

**CHERWELL DISTRICT COUNCIL**  
**TOWN AND COUNTRY PLANNING ACT 1990**  
**RULE 6 STATEMENT OF CASE**

Appeal by CALA Homes (Midlands) Ltd against the decision of Cherwell District Council to refuse planning permission for a development of up to 200 residential units with access, amenity space and associated works (including new village shop and hall) at South Lodge, Fringford Road, Caversfield (Council's ref. 13/01056/OUT) APP/C3105/A/13/2208385.

**1. SITE LOCATION AND PROPOSAL**

- 1.1 The site extends to an area of 7.1 hectares and comprises grassland to the western side of Fringford Road within which there is a dwelling and associated outbuildings. A small section of the north-west boundary to the site is formed by a stone wall, the rest being fencing, beyond which are mature trees forming part of the wider setting of the listed church and Caversfield House. To the south-west is an unnamed road linking Fringford Road to the B4100 Banbury Road. This is largely hedge and tree lined, as is the boundary to Fringford Road, save for a group of 4 no. private dwellings in the southern corner which are not part of the red line site. The north-east boundary has not been subject of a detailed survey but can be described as mostly 'fence-lined'.
- 1.2 Access to the site is currently obtained from either the unnamed road on the southwest boundary (where there is also a gated field access) or off Fringford Road positioned just north of the 4 No. properties and directly opposite Skimmingdish Lane. Both access tracks are gated and lead to South Lodge but the proposal seeks to remove the unnamed road access point and field access and create just one access off Fringford Road further north away from the 4 private units. The layout shows that the existing vehicular access onto Fringford Road would become a pedestrian route through the development only. There are no public footpaths in, adjacent to or adjoining the site though there is a public footpath which runs across the north of the site approximately 200m away.
- 1.3 The application sought outline planning permission for up to 200 dwellings, 35% of which are proposed to be affordable units. With the exception of the access

arrangements all other matters are reserved for future consideration. The application was submitted with an appropriate suite of documentation and reports which includes the Design and Access Statement, Planning Statement, Transport Statement, Flood Risk Assessment, Ecological Assessment, Arboricultural Report, Statement of Community Involvement and layout plans and detailed elevations.

## **2. RELEVANT PLANNING HISTORY**

- 2.1 Of most note is: CHS.999/88 – Appeal allowed for the erection of a dwelling house and single storey annex for a groom. The decision tied the dwelling to “persons solely employed at the South Lodge Riding School and stables establishment...” The appeal decision is attached (T/APP/C3105/A/89/121228/P8)
- 2.2 Previous to that there had been no other ‘dwellings’ on the site. Any reference to South Lodge up to that point referred to a property now known as The Gatehouse, South Lodge, which faces onto Fringford Road (within the block of 4 nearest the access point). Other planning history is largely confined to minor matters associated with the operation of the riding stables or the dwelling.

## **3 POLICY CONSIDERATIONS**

### **3.1 The Development Plan**

- 3.1.1 The **Adopted Cherwell Local Plan** (ACLP) (adopted November 1996) remains the current adopted Local Plan. It contains the following relevant saved policies:

H5: Affordable housing

H12: New housing in rural areas

H15: Development within Category 3 Settlements

H18: New dwellings in the countryside

TR1: Transport funding

R12: Provision of open space

C7: Topography and character of the landscape

C8: Sporadic development in the open countryside

C15: Coalescence of settlements  
C28: Control over new development (Layout etc)  
C31: Compatibility of proposals in residential areas  
C32: Provision of facilities for disabled people  
R12: Provision of public open space in association with new residential development

## 3.2 **Other relevant documents**

### 3.2.1 **The National Planning Policy Framework (NPPF) (March 2012)**

The NPPF at paragraph 14 states 'At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking...for decision taking this means<sup>1</sup>:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
  - any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted<sup>2</sup>

Whilst the policies contained within the document should be taken as a whole the following paragraphs are, in addition to paragraph 14, key to the consideration of the proposal:

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<sup>1</sup> Unless material considerations indicate otherwise.

<sup>2</sup> For example, those policies relating to sites protected under the Birds and Habitats Directives and/or designated as Sites of Specific Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast, or within a National Park; designated heritage assets and locations at risk of flooding or coastal erosion.

Paragraph 49 – Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

Paragraph 6 - The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

Paragraph 7 - There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

Section 11 - This seeks to conserve and enhance the natural environment through

inter alia the protection of the landscape, conservation interests and soils; recognition of wider benefits of ecosystems and minimise impacts on biodiversity.

Paragraph 17 – Within the overarching roles that the planning system ought to play, a set of 12 core land-use planning principles should underpin both plan-making and decision-taking.

### 3.2.2 **The Non-Statutory Cherwell Local Plan (NSCLP)**

In December 2004 the Council resolved that all work to proceed towards the statutory adoption of a draft Cherwell Local Plan 2011 be discontinued. However, on 13 December 2004 the Council approved the Non-Statutory Cherwell Local Plan 2011 as interim planning policy for development control purposes. This plan does not have development plan status, but is a material planning consideration.

OA1 – General Policy

TR4 – Mitigation Measures

R8 – Playing Fields

R10A – Built Sport and Recreation Facilities

### 3.2.3 **Cherwell Local Plan – Draft Submission Document (October 2013)**

The draft Local Plan has now completed the public consultation stage and was approved by the Executive at a meeting on 7th October 2013 and by Full Council on 21st October 2013.

The Council intends that the Local Plan will be submitted for examination in January 2014, with a view to the examination taking place during spring 2014. The draft Local Plan is a material planning consideration. The plan sets out the Council's strategy for the District to 2031. The policies listed below are considered to be material to this case:

Sustainable communities

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, sport and recreation provision  
BSC11: Local standards of provision – outdoor recreation  
BSC12: Indoor sport, recreation and community facilities

#### Sustainable development

ESD3: Sustainable construction  
ESD6: Sustainable flood risk management  
ESD7: Sustainable drainage systems  
ESD10: Biodiversity and the natural environment  
ESD13: Local landscape protection and enhancement  
ESD15: Green Boundaries to Development  
ESD16: Character of the built and historic environment  
ESD18: Green Infrastructure

#### Villages

Policy Villages 1: Village categorisation (Caversfield - Category C)  
Policy Villages 2: Distribution Growth across the Rural Areas

#### Proposals Map Allocation – Extended Green Buffer

- 3.2.4 I list below further policy documents that are relevant, including: Planning Obligations Interim Planning Guidance April 2007  
<http://www.cherwell.gov.uk/index.cfm?articleid=1735>
- 3.2.5 Planning Obligations SPD July 2011 (Draft)  
<http://www.cherwell.gov.uk/index.cfm?articleid=1735>
- 3.2.6 Strategic Housing Land Availability Assessment – Draft Final Report – April 2013 (SHLAA)  
<http://www.cherwell.gov.uk/index.cfm?articleid=9639>
- 3.2.7 Annual Monitoring Report (AMR) 2013  
<http://www.cherwell.gov.uk/index.cfm?articleid=9043>

- 3.2.8 Green Buffer Report – March 2013  
<http://www.cherwell.gov.uk/index.cfm?articleid=9637>
- 3.2.9 RAF Bicester Conservation Area Appraisal  
[www.cherwell.gov.uk/index.cfm?articleid=1672](http://www.cherwell.gov.uk/index.cfm?articleid=1672)
- 3.2.10 Bicester Masterplan – Draft - August 2012  
<http://www.cherwell.gov.uk/index.cfm?articleid=9645>
- 3.2.11 Landscape Sensitivity and Capacity Assessment – Sept 2010  
<http://www.cherwell.gov.uk/index.cfm?articleid=9637>
- 3.2.12 Bicester Landscape Sensitivity and Capacity Assessment – Sept 2013  
<http://www.cherwell.gov.uk/index.cfm?articleid=9637>
- 3.2.13 Sustainability Appraisal Report – Dec 2013  
<http://www.cherwell.gov.uk/index.cfm?articleid=9666>

#### **4 THE COUNCIL'S CASE**

- 4.1 Application 13/01056/OUT was submitted to the Council on 10<sup>th</sup> July 2013 and validated the next day. It was publicised under the Council's normal procedures for a major application. The application was reported to planning committee on 3rd October with an officer recommendation of refusal.
- 4.2 The Planning Committee resolved to refuse the application. The reasons for refusal of the application are as follows:
  - 1. The proposal represents development beyond the built up limits of Caversfield where there is no proven need for agriculture or other existing undertaking and the application has not been made on the basis that it is a rural exceptions site. As the proposal cannot be justified on the basis of an identified need in an unsustainable location, it represents sporadic development in the countryside which fails to maintain its rural character and appearance and which fails to conserve and enhance the environment by introducing an incongruous, prominent, urbanising and discordant built form into this rural setting to the detriment of the visual amenities of the area. The application is, therefore, contrary to Policies H15, H18, C7, C8, C28 and C30 of the adopted Cherwell Local Plan, Policies ESD13, ESD15 & ESD18 and Villages 1 and 2 of the Proposed Submission Local Plan Incorporating Changes March 2013 and Government guidance contained in the National Planning Policy Framework.

2. Development of this site would erode an important green buffer gap between the planning expansion of Bicester and the village of Caversfield which would be harmful to the setting and identity of Caversfield itself and also that of the setting of the RAF Bicester Conservation Area as it would fail to preserve or enhance its setting contrary to Policy ESD15 and ESD16 of the Proposed Submission Local Plan Incorporating Changes March 2013 and Government guidance in the National Planning Policy Framework.
3. The applicant has failed to demonstrate that the proposed access is adequate in terms of its visibility so close to a junction which already suffers from substandard visibility. Together with the proposed pedestrian layout and general lack of information with regard to the parking requirements the proposed development would be detrimental to the safety and convenience of highway users, contrary to Government guidance contained within the National Planning Policy Framework.
4. In the absence of a satisfactory planning obligation, the Local Planning Authority is not convinced that the infrastructure directly required to service or serve the proposed development will be provided. This would be contrary to the Policy R12 of the adopted Cherwell Local Plan, Policies OA1, TR4, R8 and R10A of the Non-Statutory Cherwell Local Plan 2011, Policy INF1 of the Proposed Submission Local Plan Incorporating Changes March 2013 and government guidance contained within the National Planning Policy Framework.

4.3 Since the Council made its decision, it has reviewed this case in light of the change in circumstances with regard to the housing land supply. The AMR 2013 has been published and was agreed by the Council's executive committee on 6<sup>th</sup> January 2014. The Council accepts that, in having a 4.7 year supply, it does not have the required 5 years. The Council's first reason for refusal now should be read as subject to this acceptance. To be clear, the Council is also content not to rely on Policy C30 as mentioned in reason for refusal 1, as communicated to the appellant by letter dated 8<sup>th</sup> November 2013.

4.4 The Council's evidence will support the reasons 1, 2, 3 and 4 set out in paragraph 4.2, to demonstrate that the proposed development is not in accordance with the development plan, the NPPF, or the emerging Cherwell



Local Plan and that there is no other relevant material considerations that warrants the grant of permission.

5 **Reason for Refusal no. 1**

5.1 Principle of housing development

The site of the proposed development is an undeveloped area of open countryside, beyond the built-up edge of the village of Caversfield. The proposed development would result in unplanned encroachment into the rural area. The Adopted Cherwell Local Plan and the Proposed Submission Cherwell Local Plan do not contain any policies which seek to allocate the appeal site for residential development.

5.2 As the site is considered to be in the countryside, Policy H18 of the Cherwell Local Plan is relevant. This policy seeks to ensure that dwellings beyond the built-up limits of settlements are only approved where it can be demonstrated that they are essential for agriculture or other existing undertakings (as also referred to in Policy H15). Therefore Policy H18 is not complied with.

5.3 Sites other than those allocated in the Local Plan fall to be considered under Policy H12 which allows for development within the built-up limits of rural settlements in accordance with Policies H13, H14 and H15. Policy H15 is relevant to Caversfield and states that within category 3 settlements residential development will be restricted to conversion of non-residential buildings and where there is an essential need for agriculture or other existing undertaking. The proposal is for up to 200 dwellings (and associated development) on a site of 7.1 hectares on the western side of the village separated by a main road. Accordingly even if this proposal were for development within the built up limits of Caversfield (which it is not) it would not meet any of the policy criteria of conversion, rural need and location within the built up limits in any event.

5.4 Policies H17 and H19 of the non-statutory Cherwell Local Plan reflect the adopted policies above and as such the proposal is contrary to these policies also, which are approved for development control purposes.

- 5.5 Policy Villages 1 of the Draft Submission Local Plan (October 2013) categorises Caversfield in a similar manner to the Development Plan Policies. It is amongst the Category C villages where development is restricted to conversions only. Villages are categorised in relation to their ability to sustain different levels of residential development using various criteria and the policy seeks to manage small scale development proposals.
- 5.6 Policy Villages 2 of the same document recognises that some new development should be directed towards the rural areas but none of these includes Caversfield. Policy BSC1 of the Submission Cherwell Local Plan (October 2013) sets out that by far the majority of the district's future development needs are to be directed towards the more sustainable urban areas of Banbury and Bicester.
- 5.7 The Council will also refer to the National Planning Policy Framework (the NPPF) and the policies therein. While the housing supply policies of the Cherwell Local Plan are considered to be out of date, the policies that seek to ensure development is sustainable and that the countryside is protected from inappropriate development remain valid and in line with the policies in the NPPF. Nevertheless, paragraph 14 of the Framework is engaged and as such the presumption in favour of sustainable development applies.
- 5.8 The NPPF gives emphasis to the importance of ensuring that development is sustainable. The development is proposed by one of the District's most unsustainable villages and given the gap between the site and the rest of Bicester it cannot be considered an urban extension. Further, the Council will demonstrate that as a result of the harm to the character and appearance of the countryside caused by the physical encroachment into the open countryside, the level of development already accommodated in the village, the lack of infrastructure contributions to mitigate its impacts; and the proposal being contrary to the plan-led approach, the development itself does not constitute sustainable development. The adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

5.9 Housing Land Supply

The Council will seek to agree the key facts relating to housing land supply in a Statement of Common Ground. Following the approval of the AMR 2013 by the Council in January 2014, the Council accepts that it does not have currently a 5 year supply of deliverable housing land and that it is appropriate to apply a 20% buffer in the analysis. This position was different when the application was considered by Planning Committee as members were then advised that the Council had a 5-year supply. Nevertheless, as stated above, the Council will still argue that the adverse impacts of allowing the development would significantly and demonstrably outweigh the benefits, despite the recognised shortfall in housing land supply.

5.10 Harm to the Character and Appearance of the Countryside

The Council will demonstrate that as a result of its encroachment into the open countryside, the proposal would amount to sporadic development in the countryside, causing harm to its rural character and appearance. It would fail to conserve and enhance the environment and furthermore fail to meet the Council's objectives to meet housing need in a way that is in line with the spatial vision for the area. The Council will demonstrate that the development does not comply with Policies C7 and C8 of the Adopted Cherwell Local Plan, Policy ESD13 of the Submission Local Plan and Policy EN34 of the Non-Statutory Cherwell Local Plan.

5.11 The site is outside the built up limits of the least sustainable of villages. There is currently no shop though one is being built as part of the Garden Quarter development (11/00151/F refers) is and looking for an occupier, and one is proposed as part of this development. There are no other facilities. The catchment school is Southwold Primary School which feeds into Coopers School. There is a bus service which is a rural service (indirect into Bicester). There is no village hall as, it is understood from the parish Council, there is no need for one, though one is proposed. Caversfield has its own identity and this development would effectively lead to it being subsumed as part of the Bicester conurbation. Being located next to a category 3 village, and too far from the main town to be accessible without motorised transport, the site is unsustainable. It is also unsustainable environmentally as any new development in this sporadic countryside location

would fail to contribute to protecting and enhancing the natural environment. As such, the proposal runs contrary to the overarching principles of sustainable development.

## **6 Reason for Refusal no. 2**

- 6.1 The site falls within a green buffer area, the main purposes of which are to:
- (i) prevent coalescence and maintain a gap between development at the former DLO Caversfield site, Caversfield and the planned future edge of Bicester in the proposed North-west Bicester Eco-town development;
  - (ii) protect the setting of the historic hamlet of Caversfield and its associated area of parkland; and
  - (iii) to assist with the protection of the setting of the residential area associated with the former Bicester Airfield as an historic feature and designated Conservation Area.

The principal reference for this is the Bicester Green Buffer Report which further details how this site contributes towards retaining this important gap. The importance of the gap in preventing coalescence is also reflected in policy C15 of the Adopted Local Plan, as listed above.

- 6.2 Previous appeal decisions have highlighted the importance of this gap, most notably 00/01552/OUT concerning a plot of land just to the south of the subject site, where the proposed development would have been on a greenfield site beyond the built-up limits of Bicester within a 'vulnerable gap of open countryside' between Caversfield and Bicester (reference Secretary of State's decision /A/00/1055336). Policies in support of this reason for refusal seek to emphasise the importance of the need to retain this gap in its entirety.

- 6.3 The Bicester Green Buffer Report further states that one of the purposes of the green buffer is to assist with the protection of the setting of the residential area associated with the former Bicester Airfield as an historic feature and designated Conservation Area ("**CA**"). It is considered that the development of this particular site for residential development would conflict with this specific aim.

- 6.4 The CA appraisal refers to the special relationships within and between the defined

areas of the CA, together with the views across the flying field to open countryside beyond. These are considered important aspects of the character of the area worthy of conservation. The setting of the character area of that particular part of the CA, being the 'domestic site', would not be preserved or enhanced by the residential development proposed.

7 **Reason for Refusal no. 3**

7.1 This shall be dealt with separately by OCC as Highways Authority.

8 **Reason for Refusal no. 4**

8.1 **S106 Agreement**

Financial contributions are required to secure necessary mitigation for the impact of the additional development at Caversfield, including but not restricted to affordable housing, education, public transport, open space and play space. Without such contributions to secure essential infrastructure to support the development, it would be unsustainable, as there are no services within reasonable walking distance, some of the infrastructure (roads, schools) is at or close to capacity and alternative provision would be beyond the accepted maximum walking distance of 2km, further increasing the reliance on the private car. This would be contrary to the social aspect of sustainability in the NPPF, which requires new development to create a high quality built environment, with accessible local services that reflect the community's needs.

8.2 The appellant has been made aware of the likely heads of terms that the Council are seeking as part of a legal agreement. It is hoped that by the time of the Inquiry an agreement satisfactory to the District Council will be reached, enabling the Council to withdraw reason for refusal 4. Even if agreement is reached, however, the Council shall still demonstrate how each of the obligations complies with regulation 122 of the Community Infrastructure Levy Regulations 2010. In the event that an agreement cannot be reached, the Council will demonstrate that the lack of a satisfactory planning obligation to cover the heads of terms and infrastructure contributions would result in a proposal which would not mitigate

adequately the likely impact of the increase in population on local services. As such, the proposal would be unsustainable, contrary to development plan policies and the NPPF.

## 9 **CONCLUSION**

9.1 For the reasons set out above, the Council will respectfully be asking for the appeal to be dismissed.

## 10 **LIST OF DOCUMENTS TO WHICH THE COUNCIL MAY REFER**

- 10.1
1. Report to Planning Committee, written updates and minutes of the Planning Committee dated 3<sup>rd</sup> October 2013
  2. Site location plan showing appeal site and surroundings
  3. Indicative site layouts and other application documentation.
  4. Policy documents referred to throughout the Statement
  5. Previous appeal decisions – (T/APP/C3105/A/89/121228/P8)
- 10.2 The Council reserves the right to refer to any other relevant documents in its proofs of evidence.