



Planning Inspectorate,
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Temple Quay,
Bristol,
BS1 6PN

25th September 2017

LPA Reference 15/01326/OUT
Appeal refence APP/C3105/W/17/3172731

Dear Sir/Madam

TOWN AND COUNTRY PLANNING ACT 1990 - Appeal against Non-determination

Appeal by Gladman Developments Limited
Land off White Post Road, Banbury

Introduction

We are aware that Gladman Developments has lodged an appeal against non-determination for development of up to 280 dwellings with landscaping, open space, highway improvements and associated works, on land off White Post Road, Banbury.

We act for Gallagher Estates in respect of land at Wykham Park Farm currently subject of a resolution to grant planning permission for up to 1,000 dwellings together with associated uses to include land for education, both primary and secondary, local centre and open space uses (application ref: 14/01932/OUT).

Land at Wykham Park Farm is directly adjacent to the appeal site, and along with the appeal site, forms part of the Banbury 17 allocation within the Cherwell Local Plan (2011-2031), for the delivery of 1,345 dwellings.

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The introductory text to BAN16 (land south of Salt Way – West) and BAN17 (land south of Salt Way- East) identifies a critical component to ensure the effective implementation of necessary infrastructure associated with South West Banbury (BAN 16 and 17 allocations).

“Each individual development site will provide the necessary infrastructure to support itself to avoid placing any constraint or unreasonable burden upon either preceding or subsequent development sites that collectively comprise the Banbury South West area. Each development site will therefore contribute as necessary to the delivery of infrastructure within the area through onsite provision or an appropriate off-site financial contribution towards provision elsewhere in the Banbury South West areas to be secured through s106 agreement or CIL. This approach will ensure that individual sites are capable of coming forward independently, yet in a complementary manner”.

The proposals for South West Banbury (comprising both the appeal site, land at Wykham Park Farm and two other sites that have the benefit of planning consent and are currently being implemented) are predicated on equitable sharing of section 106 costs and infrastructure.

Gallagher Estates are delivering up to 1,000 homes, clearly the majority of the allocation at South West Banbury, and as part of the comprehensive masterplanning of the site has committed to accommodating additional infrastructure above its own infrastructure needs, to deliver the physical and social infrastructure required to create a sustainable new community at South West Banbury.

The resolution to grant consent at Wykham Park Farm was passed at the same committee meeting as the resolution to grant consent in respect of the appeal site, after Oxfordshire County Council (OCC) made clear that Cherwell District Council (CDC) must consider both applications, and the delivery of their respective infrastructure requirements, together, at the same Committee. Members resolved to approve both schemes on 4th August 2016, subject to completion of S106 legal agreements and consideration of a suitable mechanism for the delivery of a spine road through each site, to provide access from Bloxham Road through the White Post Road.

Gallaghers have worked with the appellants over the last 18 months to progress common infrastructure elements of the respective development proposals. This has included



submission of a joint illustrative masterplan which identifies the site-wide infrastructure and general layout arrangements, to include location and specification of the spine road.

Gallaghers, the appellants and CDC and OCC were at an advanced stage of negotiations at the time that the appellant lodged the appeal. Discussions related to common infrastructure items such as link road, land for primary and secondary education and community elements.

Following Gladman's decision to appeal, CDC confirmed, in the spirit of the adopted Local Plan policy, it would continue to progress the S106 pursuant to land at Wykham Park Farm, so that outline consent could be granted independently of any decision made pursuant to land off White Post Road. Gallagher Estates has continued to work closely with the OCC and CDC; have agreed heads of terms; and are currently engaged in drafting a tripartite legal agreement.

Gallagher Estates Position

Gallagher Estates has no in principle objection to the appeal proposals for land off White Post Road.

Gallagher Estates do however have some important points in relation to the delivery of infrastructure and equalisation of costs, that we would ask the Inspector to take into account in his/her consideration of this appeal. Whilst we acknowledge the inclusion of the Draft Heads of Terms at Appendix 4 of the Appellants Statement of Case, we note it is a high-level list of infrastructure types that does not provide the necessary detail nor the certainty that Gallagher Estates and nor the Councils require to secure timely and proportionate provision of infrastructure as part of the appeal proposals.

At the time of writing we have not had sight of the appellant's draft Unilateral Undertaking (UU), and whilst we anticipate that the UU reflects the scale of infrastructure items, costs and timings for delivery as discussed, refined and agreed over a number of joint meetings with Gallaghers, the appellants and CDC and OCC officers in attendance, we consider it necessary to set out our understanding of the infrastructure provision that must be secured from the appeal site, in order that the appeal proposals:



- a) make fair and equitable provision for and contributions towards infrastructure (capital and land costs), acknowledging Gallagher's overprovision to meet the wider needs of Banbury South West, having regard to the CIL Regulations (2010); and
- b) comply with the requirements of Local Plan Policy Banbury 16 and 17 that seek to secure the sustainable development of a new community at Banbury South West.

Equitable Infrastructure Provision Required by the Appeal Proposals

1 - Spine Road

Gallagher Estates are in agreement with the proposed condition 50 within the Officer's Report to Committee in respect of the delivery triggers for the provision of the spine road through the appeal site, requiring that the spine road be fully completed and made available for public use from its new junction with White Post Road through to the appeal site's western boundary prior to whichever occurs earliest of the following:

- Occupation of 75% of the final number of dwellings approved on the site (as determined by reserved matters approvals);
- Four years following first commencement of any part of the development on the site.

A condition is proposed pursuant to the delivery of the section of spine road within Gallagher Estates land. This requires completion of the road from a new junction on Bloxham Road through the site's eastern boundary prior to 200 occupations at land at Wykham Park Farm.

Gallagher Estates and the appellants have agreed the point of connection of the spine road between the respective land ownerships, and the design parameters for the spine road have also been agreed in consultation with OCC. These details and the timetable for the completion of the spine road must also be secured within the legal agreements for the respective developments.



2 – Education

Education - Primary

Gallagher Estates has committed to providing a site for a new primary school to serve the development and the wider needs of Banbury South West (BAN 16 and 17). This includes meeting the primary education needs generated by the appeal proposals. Gallagher Estates is providing 2.22ha of land prior to 150 occupations for delivery of a primary school, together with proportionate build costs for a 2.5 FE school. Gallagher Estates must also safeguard a further 0.79ha of land to facilitate an extension of the primary school to accommodate up to a 3FE school (see attached OCC response dated 22 June 2017).

Paragraph 6.72 of the appellants Committee Report states

'The application proposals should therefore be required to meet an equitable proportion of the build costs of the new primary school as well as provide a contribution towards land costs for OCC in order to secure the larger land area for the primary school on the Gallagher Estates part of the Banbury 17 site'

- Primary School Build Costs Contributions

The legal agreement pursuant to the appeal proposals must secure proportionate contributions for the build costs of a 2.5 FE primary school - based on a cost matrix defined by the final dwelling mix, commensurate with a cost calculations for development at Wykham Park Farm.

- Primary School Land Contribution

The legal agreement pursuant to the appeal proposals must secure proportionate contributions for land costs of 0.79 hectares, that being the increase in land from the initial 2.22 ha to 3.01 ha considered by OCC to be required to mitigate the impact of the appeal proposals. The County Council considers £375,000 per hectare to be an appropriate value for the land. Gallagher has confirmed its acceptance of this valuation. Therefore a sum of £296,250 should be secured from the appeal proposals for Primary Land Contribution.



Education – Secondary

Gallagher Estates has committed to providing land at Wykham Prk Farm for secondary school playing pitches to facilitate the expansion of Blessed George Napier School site, north of Salt Way. Gallagher Estates is providing 1.885 ha of land (as required by Policy BAN 17).

OCC considers that 0.39 ha is required to mitigate the impact of the appeal proposals. In addition to the provision of land, the developments are also required to make proportionate financial contributions towards the expansion of Blessed George Napier Secondary School.

Paragraph 6.72 of the appellant's Committee Report states

'the Blessed George Napier Secondary School would need to expand in order to increase its capacity to 1,200 pupils in order to mitigate additional secondary school pupil numbers generated by development on Banbury 17. Such an expansion would need to be funded proportionately by financial contributions from the application proposals as well as proposals on the Gallagher Estates site. In order to facilitate the expansion of the secondary school onto its existing playing fields, further playing field land is required to mitigate this impact and in a situation similar to that of the primary school provision, the new playing fields need to be on the Gallagher Estates part of the Banbury 17 site so that they are adjacent to existing school playing fields. In addition to financial contributions towards the build costs of the expansion of the secondary school, contributions are also necessary towards the additional land costs associated with providing larger playing field land on the Gallagher Estates site'.

- Secondary School Build Cost Contributions

The legal agreement pursuant to the appeal proposals must secure proportionate contributions towards the expansion of Blessed George Napier Secondary School, based on a cost matrix defined by the final dwelling mix, commensurate with the cost calculations agreed for development at Wykham Park Farm.

- Secondary School Land Contributions

The legal agreement pursuant to the appeal proposals must secure proportionate contributions the secondary school land cost. OCC considers that 0.39 ha (of the total



1.855 ha) is required to directly mitigate the impact of the appeal proposals. The County Council considers £375,000 per hectare to be an appropriate value for the land. Gallagher has confirmed its acceptance of this valuation. Therefore, a sum of £146,250 should be secured from the appeal proposals for Secondary School Land Contribution

3 - Community Facility

Gallagher Estates has committed to provide a Community Facility within the site of no less than 600sqm (GIA). This facility is required to serve the wider community, to include the appeal proposals.

Paragraph 6.73 of the appellants Committee Report states

'In accordance with Policy Banbury 17, a community facility and local centre are also required to be provided on the site in order to create a sustainable urban extension to Banbury. However, these facilities are proposed to be provided as part of the Gallagher Estates scheme given that these proposals are for a significantly larger development which would generate this level of mitigation by itself. Nevertheless the new residents of the homes proposed as part of this application would be expected to make use of the community facility and so a financial contribution is recommended towards the part-provision of a suitably sized community facility together with a commuted sum for maintenance'

The legal agreement pursuant to the appeal proposals must therefore secure proportionate contributions towards the build costs of the facility as well as commuted sums for its maintenance.

Conclusion

Gallagher Estates do not wish to raise an in principle objection to the appeal proposals, but would respectfully request that the Inspector has due regard to the fair and equitable apportionment of infrastructure costs across the development sites, as advocated by the adopted Development Plan policy and in accordance with CIL Regulations (2010), taking into account the significant infrastructure burden placed on Gallagher Estates to overprovide in order to mitigate not only the impact of their proposals, but also of the appeal proposals before you.



We trust these comments are helpful. It is evident that Gallagher Estates has a significant interest in the appeal proposals, and therefore request to participate at the Hearing scheduled for 10th October, where we can provide further verbal commentary to supplement these written comments as necessary.

Despite our attempts to review the draft UU to help inform our position in the context of this submission, it has not been made available to us.

We hope to have sight of the document before the Hearing commences so that we can confirm our position and/or comment on outstanding issues before the Hearing opens to assist the Inspector in the efficient running of the Hearing.

Yours sincerely

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Associate Planner

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cc Glen Langham, Gallagher Estates
Matthew Parry, Cherwell District Council

Education & Property Draft Heads of Terms – 14/01932/OUT

Developer – Gallagher

Contribution amounts based on the following mix of dwellings:

- 100 no. x One Bed Dwellings
- 300 no. x Two Bed Dwellings
- 400 no. x Three Bed Dwellings
- 200 no. x Four Bed Dwellings

Primary School Infrastructure Contribution

£5,460,600 towards a new on site primary school

This contribution is to be index linked from 4th Quarter 2014 using PUBSEC Tender Price Index.

Final contribution will be dependent on the mix of dwellings built and will be calculated according to the following matrix:

1 Bed	2 Bed	3 Bed	4+ Bed
£0	£3,004	£6,892	£9,013

Primary School Land

Offer of transfer of 2.22ha of fully serviced primary school land with suitable construction access to OCC by occupation of 100 dwellings on Gallagher site.

The County requires this development to provide 1.81ha free of charge. The price for the additional school land above the 1.81ha required by this development alone is agreed at £375,000 per ha.

The payment for the extra 0.41 ha of land to be transferred as part of the initial 2.22ha equates to £153,750 (0.41 x £375,000). This amount is to be discounted from the instalment of the primary school infrastructure contribution which is payable on transfer of the primary school land.

An option on a further up to 0.79ha of land which would bring the total primary school site area up to 3.01ha (enough for a 3FE school) is also required. This option is to be split into parcels of 0.41ha and 0.38ha. The layout of these parcels is to be confirmed.

The payment for the option on a further 0.79ha of land equates to £296,250 (0.79 x £375,000). The option period will be 7 years from the date of the transfer of the original 2.22ha.

Secondary School Infrastructure Contribution

£3,893,800 towards the expansion of capacity at Blessed George Napier Secondary School

This contribution is to be index linked from 4th Quarter 2014 using PUBSEC Tender Price Index.

Final contribution will be dependent on the mix of dwellings built and will be calculated according to the following matrix:

1 Bed	2 Bed	3 Bed	4+ Bed
£0	£1,786	£4,644	£7,502

This matrix is the same as for application: 15/01326/OUT

Secondary School Land

Offer of transfer of 1.855 ha of land for secondary education purposes, to facilitate the extension of Blessed George Napier Secondary School is required to be made by x dwellings (to be agreed).

The County requires this development to provide 1.22ha (part of the 1.855ha) free of charge.

The price for the additional school land above the 1.22ha required by this development alone is agreed at £375,000 per ha.

The payment for the initial extra 0.635 ha of land to be transferred equates to £238,125 (0.635 x £375,000). This amount is to be discounted from the first instalment of the secondary school infrastructure contribution.

Special Educational Needs (SEN) Contribution

£184,800 Towards the expansion of permanent Special Educational Needs school capacity at Frank Wise School

This contribution is to be index linked from 4th Quarter 2014 using PUBSEC Tender Price Index.

Final contribution will be dependent on the mix of dwellings built and will be calculated according to the following matrix:

1 Bed	2 Bed	3 Bed	4+ Bed
£0	£94	£228	£327

This matrix is the same as for application: 15/01326/OUT

Library Contribution

£211,521 Towards the expansion of capacity including book-stock at Banbury library.

This contribution is to be index linked from 4th Quarter 2014 using PUBSEC Tender

Price Index.

Final contribution will be dependent on the mix of dwellings built and will be calculated according to the following matrix:

1 Bed	2 Bed	3 Bed	4+ Bed
£103.06	£148.96	£231.89	£318.85

Admin & monitoring Fee - £10,000