

DEVELOPMENT INTERNAL MEMORANDUM

From: Head of Strategic Planning and the Economy

To: Head of Public Protection & Development Management (FAO Laura Bailey)

Our Ref: 3.2

Your Ref: 14/01932/OUT

Ask for: Sharon Whiting / David Peckford

Ext: 1848

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APPLICATION FOR PLANNING PERMISSION PLANNING POLICY CONSULTATION RESPONSE

Planning Application No.	14/01932/OUT
Address / Location	Land east of A361 Bloxham Road and south of Salt Way, Banbury
Proposal	Up to 1000 dwellings together with a mixed use local centre (including A1 retail up to 1000sq m, financial services (A2), restaurants, pubs and takeaways (A3, A4, A5), community uses (D1), primary school, green infrastructure including formal (including playing fields) and informal open space, landscape and amenity space, changing and sports facilities (including D2), sustainable drainage systems, highway, cycle and pedestrian routes, car parking, infrastructure (including utilities), engineering works including ground modelling, demolition, site reclamation and removal of structures, and the formation of a new access from the A361 Bloxham Road.
Site Details	<p>The site is a greenfield site comprising agricultural land to the south of Salt Way and east of the A361 Bloxham Road, which forms the western boundary of the site. The north west portion of the site wraps around a land parcel the subject of planning permission for 145 dwellings granted on appeal under application 12/00080/OUT, and reserved matters application 14/01225/REM. Salt Way forms the northern boundary of the remainder of the site.</p> <p>The site consists of Grades 2, 3a and 3b agricultural land. Salt Way is a public right of way of important historical and recreational significance running along the northern boundary of the site; a further PROW runs along the western boundary of the site, and two more run through the site north-south in the eastern part of the site. Part of the Salt Way is a proposed new Local Wildlife Site and is a non-designated heritage asset. There are dense hedgerow boundaries within the site, with hedges in good condition, and areas of BAP habitat (lowland mixed deciduous woodland) and individual woodland parcels around the boundaries of the site.</p>
General Comments	<p>This is an application for outline permission with all detailed matters reserved for future approval other than access.</p> <p>The majority of the site forms the western section of proposed strategic site allocation Banbury 17 as contained in the Submission Cherwell Local Plan as modified.</p>

	<p>A planning application was made for 1000 dwellings on this site (13/00321/OUT) and an appeal lodged against the non-determination of that application. That appeal was subsequently withdrawn on 24 March 2014.</p>
<p>Main Development Plan Policies</p>	<p>The Development Plan comprises the saved policies of the adopted Cherwell Local Plan 1996. The adopted Plan does not allocate the site for development. The site lies in an area of countryside and within an Area of High Landscape Value.</p> <p>The Saved policies of most relevance to the development proposals are:</p> <ul style="list-style-type: none"> H5 Affordable housing provision H18 New dwellings in the countryside TR1 transportation funding C1 Protection of ecological sites C2 Protection of species C5 Creation of new habitats, Protection of the ecological value and rural character of particular areas, including Salt Way C7 Landscape conservation C8 Sporadic development in the open countryside C13 Areas of High Landscape Value C14 Trees and landscaping C17 Enhancement of the urban fringe through tree and woodland planting C28 Layout, design and external appearance of development C30 Design of new residential development
<p>NPPF</p>	<p>The paragraphs of the NPPF most relevant from a policy perspective are:</p> <p>Paragraph 14 on the presumption in favour of sustainable development. This indicates that where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless:</p> <ul style="list-style-type: none"> • Any adverse impacts 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. <p>Paragraph 17 sets out the core planning principles that should underpin plan-making and decision-taking, including that planning should:</p> <ul style="list-style-type: none"> • <i>“Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth.</i> • <i>Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;</i> • <i>Recognise the intrinsic character and beauty of the countryside</i> • <i>Contribute to conserving and enhancing the natural environment and reducing pollution</i> • <i>Conserve heritage assets in a manner appropriate to their significance</i> • <i>Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling.”</i> <p>Paragraphs 47-50 and 55 on Delivering a wide choice of high quality homes</p> <p>Paragraph 47 requires local planning authorities to <i>“identify and update annually a supply of specific deliverable sites sufficient to provide five years’ worth of housing against their housing requirements with an additional buffer of 5% to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.”</i></p>

	<p>Paragraph 49 states that <i>“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.”</i></p> <p>Paragraphs 56, 57, 59-64 on Requiring good design</p> <p>Paragraph 109 on Conserving and enhancing the natural environment.</p> <p>Paragraph 216 indicates that weight can be given to policies in emerging plans (unless material considerations indicate otherwise) according to:</p> <ul style="list-style-type: none"> • <i>The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);</i> • <i>The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and</i> • <i>The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework, the greater the weight that may be given)</i>
PPG	<p>The guidance of most relevance from a policy perspective is:</p> <p>ID 26 Design, including Paragraph 032 Reference ID: 26-032-20140306 (Good masterplans and briefs) which indicates that: <i>“Masterplans can set out the strategy for a new development including its general layout and scale and other aspects that may need consideration. The process of developing masterplans will include testing out options and considering the most important parameters for an area, such as the mix of uses, requirement for open space or transport infrastructure, the amount and scale of buildings, and the quality of buildings.”...and</i> <i>“Care should be taken to ensure that masterplans are viable and well understood by all involved. In particular graphical impressions of what the development will look like should not mislead the public by showing details not yet decided upon as certainties.”</i></p> <p>The PPG also provides advice on ‘prematurity’ (Paragraph: 014, Reference ID: 21b-014-20140306): <i>“...in the context of the Framework and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:</i> <i>a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and</i> <i>b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.</i> <i>Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the</i></p>

	<p><i>grant of permission for the development concerned would prejudice the outcome of the plan-making process.”</i></p>
<p>Non-Statutory Cherwell Local Plan 2011</p>	<p>The Non-Statutory Local Plan should be considered. Whilst some policies within the Plan may remain to be material considerations, other strategic policies have in effect been superseded by those of the Submission Local Plan (January 2014). The Planning Policy Team should be contacted on 01295 227985 if advice is required on individual policies.</p> <p>The NSCLP does not allocate the site for development, with it lying within an area of countryside immediately to the south west of the town, where new residential development is restricted.</p> <p>The main policies relevant to this proposal are: H19 New dwellings in the countryside TR3 Transport assessments and travel plans TR4 Transport mitigation measures R4 Rights of way and access to the countryside EN16 Development of Greenfield, including Best and Most Versatile Agricultural Land EN1 Environmental impact EN28 (Protection and enhancement of the ecological value and rural character of particular areas, including Salt Way) EN30 Sporadic Development Countryside</p>
<p>Submission Local Plan 2011-2031 (January 2014) As Proposed To Be Modified (as at 6 February 2015)</p>	<p>A new Local Plan (Part 1) was submitted to the Secretary of State on 31 January 2014 for Examination. Following suspension of the Hearings in June 2014, Proposed Modifications were submitted on 21 October 2014. The Hearings continued from 9 December 2014 to 23 December 2014. A schedule of further minor modifications and other documents arising from the Hearings were submitted to the Inspector on 6th February 2015. The Inspector’s report is expected in the Spring of 2015.</p> <p>The Main Modifications propose several new sites in order to achieve the District’s assessed housing need (as set out in the Oxfordshire SHMA April 2014) and maintain a deliverable five year housing land supply. The majority of the application site lies within an area of land allocated as a proposed strategic site allocation in the Proposed Modifications to the Plan (October 2014), new Policy Banbury 17. This Policy has been subject to further proposed modifications through the Examination process.</p> <p>The draft policies of most relevance (as proposed to be modified) are:</p> <p>Policy Banbury 17 South of Salt Way- East</p> <p>PSD1 Presumption in favour of sustainable development</p> <p>BSC2 Effective and efficient use of land BSC3 Affordable housing BSC4 Housing mix BSC7 Meeting education needs BSC9 Public services and utilities BSC10 Open space, outdoor sport and recreation provision BSC11 local standards of provision- outdoor recreation BSC12 Indoor sport, recreation and community facilities</p>

	<p>ESD1 Mitigating and adapting to climate change ESD 2 Energy Hierarchy ESD3 Sustainable construction ESD4 Decentralised energy systems ESD5 Renewable energy ESD7 Sustainable Drainage Systems ESD 10 Protection and enhancement of biodiversity ESD13 Local Landscape Protection and Enhancement ESD15 The Urban-Rural fringe ESD16 Character of the built environment ESD 18 Green infrastructure</p> <p>INF1 Infrastructure</p>
<p>Other Material Policy Considerations</p>	<p>Five year housing land supply The Council does not currently have a five year housing land supply. The latest published position is reported in the Housing Land Supply Update June 2014 which concluded that the district had a supply of 3.4 years for the period 2014-2019. This reflects the Oxfordshire SHMA 2014 figure of 1,140 dwellings per annum, currently considered to be the objectively assessed housing need for the district. The 3.4 years of supply includes a requirement for an additional 20% buffer, taking into account the shortfall (2,314 homes) within the next five years. The calculations do not include new deliverable sites permitted since June 2014 and the land supply position will shortly be reviewed.</p> <p>Strategic Housing Land Availability Assessment August 2014 The SHLAA is a technical document and is a key element of the evidence base for the modified Submission Cherwell Local Plan. The SHLAA informs plan making and does not in itself determine whether a site should be allocated for housing development.</p> <p>The majority of the application site is included in the SHLAA under the reference BA368. The SHLAA concludes that the site is potentially suitable for residential development as part of a comprehensive scheme for the area to the south of Banbury between Bodicote to the east and Bloxham Road to the west (in association with SHLAA site BA370 and committed site 12/00080/OUT), with a suggested yield of 1000 dwellings (100 dwellings 2014-2019 followed by development of 100/150 dwellings per annum from 2019 to 2029).</p> <p>Banbury Landscape Sensitivity and Capacity Assessment Addendum 2014 The 2014 Banbury Landscape Sensitivity and Capacity Assessment Addendum was taken into account in preparing modifications to the Submission Local Plan. It highlights that the combined landscape sensitivity of the site is medium, and the visual sensitivity is medium. The application site does not extend as far south (to Wykham Lane) as sites assessed in the earlier Landscape Sensitivity and Capacity Assessments. The 2014 Addendum highlights that as a result of the reduced site area, in comparison to that assessed in the 2013 study, the site has an elevated capacity for residential development. As development would be kept back from Wykham Lane, proposed development would not appear as visually prominent within the Sor Brook valley. Whilst there would be a landscape and visual impact resulting from built development on this site, including impacts upon the historic, ecological and recreational asset of Salt Way, the Landscape Addendum notes that the consented development for 145 dwellings north west of the site boundary changes the character of the area from the previous landscape assessment, resulting in the site lending itself more readily to residential</p>

	<p>development. There should however be safeguarding of the landscape context of the Salt Way, and consideration should be given to the implementation of structure planting to the south of the development to mitigate views across Sor Brook valley. Development of this site offers the potential for a planned, coordinated and integrated approach to development to the south of Banbury (see also SHLAA site BA370 and SHLAA appendix B - 12/00080/OUT).</p>
<p>Overall Policy Observations</p>	<p>The site lies outside the built up limits of Banbury and would extend development into the countryside and as such is contrary to saved policies in the adopted Cherwell Local Plan 1996. However the adopted Plan's housing policies are out of date by virtue of the current five year housing land supply position and the provisions of the NPPF paragraph 49.</p> <p>As such, NPPF paragraph 14 applies which indicates that where the development plan is absent, silent or relevant policies out of date, planning permission should be granted unless:</p> <ul style="list-style-type: none"> • Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or • Specific policies in the Framework indicate development should be restricted. <p>The majority of the site has been assessed as being potentially suitable for residential development in the SHLAA (2014), as part of a comprehensive scheme also comprising land to the east extending to White Post Road, Bodicote, and the adjacent committed site to the north west.</p> <p>The Submission Cherwell Local Plan as proposed to be modified seeks to meet the NPPF's objectives but carries limited weight at this stage. In the context of the higher level of housing need identified in the SHMA (April 2014), it proposes the allocation of the majority of the application site as a part of a proposed strategic development site under Policy Banbury 17 (part of the strip of land at the eastern end of the site which extends to Wykham Lane and is shown in the application as general green space/allotments is excluded from the allocation).</p> <p>With regard to the PPG's advice on prematurity, it is considered that the proposal is for a 'substantial' development, involving as it does some 53 hectares of land and the development of, inter alia, some 1,000 homes. The application affects an even larger site proposed for allocation and the grant of permission would precede the Local Plan Inspector's conclusions on the suitability of the site and the appropriateness of the intended requirements of draft Policy Banbury 17.</p> <p>Whilst the proposal would contribute to the supply of housing and provide affordable homes and ancillary development, predetermination should be considered in the light of all other material considerations. A number of key considerations, from a local plan perspective, are highlighted below to assist a determination of whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.</p> <p>In some respects the development proposal meets the requirements of policy Banbury 17, and would assist the Council's housing land supply position by delivering 1000 dwellings of mixed type and tenure together with supporting facilities and provision of open space. Housing would only contribute to the 5 year land supply if delivered within the next 5 years.</p> <p>It is noted that this is an outline application with all detailed matters reserved other than access. However the current proposals fail to meet policy requirements in the following respects:</p>

Comprehensive masterplan

The development proposals do not meet a key requirement of proposed Policy Banbury 17, in that the application is not accompanied by a comprehensive masterplan to cover the whole of the allocated site. The policy requires a masterplan to be developed in consultation with Oxfordshire County Council, the Local Nature Partnership and local communities to ensure an integrated, co-ordinated and comprehensive planning approach to a significant area of development to the south west of the town. The masterplan included with the application only refers to the application site and whilst the committed site adjacent to the north west is indicated, the layout shown does not reflect the layout approved under reserved matters application 14/01225/REM and does not relate well or integrate with it. There also appears to be no evidence that discussions have taken place with landowners to the east. In the absence of a masterplan covering the whole site it is not possible to fully assess the relationship of the proposals with adjacent land and the overall distribution of uses proposed within the site, including those needed to meet the requirements of Policy Banbury 17.

Spine Road

The illustrative masterplan for the application includes a “spine road” running through the site from east to west but does not fully extend to the eastern boundary of the site, with a hammer head shown at the edge of the area of outdoor sports/open space. This allows for the link road to be extended to the east in the future but the Planning Statement (paragraph 3.22) indicates completion of the link road is not necessary to make the development acceptable and does not form part of the application proposals. This does not meet the requirements of the Policy for a spine road to link from the A361 to White Post Road and without this being included and agreement reached with adjacent land owners there is no certainty that the alignment is suitable to link to the east and that this can be delivered. It could lead to 1000 dwellings being served from one access point.

Open space/green infrastructure

The amount and type of open space outlined in the application meets the requirements of Policy Banbury 17. However this is achieved by including land to the south of the allocated site, extending to Wykham Lane and the western edge of the existing Bodicote allotments. This is contrary to the emerging policy. In the absence of a comprehensive masterplan for the whole of the allocated site this extension of green space does not appear integrated with the remainder of the scheme. In addition although the documentation indicates the allotments would be accessed through the site this is not indicated on the Illustrative Masterplan accompanying the application.

Policy Banbury 17 proposes outdoor sports provision to serve the whole of the allocated site located immediately to the north of the allotments and west of the existing Banbury Cricket Club site. This lies outside of the current application site and needs to be considered and secured as part of the comprehensive masterplan for the allocated site.

Footpath route 47 is not indicated on the Development Framework Masterplan and is partly covered by residential development. The proposed new footpath/bridleway along the southern boundary of the site required by Policy 17 is not specifically indicated on the Development Framework Plan or the illustrative masterplan for the application site. There needs to be further indication that this will be provided to ensure the requirements of the policy are met and adequate green infrastructure links are secured.

	<p>Education provision</p> <p>The application makes provision for a primary school, however it does not reserve the 2.855 ha requested by the County Council for secondary school provision and required by the modified policy. It is acknowledged that the application was prepared before the requirement was included in the draft Policy but this must now be addressed.</p> <p>Sustainable construction</p> <p>In terms of sustainable construction, the application indicates that buildings will be constructed to the appropriate national Code for Sustainable Homes/Building Regulations standard in force at the time of construction. Whilst policies ESD1-5 no longer specifically refer to Code for Sustainable Homes Level 4, in recognition of impending government changes following the Housing Standards Review, the policies do retain an expectation that the proposed strategic sites reflect exemplary contributions to carbon emissions reductions and to wider sustainability. Policy ESD3 seeks a higher level of water efficiency than required by the Building Regulations with development achieving a limit of 110 litres per day.</p>
<p>Policy Recommendation</p>	<p>The site is not identified for development in the adopted Development Plan but in the present absence of a five year land supply, its housing policies cannot be considered to be up-to-date. The proposal would entail the development of substantial area of countryside and extend the built-up limits of Banbury.</p> <p>Paragraph 14 of the NPPF sets out the presumption in favour of sustainable development and states that for decision- taking this means:</p> <ul style="list-style-type: none"> • 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 planning permission unless any adverse impacts 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. <p>It is therefore necessary to assess whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.</p> <p>In the interest of meeting a higher level of housing need as identified in the Oxfordshire SHMA (April 2014), the majority of the application site has been assessed as being potentially suitable for residential development as part of a comprehensive scheme including land to the east extending to White Post Road, Bodicote, and adjacent committed site to the north west. The Submission Cherwell Local Plan as modified proposes to allocate the majority of the application site as a part of a proposed strategic site allocation under Policy Banbury 17. There is therefore no planning policy objection to the principle of development at the site as part of a comprehensive, integrated approach to this proposed strategic allocation.</p> <p>However the current application does not fully meet the requirements of proposed Policy Banbury 17, and in particular is not accompanied by a comprehensive masterplan to cover the whole of the allocated site. Whilst the Illustrative masterplan accompanying the application includes the potential for a spine road to be extended through land allocated to the east, there appears to be no evidence to suggest that discussions have taken place with relevant parties to demonstrate that this is the best solution for the site as a whole and that such a</p>

link can be delivered. In addition the illustrative masterplan does not relate well to the adjacent committed development.

In view of the substantial scale of the proposed development, the grant of planning permission at this advanced stage of the Local Plan process would predetermine the Inspector's recommendations about the suitability of the allocation and the intended policy requirements. Whilst the principle of development in this general location is supported by the modified Submission Local Plan, the proposal does not comply with draft policy Banbury 17 in a number of fundamental respects and therefore would undermine completion of the Local Plan process.

The effect of a predetermination will need to be considered in the context of all material considerations including the latest five year land supply position and whether the adverse impacts of granting permission, including (in the absence of a masterplan) the lack of a comprehensive, integrated approach with secured, complete spine road, would significantly and demonstrably outweigh the benefits brought about by the construction of new homes including affordable housing.

On balance, from a planning policy perspective, it is considered that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF and an objection is raised to the current proposals. There would, however, be visual, traffic and other impacts from the proposed development that require detailed appraisal.