the development acceptable in planning terms by:
- To seek a contribution towards community development work which will include initiatives to support groups for residents of the development.
- (b) It is directly related to the development by virtue of:
- The need for this infrastructure is created by the overall population increase as a result of the development.

- The NPPF (March 2021) paragraph 69 states that planning should aim to achieve places which promote.... “opportunities for meetings between members of the community who might not otherwise come in contact with each other”. Paragraph 17 states that planning should “take account and support local strategies to improve health, social and cultural well-being for all and deliver sufficient community and cultural facilities to meet local needs.
- Community Development is a key objective 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. SO10 is a strategic objective to provide sufficient accessible good quality services, facilities and infrastructure including green infrastructure, to meet health, education, transport, open space, sport, recreation, cultural, social and other community needs, reduce social exclusion and poverty and address inequalities in health, maximising well-being. 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.

(c) It is fairly and reasonably related in scale and kind to the development by virtue of:

- The amount has been calculated on the increased number of dwellings resulting from the development as outlined below:

Calculated as £45.00 per dwelling

$230 \times £45 = £10,350.00$

5. COMMUNITY HALL FACILITIES

The request for the Community Hall Facilities contribution is compliant with the Council's following strategic objectives and policies:

5.1 LEGISLATION AND POLICY

The Cherwell Local Plan 2011 – 2031

Policy BSC 12: Indoor Sport, Recreation and Community Facilities

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 the following means: Protecting and enhancing the quality of existing facilities Improving access to existing facilities 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.

Policy INF 1: Infrastructure

The Council's approach to infrastructure planning in the District will identify the infrastructure required to meet the District's growth, to support the strategic site allocations and to ensure delivery by: Working with partners, including central Government, and other local authorities, to provide physical, community and green infrastructure Identifying infrastructure needs and costs, phasing of development, funding sources and responsibilities for delivery Completing a Developer Contributions SPD to set out the Council's approach to the provision of essential infrastructure including affordable housing, education, transport, health, flood defences and open space Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.

5.2 COMMUNITY HALL CONTRIBUTIONS

5.2.1 Community Hall Contribution of £262,967.90 to be index-linked.

(a) It is necessary to make the development acceptable in planning terms by:

- To seek a contribution towards the development of a new community centre at Heyford Park for new residents.

(b) It is directly related to the development by virtue of:

- The need for this infrastructure is created by the overall population increase as a result of the development and in accordance with Policy BSC 12 which states that the council will encourage the provision of community facilities to enhance the sustainability of communities.

(c) It is fairly and reasonably related in scale and kind to the development by virtue of:

- The amount has been calculated on the predicted population increase resulting from the development as outlined below:

Average occupancy per dwelling 2.49 residents.

0.185m² community space required per resident.

$$2.49 \times 230 = 572.70$$

$$572.70 \times 0.185\text{m}^2 = 105.95\text{m}^2$$

$$105.95 \times \text{£}2,482.00 = \text{£}262,967.90$$

6. INDOOR SPORTS CONTRIBUTION

The request for the Indoor Sports contribution is compliant with the Council's strategic objectives and policies referenced below and also with relevant Sport England guidance:

6.1 LEGISLATION AND POLICY

The Cherwell Local Plan 2011 – 2031

Policy BSC 10: Open Space, Outdoor Sport and Recreation

Provision The Council will encourage partnership working to ensure that sufficient quantity and quality of, and convenient access to open space, sport and recreation provision is secured through the following measures: Protecting existing sites Addressing existing deficiencies in provision through qualitative enhancement of existing provision, improving access to existing facilities or securing new provision, and Ensuring that proposals for new development contribute to open space, sport and recreation provision commensurate to the need generated by the proposals.

In determining the nature of new or improved provision the Council will be guided by the evidence base and consult with town and parish councils, together with potential users of the green space wherever possible, to ensure that provision meets local needs. Should the promoters of development consider that individual proposals would be unviable with the above requirements, 'open-book' financial analysis of proposed developments will be expected so that an in house economic viability assessment can be undertaken. Where it is agreed that an external economic viability assessment is required, the cost shall be met by the promoter.

Policy BSC 12: Indoor Sport, Recreation and Community Facilities

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 the following means: Protecting and enhancing the quality of existing facilities Improving access to existing facilities 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.

Policy INF 1: Infrastructure

The Council's approach to infrastructure planning in the District will identify the infrastructure required to meet the District's growth, to support the strategic site allocations and to ensure delivery by: Working with partners, including central Government, and other local authorities, to provide physical, community and green infrastructure Identifying infrastructure needs and costs, phasing of development, funding sources and responsibilities for delivery Completing a Developer Contributions SPD to set out the Council's approach to the provision of essential infrastructure including affordable housing, education, transport, health, flood defences and open space Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.

6.2 INDOOR SPORTS CONTRIBUTIONS

6.2.1 Indoor Sports Contribution of £192,0380 to be index-linked.

- (a) It is necessary to make the development acceptable in planning terms by:
- Seeking an indoor sport contribution towards the provision of indoor sport facilities in the locality.
- (b) It is directly related to the development by virtue of:
- The need for this infrastructure is created by the overall population increase as a result of the development and in accordance with Policy BSC 10 which seeks to address existing deficiencies in provision through enhancements of provision, improving access to existing facilities and ensuring proposals for new development contribute to sport and recreation provision commensurate to the need generated by the proposals. Furthermore, Policy BSC 12 – Indoor Sport, Recreation and community Facilities states that the council will encourage the provision of community facilities to enhance the sustainability of communities – enhancing quality of existing facilities and improving access.
- (c) It is fairly and reasonably related in scale and kind to the development by virtue of:
- The amount has been calculated on the predicted population increase resulting from the development as outlined below:

Based on £335.32 per person

$230 \times 2.49 = 572.70$

$572.70 \times £335.32 = £192,037.76$

7. OUTDOOR SPORTS CONTRIBUTION

The request for the Outdoor Sports contribution is compliant with the Council's strategic objectives and policies referenced below and also with relevant Sport England guidance:

7.1 LEGISLATION AND POLICY

The Cherwell Local Plan 2011 – 2031

Policy BSC 10: Open Space, Outdoor Sport and Recreation

Provision The Council will encourage partnership working to ensure that sufficient quantity and quality of, and convenient access to open space, sport and recreation provision is secured through the following measures: Protecting existing sites Addressing existing deficiencies in provision through qualitative enhancement of existing provision, improving access to existing facilities or securing new provision, and Ensuring that proposals for new development contribute to open space, sport and recreation provision commensurate to the need generated by the proposals.

In determining the nature of new or improved provision the Council will be guided by the evidence base and consult with town and parish councils, together with potential users of the green space wherever possible, to ensure that provision meets local needs. Should the promoters of development consider that individual proposals would be unviable with the above requirements, 'open-book' financial analysis of proposed developments will be expected so that an in house economic viability assessment can be undertaken. Where it is agreed that an external economic viability assessment is required, the cost shall be met by the promoter.

Policy BSC 11: Local Standards of Provision - Outdoor Recreation

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. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs likely to be generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in 'Local Standards of Provision - Outdoor Recreation'. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement. North West Bicester eco-development proposals for open space will be considered against the requirements of 'Policy Bicester 1: North West Bicester Eco-Town'. Should the promoters of development consider that individual proposals would be unviable with the above requirements, open-book financial analysis of proposed developments will be expected so that an in-house economic viability assessment can be undertaken. Where it is agreed that an external viability assessment is required, the cost shall be met by the promoter.

Policy INF 1: Infrastructure

The Council's approach to infrastructure planning in the District will identify the infrastructure required to meet the District's growth, to support the strategic site allocations and to ensure delivery by: Working with partners, including central Government, and other local authorities, to provide physical, community and green infrastructure Identifying infrastructure needs and costs, phasing of development, funding sources and responsibilities for delivery Completing a Developer Contributions SPD to set out the Council's approach to the provision of essential infrastructure including affordable housing, education, transport, health, flood defences and open space Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.

7.2 OUTDOOR SPORTS CONTRIBUTIONS

7.2.1 Outdoor Sports Contribution of £463,916.90 to be index-linked.

- (a) It is necessary to make the development acceptable in planning terms by:
- Seeking an off-site contribution towards the provision and maintenance of the new outdoor sports facilities at Heyford Park.
- (b) It is directly related to the development by virtue of:
- The need for this infrastructure is created by the overall population increase as a result of the development and in accordance with Policy BSC 10 which seeks to address existing deficiencies in provision through enhancements of provision, improving access to existing facilities and ensuring proposals for new development contribute to sport and recreation provision commensurate to the need generated by the proposals. Furthermore, Policy BSC 11 – Local standards of provision – Outdoor Recreation states 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. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs likely to be generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in 'Local Standards of Provision - Outdoor Recreation'. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement.
- (c) It is fairly and reasonably related in scale and kind to development by virtue of:
- The amount has been calculated on the predicted population increase resulting from an increased number of dwellings as outlined below:

Based on £2,017.03 per dwelling

$230 \times £2,017.03 = £463,916.90$

8. PUBLIC ART CONTRIBUTION

The request for a Public Art contribution is compliant with the Council's following strategic objectives, policies and SPD:

8.1 LEGISLATION AND POLICY

The Cherwell Local Plan 2011 – 2031

Policy BSC 10: Open Space, Outdoor Sport and Recreation

Provision The Council will encourage partnership working to ensure that sufficient quantity and quality of, and convenient access to open space, sport and recreation provision is secured through the following measures: Protecting existing sites Addressing existing deficiencies in provision through qualitative enhancement of existing provision, improving access to existing facilities or securing new provision, and Ensuring that proposals for new development contribute to open space, sport and recreation provision commensurate to the need generated by the proposals.

In determining the nature of new or improved provision the Council will be guided by the evidence base and consult with town and parish councils, together with potential users of the green space wherever possible, to ensure that provision meets local needs. Should the promoters of development consider that individual proposals would be unviable with the above requirements, 'open-book' financial analysis of proposed developments will be expected so that an in house economic viability assessment can be undertaken. Where it is agreed that an external economic viability assessment is required, the cost shall be met by the promoter.

Policy BSC 11: Local Standards of Provision - Outdoor Recreation

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. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs likely to be generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in 'Local Standards of Provision - Outdoor Recreation'. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement. North West Bicester eco-development proposals for open space will be considered against the requirements of 'Policy Bicester 1: North West Bicester Eco-Town'. Should the promoters of development consider that individual proposals would be unviable with the above requirements, open-book financial analysis of proposed developments will be expected so that an in-house economic viability assessment can be undertaken. Where it is agreed that an external viability assessment is required, the cost shall be met by the promoter.

Policy INF 1: Infrastructure

The Council's approach to infrastructure planning in the District will identify the infrastructure required to meet the District's growth, to support the strategic site allocations and to ensure delivery by: Working with partners, including central Government, and other local authorities, to provide physical, community and green infrastructure Identifying infrastructure needs and costs, phasing of development, funding sources and responsibilities for delivery Completing a Developer Contributions SPD to set out the Council's approach to the provision of essential infrastructure including affordable housing, education, transport, health, flood defences and open space Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.

Developer Contributions Supplementary Planning Document (SPD) February 2018

Paragraph 4.130: Public Realm, Public Art and Cultural Wellbeing

“The public realm and public art can play an important role in enhancing the character of an area, enriching the environment, improving the overall quality of space and therefore peoples’ lives. Public art and the quality of the public realm are important considerations in the design and layout of a development. Public realm relates to all those parts of the built environment, either publicly or privately owned, located between and within buildings that are publicly accessible such as all streets, squares, and other rights of way as well as open spaces and parks, watercourses and canals. High quality design and good management of the public realm is essential in creating successful and vibrant places and help to integrate new development into the surrounding area. It can help to establish an identity for an area making it memorable and providing useful landmarks, particularly if it draws inspiration from local themes or associations”.

8.2 PUBLIC ART CONTRIBUTIONS

8.2.1 Public Art Contribution of £51,520 to be index-linked.

- (a) It is necessary to make the development acceptable in planning terms by:
- Seeking a contribution towards public art in this development. The site will form a distinct corner to the development along Camp Road and includes a significant wet corridor open space. There is ample opportunity to enhance the sense of place the development aims for through the provision of public artwork as a landmark or gateway feature. The recommendation would lean towards naturalistic/environmental artwork that works with green open space and adds a unique characteristic and point of interest for the surrounding community.

(b) It is directly related to the development by virtue of:

- SPD 4.130 Public Realm, Public Art and Cultural Well-being. Public realm and public art can play an important role in enhancing the character of an area, enriching the environment, improving the overall quality of space and therefore peoples' lives.

(c) It is fairly and reasonably related in scale and kind to the development by virtue of:

- The amount has been calculated on the proposed increase in dwellings as outlined below:

£200 per dwelling

plus 5% management and 7% maintenance fees

= £51,520.00

9. CDC MONITORING FEE - £3,000

9.1 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."

9.2 The fee meets these tests because:

In order to secure the delivery of the various infrastructure improvements, to meet the needs arising from development growth, CDC needs to monitor Section 106 planning obligations to ensure that these are fully complied with. To carry out this work, the Local Planning Authority has set up a Planning Obligation Team and so charges an administration/monitoring fee towards funding this team of officers. The work carried out by the Planning Obligations Team arises solely as a result of CDC entering into Section 106 Agreements in order to mitigate the impact of development on the infrastructure for which CDC is responsible. CDC then has a resultant obligation to ensure that when money is spent, it is on those projects addressing the needs for which it was sought and secured.