

**Case Officer:** Richard Greig

**Recommendation:** Approve

**Applicant:** Elgin Investments LLP

**Proposal:** Discharge of Fourth Schedule Clauses 3 and 4 of Section 106 of  
16/02446/F - Phase 9 - Heritage Land and Strategic Ecology Land

**Expiry Date:** 29 September 2021

**Extension of Time:** 29 May 2023

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## **1. APPLICATION SITE AND LOCALITY**

- 1.1. The former USAF/RAF Upper Heyford airbase site is located 7km northwest of Bicester, in an isolated rural location, within the parishes of Upper Heyford, Somerton and Ardley.
- 1.2. The former airbase is located at the top of a plateau and is set within otherwise open countryside. Land to the west falls sharply to the Cherwell valley and Oxford Canal (the Canal itself has been designated a Conservation Area). The Grade I listed Rousham Park is located in the valley to the southwest of the site. The Rousham, Lower Heyford and Upper Heyford Conservation Area adjoins the airbase site, whilst the airbase itself has been designated a Conservation Area in view of the international importance of the site and the significant Cold War heritage interest.
- 1.3. There are several designated Scheduled Monuments and listed buildings, and other non-designated heritage assets of national importance on the former airbase site, as well as other unlisted buildings that make a positive contribution to the character or appearance of the conservation area, and much of the airfield is also of ecological importance, including a Local Wildlife Site.
- 1.4. The parent permission (Ref: 16/02446/F) to which this application relates comprised the development of 296 dwellings, referred to as Phase 9, located to the western end of the Heyford Park development, on the southern side of Camp Road.

## **2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. This application seeks to discharge Clauses 3 and 4 of the Fourth Schedule to the Planning Obligation by Deed of Agreement (dated 6 April 2020) under section 106 (S106) of the Town and Country Planning Act 1990 - relating to Land at Phase 9, Heyford Park, Upper Heyford, Oxfordshire.

## **3. RELEVANT PLANNING HISTORY**

- 3.1. The following planning history is considered relevant to the current proposal:

Application Reference: 16/02446/F

- Erection of 296 residential dwellings (Use Class C3) comprising a mix of open market and affordable housing, together with associated works including provision of new and amended vehicular and pedestrian accesses, public open space, landscaping, utilities and infrastructure, and demolition of existing built structures and site clearance works. – Approved 7 April 2020.

Application Reference: 18/00825/HYBRID

- A hybrid application inclusive of the development of 1,175 new dwellings.
- Approved 9 September 2022.

#### **4. PRE-APPLICATION DISCUSSIONS**

- 4.1. No pre-application discussions have taken place with respect to this proposal.

#### **5. RESPONSE TO PUBLICITY**

- 5.1. The nature of this application is such that no formal publicity is required to be undertaken.

#### **6. RESPONSE TO CONSULTATION**

- 6.1. No consultation responses have been received.

#### **7. APPRAISAL**

- 7.1. As referenced under section 2 of this report, this application relates to a Planning Obligation (Clause 3 and Clause 4 of the Fourth Schedule) by Deed of Agreement secured under S.106 of the Town and Country Planning Act 1990 in respect of the grant of planning permission issued under application reference 16/02446/F.

- 7.2. As set out under section 106A of the Town and Country Planning Act 1990, a planning obligation may only be modified or discharged by agreement between the appropriate authority and the person or persons whom the obligation is enforceable; or, in accordance with section 106B (Appeals) of the aforementioned Act. Where an application is made to discharge an obligation, as is the case in this instance, the authority may determine:

- a) that the planning obligation shall continue to have effect without modification;
- b) if the obligation no longer serves a useful purpose, that it shall be discharged; or,
- c) the obligation continues to serve a useful purpose (but with modifications).

- 7.3. Clause 3 of the Fourth Schedule reads as follows:

*'The Owners covenant with the District Council that it will not Occupy or cause or permit the occupation of any more than 200 dwellings unless and until it has secured the Strategic Ecology Land and provided written evidence to the District Council that such land is available for its intended purpose under the terms of this Agreement such land to be provided as part of its contribution to the overall infrastructure requirements associated with development pursuant to the Allocation.'*

- 7.4. It is important to note that the term 'Allocation' is defined under the 'Agreement' as 'the land at Upper Heyford allocated for a mixed use development pursuant to Policy Villages 5: Former RAF Upper Heyford in the Cherwell Local Plan 2011-2031 Part One adopted 20 July 2015.'

- 7.5. Significantly, the 10ha of Strategic Ecology Land is intended to contribute to the wider 'Allocation' (i.e., the settlement of Heyford Park), wherein a detailed 'Ecology Scheme', including a specification for its planting and timetable for its provision, which is yet to be submitted, is not required under Clause 3 but is secured under the S106 Agreement (dated 8th September 2022) to planning reference 18/00825/HYBRID.

7.6 Having regard to this submission, the applicant has provided a supporting statement as written evidence, demonstrating that the requisite 10ha of land is available for its intended purpose as '*Strategic Ecology Land*' – as required by Clause 3 of the Fourth Schedule to the April 2020 S106.

7.7 Similarly, having regard to Clause 4 of the Fourth Schedule to the April 2020 S106, the applicant has submitted a supporting statement as written evidence, demonstrating that the requisite 20ha of land is available for its intended purpose as '*Heritage Land*'. Moreover, a '*heritage project*' in the form of a '*New Heritage Centre*' is not controlled under Clause 4 but is secured under the S106 Agreement (dated 8<sup>th</sup> September 2022) to planning reference 18/00825/HYBRID.

## **8. PLANNING BALANCE AND CONCLUSION**

8.1 Having regard to the above and the supporting statements provided it is considered that the respective obligations (i.e., Clause 3 and 4 of the Fourth Schedule) no longer serves a useful purpose and should be discharged accordingly.

## **9. RECOMMENDATION**

That Clause 3 and Clause 4 of the Fourth Schedule of the Section 106 Agreement in respect of application reference 16/02446/F be discharged in accordance with the submitted '*Strategic Ecology Land Heyford Park on behalf of Elgin Investments LLP 3rd August 2021*' and '*Heritage Land Scheme Heyford Park on behalf of Elgin Investments LLP 3rd August 2021*'.

Case Officer: Richard Greig

DATE: 22 May 2023

Checked By: Andy Bateson

DATE: 25<sup>th</sup> May 2023

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