

Comment for planning application 21/00922/OUT

Application Number	<input type="text" value="21/00922/OUT"/>
Location	<input type="text" value="Land West Of Foxden Way Great Bourton OX17 1QY"/>
Proposal	<input type="text" value="OUTLINE Planning Application with all matters reserved save for access for up to 9 First Homes"/>
Case Officer	<input type="text" value="James Kirkham"/>
Organisation Name	<input type="text" value="Tim & Ann Brooks"/>
Address	<input type="text" value="Great Bourton House,Crow Lane,Great Bourton,Bicester,OX17 1RL"/>
Type of Comment	<input type="text" value="Objection"/>
Type	<input type="text" value="neighbour"/>
Comments	<input type="text" value="Please see attached pdf of our letter of objection"/>
Received Date	<input type="text" value="05/04/2022 10:16:28"/>
Attachments	The following files have been uploaded: <ul style="list-style-type: none">• 00922OUT response Brooks 2022.pdf

Response to Planning Application 21/00922/OUT

Housing at land west of Foxden Way, Great Bourton

From: Tim & Ann Brooks, Great Bourton Houser, Crow Lane, Great Bourton, OX17 1RL

5th April 2022

Objection

Our previous objections, posted on 19th April and 3rd May 2021, still stand. To briefly recap, before addressing this refreshed proposal:

- The Cherwell Local Plan must, in law, be the basis for decision-making.
- The site is outside the boundaries of the village, and would harm a 'valued rural landscape': CDC's own description of Foxden Way.
- There is no demonstrated need. There is a substantial amount of affordable housing built or under development within 1.5m of this site.
- The development would generate substantial additional car use, in contravention of the CLP, and way higher than in the applicant's estimates. Provision for parking is extremely inadequate.
- The drainage proposals are thoroughly inadequate, and potentially hazardous to health.
- Foxden Way is much used by villagers for fresh air and exercise. This development would compromise its use and increase the danger to pedestrians from traffic.
- The developer has a track record of failing to build to the plan it has received approval for, in this same village.
- The YouGov survey tabled by the applicants is a piece of calculatedly biased 'research' of no value to this decision.
- Local opinion is overwhelmingly opposed to this development.

This objection addresses issues arising since that round of consultation last year.

What has changed?

- **1. Nationally:** HMG came out with its First Homes guidance last year. (This is not law).
- HMG also let it be known – through not denying press reports – that it is walking away from the Oxford-Cambridge arc.
- HMG also informally floated the idea that it may walk back from its previous guidance that councils must demonstrate a 5-year land bank.
- The 'serious' press is currently replete with stories that there will be no Planning Bill this year to embody things like housing targets, new zoning, and indeed First Homes, in law. It seems the government now realises just how unpopular and contentious some of its ideas are.

- **2. At CDC:** Planning told the developer to halve the amount of land in the proposal, and make it a First Homes application.
- Further coaching from CDC ('Dear James – further to our correspondence in recent days...') triggered a recent addendum (23rd March) to the application, explaining the error in its documentation – where the number of homes is given as both 9 and 15 – and attacking the Council's Landscape Officer for her objection – see below.
- This addendum also misleadingly cited ONS statistics on affordability. In fact – as CDC will be aware – out of the 64 districts in the South East region, Cherwell is the 21st most affordable. House prices here are rising more slowly than in the rest of Oxfordshire; and notably more slowly than in the South East region overall. We note these facts, not to argue against the provision of affordable housing, which is important throughout the UK, but to illustrate – yet again – how the developer uses data very selectively to apparently 'prove' a highly debatable point.
- CDC published the intermediary stage of its work on its new strategic plan – which is due for completion this year. This involved a call for development proposals, to which Fernhill responded, and which is germane to this application
- CDC's Landscape Officer tabled a renewed and indeed more vigorous objection, which ended with the words 'Please refuse this application'. This has led to her being attacked in writing by the developer – see below.
- **3. Fernhill:** The developer changed its plan to reflect that halving of the land directed by CDC, and added a proposed passing bay by tarmacking over part of Foxden Way's verge.
- The developer also proposed moving the speed limit sign further south down Foxden Way. It presents this as a thoughtful gesture of goodwill to the village – but in truth, it is nothing altruistic, rather a part of the developer's plan to enlarge this development. Their proposed new location for the speed limit sign would be at the southern end of the additional land they wish to develop – see below – enabling them to argue, in a future application, that it is within the village boundary – because within the speed limit zone.
- Fernhill tabled legal advice on a recent court ruling from a planning case in Wiltshire – see below.
- That's all. After more than a year, Fernhill has deliberately chosen to add no further detail to its original application, despite an explicit request to do so by CDC's Housing Strategy lead (see below).

Where are we now?

1. Local opposition

This application is due to go before the Planning Committee of CDC on May 19th. The reason such a small application has been referred to the Committee is the level of local opposition it has attracted.

More than 100 households in the villages that comprise the parish – Great Bourton and Little Bourton – have taken the trouble to write to CDC objecting to this proposal. For

reference that is **more than a quarter** of all the households in the parish. Let's just take that in. In England, typically, 3% of local residents get involved in planning processes. Here you have a figure **8-10 times** as high.

The proportion of objections to support from parish residents is **more than 99:1**. In fact only **one** parish householder has written in support (aside from the developer himself – see below).

Let's imagine that CDC was consulting on a matter that affected all its residents: let's say, for the sake of the illustration, it proposed to remove all parking charges in the towns within Cherwell. Let's then imagine that **more than a quarter of all households** in Cherwell actively responded to the consultation by writing in, and that **99%** of them said it should not be done. Would CDC proceed? That is the sort of decision the Planning Committee faces with this proposal.

The Planning Department of course would say: planning decisions must be taken on the basis of planning law and policy, not public opinion. But that is precisely why this application is going to the Committee of elected Councillors: the council tax payers and electors of this parish do not want this development, and elected Councillors must heed the views of the electorate, most particularly when they are so clear.

But this application should not succeed on the basis of planning policy or law, either.

2. Cherwell Local Plan Review

In September 2021, CDC published Community Involvement Paper 2, as a key step in its process of drafting its new CLP. The draft of this new plan is expected, according to the Community Involvement paper, to be published in June.

As part of the process CDC has requested expressions of interest from developers for any potential development in the district.

On September 14 2021, Fernhill submitted two for land off Foxden Way. One (CDC Rep no: LPR-A-133) is for the land in between the site currently in question, and its existing 3-home development which lies just within the boundary of Gt Bourton. It wants to build 5 houses there.

The other (also designated LPR-A-133) is for the whole of the field – 1.2 hectares – in which the present application currently sits. As stated above, CDC instructed Fernhill to halve the amount of land in its application, in order to comply with CDC housing density standards. Fernhill's present application therefore takes the northern half of the site, the part nearest the village boundary which sits to its north. Fernhill proposes, in its submission to the Plan Review, building up to 25 homes in all on the entire site, and it characterises the homes as 'market or custom-build dwellings'.

Why does this matter? Well if we had £1 for every time we hear the mantra 'we cannot determine an application based on possible future events; we can only judge the application on its current merits' we'd be buying a round at The Bell. But in this case the owner of the land has already said what it intends to do with it: it has bought the land with the intention of building up to 25 market houses on it. The committee must consider: if the current application goes ahead, does that make it more or less likely that the rest of the 1.2 hectare of agricultural land will be built over with market housing?

It's interesting picking one's way, as a resident, through these proposals that have flooded in to CDC. A local property consultant, Brown & Co, has put in a near-identical proposal (LPR-A-088) for the same field, seemingly under the impression that it is owned by someone other than Fernhill. And that same consultant has also tabled a proposal (LPR-A-960) for **120**

houses on the field to the west of the site under consideration here – between it and the Southam Road. This proposal also perhaps explains why a strip of land, wide enough to accommodate vehicles, has been fenced off along the south side of Fernhill's field – this would permit vehicle access to the larger field as it is developed. According to Land Registry records, the owners of the larger field sold Fernhill their site.

So please: let's not take cover behind the notion that we can't take future development into account, because we don't know what might happen. The developers have given us crystal clear signals about what they intend.

CDC, in calling last autumn for public response to its draft new Plan, urged residents not to address individual proposals from developers at that stage – because CDC would, prior to publishing its 'final' draft in Q2 2022, exclude some of these proposals from the Plan, as being intrinsically unsuitable.

The question therefore is: when CDC publishes its draft plan - due in less than 2 months' time – will any of the above proposals still be included as potential developments? CDC Planning must already have some idea of the answer to that question.

All of this land, please bear in mind, is outside the boundary of the village, which is of course a Category B village as per the prevailing Local Plan.

We responded to CDC's Community Involvement consultation on 10/11/21, and reproduce here a relevant part of our response, which bears directly on this application:

"Option 18: you ask if development should be directed to villages north of Banbury. You will not be surprised to learn that our answer to this question is 'No'. If you carried out a formal consultation of residents in these villages, - which we think you should - you would find that this is by far the majority view. Why is this? The house developers will say it is merely 'Nimbyism'. But these are some of the factors that weigh with residents:

These villages - such as Gt and Little Bourton, Hanwell, Wiliamscot - maintain the shape and identity they have held for literally hundreds of years. Aggressive development will destroy these shapes and identities. It would be vandalism.

They have no services; no shops; no employers.

Car use is unavoidable. More houses = more cars. The roads in the villages are narrow and were not designed for heavy vehicular traffic. The villages sit atop a steep hill north of Banbury which rules out cycle use to get to and from town, for all but the most athletic residents.

It is not just road systems that cannot cope with more growth. Neither can the water systems. Or the electricity supply.

Significant development in these villages is unsustainable.

We note that the developers' proposals, with which you have been inundated, all involve trashing the village boundaries. Is this a good thing or a bad thing? It's a bad thing.

We were deeply concerned at CDC raising the prospect of 'coalescence' between Banbury town and – among others – Little Bourton and Hanwell. We assume you raise this prospect as a way of reassuring residents that you are alive to this as a danger of heedless planning, and you will not allow it to happen.

We are reassured therefore by Key Objective 23 in your draft plan:

Focus development in Cherwell's sustainable locations, making efficient and effective use of land, conserving and enhancing the countryside and landscape and the setting of its towns and villages."

3. First Homes

Nobody can be against cheaper housing, and First Homes allows for development on land outside the plan. The Written Ministerial Statement addressing First Homes calls them exception sites; and refers to the latter as 'small sites brought forward outside of development plans in order to deliver affordable housing'.

The legal point highlighted in Fernhill's submission, though, is a specific ruling about a particular level of landscape harm, in Wiltshire. That's it. It goes no further.

(It is worth reminding ourselves that in its application, Fernhill acknowledges that its proposals **do harm** the landscape: the exact words are 'any perceived landscape impacts'). Let's not get into legal arguments, save to say that ministerial statements and planning policy guidance do not displace the Local Plan, which must by law be the basis for decision-making. Let's further note, though, that the Written Ministerial Statement says: 'First Homes should, as a matter of course, comply with any other applicable planning policies'. This application does not do so, as any unbiased reader of the numerous objections can see for themselves.

4. 'Imaginary second phase' and CDC's Landscape Officer's 'lack of professionalism'

We commend the objections tabled by CDC Landscape Officer, Judith Ward, who has clearly visited the site, and clearly cares about the valued rural landscape in which it sits (it would be disappointing if she did not, given her responsibilities). She has clearly also paid close attention to the further development plans referred to above, tabled in the autumn. Fernhill's personal attack on her is unacceptable, and indeed libellous. They accuse Ms Ward of a 'lack of professionalism'. They are also indignant about what they describe as 'an imaginary second phase of development to the south and the issue of how these imaginary houses would relate to the countryside.' CDC's Landscape Officer will, like us, have gained her picture of this 'imaginary second phase' by inspecting **Fernhill's written proposals for exactly that**, which may be viewed on CDC's website. Fernhill also states that the Officer's conclusion is 'not befitting of what should be a professional response'. It seems Fernhill cannot imagine a world in which Council officers object to their proposals. This Officer is doing her job, and the entire parish is grateful to her for it.

5. Drainage

The Landscape Officer has clearly done her job scrupulously, including visiting the site. We wish we could say the same of the CDC Land Drainage report (15/2/22). The drainage proposals are not fit for purpose. CDC is asked to bear in mind that Mr Brian Cannon, who has responded to the consultation, has lived in the village all his life; has farmed the land currently under scrutiny; has laid drainage for much of the agricultural land locally; and installed the original sewage pipes on School Lane. He really does know what he is talking about. He knows the drainage proposals are thoroughly inadequate. Mr Cannon lives at High Acres Farm; his 2 responses are on the CDC site, dated 1/4/21, and 8/3/22.

6. Housing strategy

Frances Evans, CDC's Housing Strategy and Development Team Leader, objected to the application on 4/5/21. It is worth revisiting the grounds for her objection.

- She notes there is no detail about affordable property type or tenure mix.
- She notes 'the need for affordable housing that is suitable for first-time buyers (or those looking to rent their first home) is already being provided for across the district...Due to the lack of detail, the application does not adequately demonstrate how it will meet a district need that is not already being provided for across Cherwell.'
- She asks how new-build detached properties with garages – such as appear on Fernhill's indicative plan – will be affordable for first time buyers or renters.
- She – like we do – dismisses the YouGov survey as worthless.
- She notes that affordable homes were included in the Garners Field development in Great Bourton completed in 2019.
- She notes that the most pressing need in Cherwell is for more social rent tenure housing, but adds that 'Such properties also need to be in accessible locations with good access to affordable public transport links, local facilities and infrastructure.' None of this applies to Foxden Way.
- She also notes the volume and nature of the objections of local residents to this application and says that any application 'should meet all other criteria' for approval.

Ms Evans ends by saying she would 'like the opportunity to respond to any further information provided by the planning applicant.' Good luck with that – there has – quite deliberately - been precious little.

Let us remind the Planning Committee: it is now more than a year since Fernhill first lodged their application. Nothing has changed, except designating it a First Homes application, at the advice of CDC; and halving the land used, again at CDC's direction. Fernhill has not – according to CDC's Planning department – even begun a discussion of Section 106 funding, as to how these homes would be made affordable.

It is quite clear that Fernhill's approach is to reveal as little as possible; to get this in principle application approved; and then to chip away, drawing out the process and hoping to get what it wants out of CDC by a process of attrition.

7. Who is Fernhill Estates?

There are 4 companies including in their name the words 'Fernhill Estates', registered to an address in Great Bourton. It is not clear which of these – or is it a 5th as yet unregistered company? – is applying to build on Foxden Way, because there is no full name given by the application, nor a company number on its headed notepaper. We note that none of these companies have yet returned any annual accounts - in other words, none of them have a trading record - and we wonder if they have the financial standing to undertake this development?

8. Who is Will Lombard?

Mr Lombard uploaded his comments to the CDC planning site on April Fools' Day. He introduces his comments with the words: 'As the owner of the field and a resident of Great Bourton'. Mr Lombard is indeed currently a resident, having moved into one of the 3 homes

he built off School Lane. (Homes for which a revised planning application had to be submitted, because they had departed so noticeably from the plan originally granted permission: 21/00094/F). More importantly, though, Mr Lombard is in fact in charge of Fernhill Estates, listed as director of the 4 companies mentioned above, along with Rebecca Crow, of the same address (and whom we assume is related to Russell Crow, whose name appears on Fernhill's application).

I will leave it to the Parish Council to address the claims made by Mr Lombard in his comments, except to note that they are **not entirely accurate**. (See, for instance, the Parish Council's response to an earlier application by Fernhill, 19/01808/F, which includes this paragraph: 'The offer of a Community Orchard, as shown on the plan in the ecology report and mentioned in the planning statement, could have the potential to significantly boost local ecology...The developer needs to confirm this offer and provide a suitable, ongoing funded and sustainable management plan. This offer and supporting plan, as described, should be a planning condition should permission be granted.' I believe that was the last we saw of Mr Lombard's plan for the 'orchard' – on which he now wants to build more houses.)

Mr Lombard ends by saying 'I do not wish to interfere with the consultation'. He's having a laugh, isn't he? It's **his** application that is under consultation here. If he wants to gift the field to the village, which he states as his frustrated ambition, he can withdraw his application and do just that.

Don't do this, CDC.

More than a **quarter** of local residents have engaged directly in this process – a stunning number. **All bar one of them** (excluding the developer himself for the purposes of this calculation) opposes the application. It fails on a number of key considerations in respect of CDC Local Plan. There are **many** grounds for refusing it.

If you grant the application, on the other hand, you will, as Councillors George Reynolds and Phil Chapman noted (email on CDC's site, 22.4.21) 'drive a coach and horses through our present policies and open up all villages to speculative applications that will lead to ordinary housing once the principles have been established.'

Tim and Ann Brooks, 5th April 2022.

