

**Response to Planning Application 21/00922/OUT**  
**Housing at land west of Foxden Way, Great Bourton.**

From: Tim & Ann Brooks, Great Bourton House, Crow Lane, Great Bourton OX17 1RL.  
19<sup>th</sup> April 2021.

This proposed development should be rejected by the Council for the following reasons:

- The site does not conform to permitted development in the Cherwell Local Plan 2031.
- It damages the valued local landscape
- There is no demonstrated need for the housing proposed.
- The site will generate significant additional car use, in contravention of CDC policies to reduce car use.
- The site is not capable of being safely drained in the way suggested in the application.
- The proposal enjoys no local support and has encountered considerable local opposition, partly for the above reasons, and partly because Foxden Way, much used and loved by villagers, is a single-track rural lane, whose character will be permanently ruined by housing development.

**Contravention of CLP 2031**

In its findings on recent nearby application 20/0110/F, CDC Planning Department noted that the National Planning Policy Framework (NPPF) 'does not change the statutory status of the development plan [CLP 2031] as the starting point for decision-making. Proposed development that conflicts with the Local Plan should be refused unless material considerations indicate otherwise.'

It further noted that:

'Great Bourton is recognised as a Category B village where new residential development will be restricted to conversions, infilling and minor development within the built-up area of the settlement.'

Paragraph C.254 of CLP 2031 explains that Policy Villages 1 seeks to manage small scale development proposals, typically (but not exclusively) for less than 10 dwellings, which come forward within the built-up limits of villages. As the site is clearly not within the built-up limit of the village there is a conflict with this policy and this is accepted by the developer.

C.250 states that the Council seeks to deliver housing at villages where 'local shops, services and job opportunities are available and accessible, or where access to nearby towns would be sustainable in transport terms'. There are no shops, and virtually no employment, in the Bourtons. Transport issues are addressed below.

The Council's Housing Strategy 2019-2024 and its Action Plan 2019/20 (Appendix A to the Housing Strategy) are also relevant. The Action Plan sets out that Priority 1 is to increase the supply and diversity of affordable housing to ensure the right types of homes are available

in the right places. This field is not the right place, as is very clear from all the objections that have been lodged, including this one.

The developer highlights row 1.2.3 of the Action Plan, which says the Council will 'increase the delivery of rural exceptions sites to enhance the affordable housing choice within rural areas.' This is misleading, when left on its own as a statement, because the next column in the Action Plan sets out how the Council will achieve this target, and it is not through inviting speculative applications on land in open countryside, but rather a two-fold plan to deliver on identified land at Ardley, and through the preparation of a business case for a fixed term rural affordable housing/community led housing post.

Row 1.4.1 (under the heading 'work in partnership with...private developers...to accelerate delivery of housing') does set out a more general aim of 'supporting community led development' and the overall goal of delivering more affordable housing is obvious and overriding. However this must be in line with overarching Priority 1 noted earlier, which is to deliver the right types of homes in the right places.

The developer argues the decision to permit the development of two dwellings at Stonelea on School Lane means the site is 'adjacent' to an existing settlement. This argument overlooks the prior fact that development at Stonelea was previously refused (application reference 18/01074/F) on the grounds that 'by virtue of their siting, scale and design the proposals would constitute unjustified development beyond the built-up limits of Great Bourton and which would intrude into open countryside causing significant undue visual harm to the valued rural landscape.' An appeal against this refusal was then rejected by the Inspector, Mr. Evans, on 10 July 2019, after Inspector Evans visited the site on 26 February 2019, (reference APP/C3105/W/18/3215074) on the basis of harm to the character and appearance of the area. The Inspector did however conclude the Stonelea site, being residential garden, was associated with Great Bourton's residential development. This is what led to the Council's subsequent approval when the design was substantially altered. What matters the most for this application is Inspector Evans' conclusion that there was already a 'natural defined boundary' at the edge of the Stonelea appeal site (paragraph 11 of his decision). It follows that the site itself lies on the other side of this 'natural boundary' to Great Bourton, and rather than supporting the developer's case, the Stonelea decision fundamentally undermines it.

There is a further reason why the Stonelea decision fundamentally undermines the developer's arguments. The Council's reason for refusal cites undue visual harm to the 'valued rural landscape'. This concern remains valid considering the application here is for nine dwellings on open fields that will extend built development much further into the open countryside than two dwellings within an existing garden at Stonelea.

The use of the words 'valued rural landscape' in rejecting a previous adjacent application is also important, because we assume this is a deliberate reference to the NPPF, of which the developer is so fond. The NPPF states (para 170(a)) that 'planning...decisions should contribute to and enhance the natural and local environment by: a) protecting and enhancing valued landscapes'. The site was described by the Council as 'valued'. We think it is clear that the generic 'policy presumption' in favour of entry level affordable housing at paragraph 71 of the NPPF, so heavily relied on by this developer, is displaced by the site-

specific policy presumption at paragraph 170 of the NPPF. As a valued landscape, the site is to be protected from inappropriate development, and enhanced.

Policy ESD13 in CLP states: 'Proposals will not be permitted if they would...cause undue visual intrusion into the open countryside...be inconsistent with local character...Imperil an area judged to have a high level of tranquillity'. This is just such a proposal.

ESD15 states: 'Development of all scales should be designed to improve the quality and appearance of an area and the way it functions'. ESD15 notes the Cherwell Valley as being an important landscape in this context.

The developer attempts to argue that the allotments to the south of the proposed development, 'extend the perceived presence of the settlement to the south of the site.' When the parish decided to move the allotments to its present site, which was previously farmland, CDC advised that there was no need to apply for a change of use, as allotments are horticulture/agriculture – not a built development

C.276 states that in identifying suitable sites for affordable homes, 'it will be necessary to balance the advantages of providing affordable housing with the degree of harm that would be caused, for example to the appearance of the village, the surrounding landscape or to the historic environment.' Not surprisingly, the applicant argues (6.4): 'the benefits [of his application] outweigh that harm.'

It is clear from the numerous responses to this consultation that not a single resident of either of the two villages affected agrees with the applicant that the benefits outweigh the harm.

There is pressure on CDC, as on many local councils, to demonstrate sufficient forward provision of land for housing. But building in this valued rural landscape is not the right solution to this challenge.

#### No demonstrated need

C.277 of CLP 22031 states that 'demonstrated local housing need' will be important in assessing rural exception sites. In the last 3 years not only has the Garners Field development in Great Bourton been created, but Cherry Fields and Hanwell View, on the Southam Road south of Little Bourton, and within 1.5km of the proposed site, have been built, with very large numbers of new houses of all price ranges, including affordable housing as stipulated by CDC in granting those permissions. CDC will have carefully calculated future local demand in stipulating the number of affordable units to be included in those new developments. Planning permission has also been granted to the land west of Southam Road, below the Crematorium. This development, when it is carried out, will surely also substantially increase the supply of affordable homes locally.

There is no demonstrated unmet demand for affordable housing locally.

The developer refers to 15 people recently on the waiting list in neighbouring villages. These villages are clustered merely for administrative convenience. Claydon is further from this site than is Banbury.

Nor has the developer shown that, as required under Policy Villages 3 in CLP 2031, 'no alternative suitable site is available to provide a rural exception site and a robust site search can be demonstrated'.

### No clear provision

The developer makes no commitment whatever to the level of provision of affordable homes. There is nothing at all in the application to detail undertakings about affordability. Specifically the application gives the number of starter or affordable homes envisaged as 'unknown'. (Application Section 15). We realise that this is 'just' an outline application, but given the enormous detail of the application in respect of legal opinion, traffic estimates, drainage solutions, ecology etc etc, this complete silence about what the developer plans to offer in terms of affordable housing, is surprising.

### Additional car use

CLP 31 notes that 'the impact of growth and new development in the rural areas may impact upon the quality, character and landscape setting of villages' (C.244). C.245 adds: 'The major environmental challenge for our villages and rural areas is to maintain and enhance the quality of our natural, built and historic environment in the face of pressures for new development. In addressing this challenge the Local Plan aims to protect and enhance biodiversity; support a pattern of development which reduces people's need to travel, maximises opportunities to use public transport and minimises additional levels of road traffic and pollution.'

There is almost no public transport available to Great Bourton. The consequence is that almost all residents own and regularly use cars. On the outline plan submitted, there is provision for 10 car spaces for 9 dwellings. If each house contains two, or more, working age adults, and/or school-age children, it is probable that car ownership will be significantly higher than the application envisages. There are several problems arising:

- There is nowhere else for these cars to park. Foxden Way, a rural, single-track lane, has raised earthen verges which do not permit cars to park. The two adjacent roads, School Lane and Crow Lane, are similarly narrow – indeed School Lane exceedingly so, with nowhere to park safely on either of these roads. Where would these proposed residents' cars go? And where would visitors to these houses park?
- The traffic survey attached to the application, either wilfully or because lacking in local knowledge, supposes that traffic would mostly flow from the development into School Lane. Not only is that intrinsically undesirable, due to School Lane's extreme narrowness, it is also mistaken, as any local resident would tell you. Cars leaving this field would mostly turn right onto Foxden Way and into Little Bourton, as being the quickest way to Banbury. Drivers heading east, to Cropredy School or the GP surgery would turn left, then right down Crow Lane – another single-track rural lane. Numerous respondents to this application have pointed out the wrongness of adding traffic to Foxden Way and to the very narrow and tightly-angled Spring Lane in Little Bourton. The traffic volume estimates in the application are, to put it politely, on the light side.

Some gesture is made to cycling. This is to ignore topography. Although both Cropredy and Banbury are less than two miles from the site, to the east and south respectively, in both cases, returning home requires addressing a very steep hill, which is simply beyond the physical abilities of many cyclists - particularly if encumbered with children or shopping.

This proposal would increase car usage in the district, and further clog narrow country lanes not designed for modern vehicular traffic. One true observation from the application's

Ecology survey, 4.3.3, notes that 'there are no footways along School Lane, Crow Lane or Foxden Way, as such, any pedestrians will be concentrating on potential oncoming traffic and will also be less sensitive [to the visual impact of the new development] than those on the wider public right of way network'. In other words the application itself argues that all those locals who use Foxden Way for walking, cycling and horse-riding will be so worried about the cars coming out of the development, that they will not lift their eyes to note how the houses have deformed the rural outlook. Fair enough.

People not familiar with the two villages may not understand the importance of Foxden Way as a place to take fresh air. Southam Road is a busy main road with no footpaths. Given the precipitous hill east towards Cropredy, Foxden Way is the only length of road in either village that is roughly on the level and long enough and quiet enough to use for exercise.

### Drainage

We're not drainage experts, unlike Mewies Consulting Development Engineers, who have written a technical note on drainage as part of the application.

However, we do know that part of the proposed site drains to the north and east, not to the south as shown on MEC's plans; this much is clear to anybody who stands at the gate to the proposed site on Foxden Way. What the application does not show is how it plans to make water flow uphill.

It is clear though that there is no possibility of connecting this proposed development to the sewerage network. MEC notes that an onsite sewage plant will therefore have to be built, and this will discharge water 'into the existing ditch network along the eastern boundary'. It promises that 'the relevant permits will be obtained from the Environment Agency before discharging treated foul water into the existing ditch network...'

These ditches are agricultural, not for residential run-off. And much run-off from the site will not flow south, as depicted on MEC's plans, but north and east onto Crow Lane – which already floods regularly in winter (as does Foxden Way itself). Thames Water had to be called out several times during 2020 to deal with surface water and blocked and damaged drains on Crow Lane.

The drainage plans are not fit for purpose, and the residents of Great and Little Bourton do not want sewage – treated or untreated – discharged into ditches alongside a popular walking lane.

We read Mr Tony Brummell's Consultee Comment of 16/04/21, from CDC Land Drainage. Mr Brummell states that he has 'no comments in principle'. He goes on to add that 'surface water will have to be discharged to soakaways'. This is at odds with the comments of the developer's own experts, MEC, who in the application note: 'the local geology comprises mudstone (clay) and is therefore considered impermeable. Soakage testing completed on land to the north of this site...confirms soakage isn't feasible...For the purpose of this assessment soakage is not considered feasible'. This is also the expert opinion of local farmer Mr Brian Cannon, in his comments on this application. We hope Mr Brummell will have no further need to revisit this matter.

## Ecology

There are warm words in the Ecology survey. It does acknowledge that 'the proposals will result in the loss of an area of pasture, [which] is species-poor grassland of limited ecological value'. Well; that's one way of describing this pasture on which – for at least a thousand years up to 2019 – sheep have grazed; the sheep whose wool and meat enriched the village, and funded the building of All Saints church in Great Bourton more than five hundred years ago.

Foxden Way is first named on maps in the 17<sup>th</sup> century. In all that time, there has been no building on the entire length of the lane, other than Too Good Farm, halfway between the two villages, and its associated barns.

The developer's concern for local ecology can perhaps be measured by the fact that following the acquisition of the land, a large dump of unsightly builder's rubble has been left on the field, and barbed wire added to the top of the gate.

This is the same developer who spoke about creating a 'community orchard' on land south of its current development off School Lane. The Parish Council, in its letter of 26/02/21 to CDC Planning, noted that this orchard had been offered by the developer 'on condition that the Parish Council accepted the application 19/01808/F without objection'.

On the subject of this nearby development by the same developer, it must be noted that the plans originally submitted and approved have now had to be replaced by a renewed application, 21/00094/F, because the development being delivered does not correspond to the plans originally submitted and approved. It is not normally appropriate to consider other planning applications when considering a new one, but this adverse variance between the developer's proposal and the observable built outcome on School Lane, is just one of many reasons why local residents view the application here under consideration with such scepticism.

## Legal Opinion

As part of the application, the applicant has included a legal opinion from Mr Killian Garvey, a barrister at Kings Chambers in Birmingham. Leaving aside the arguments given above, as to why his opinion that the NPPF overrides the CLP is mistaken, we trust the Council to recognise in its decision-making that this application is a planning matter, not a legal matter. Mr. Garvey, whatever his strengths as a lawyer, has no more standing in this matter than do we, or any of the other residents who have responded (indeed we'd argue he has less standing, as he lives nowhere near the site). The application should be decided on planning grounds by the duly accountable CDC planning process, and we're sure it will be.

## One more thing: government announcements

The UK government has just this month published its response to the consultation on proposed changes to housing policy. This is not policy, nor is it even guidance. At most it is a matter for material consideration. But on the balance, we strongly believe all the arguments advanced here and in the very many other objections to the development, must outweigh this consideration. It may be that the Council is required, in future, to identify further sites for housing. If it is, it is nonetheless the case that this particular site is not suitable.

The Council must reject this application.

1. It's outside the village boundaries, and in a 'valued rural landscape'.
2. It would ride roughshod over the Cherwell Local Plan.
3. There is no demonstrated need for this housing in this location.
4. There are numerous relevant policies within the development plan that assist the Council to determine whether or not entry level affordable housing on the site is acceptable in planning terms or not. These relevant development plan policies confirm it is not acceptable in planning terms. This is something even the developer accepts, through the recognition of a conflict with the development plan, and their subsequent reliance on NPPF policy alone.
5. The application is completely silent about the number and nature of entry-level/affordable homes it would build.
6. The developer has a recent – indeed, current – track record of failing to build to a plan it has received approval for.
7. There is a large amount of new affordable housing, and extant permissions, within 1.5km of this site.
8. It's in a tranquil rural spot, unsuitable for housing, and much used by local people for fresh air and exercise.
9. The site is unsuitable from a drainage point of view. Development would lead to more local flooding of rural lanes, by rainwater and by foul water (treated or perhaps untreated).
10. It would increase car use, in contravention of CLP (and contrary to the needs of the planet).
11. Every single one of the very many residents of both villages who have responded to this consultation – more than 50 at time of writing - have opposed it.

CLP 2031 C.244 cautions that 'new development in the rural areas may impact upon the quality, character and landscape setting of villages'.

Please, don't mess up The Bourtons.

Tim & Ann Brooks  
20<sup>th</sup> April 2021.