

Planning Committee
Cherwell District Council
Bodicote House
Banbury
OX15 4AA

14 August 2023

RE: Effect of the Appeal in relation to Firethorn development and the effect on local democracy and Planning

We are deeply concerned to learn of the chilling effects of the Firethorn Appeal “Appeal”, the role of the Council’s employees in the planning department in relation to the Appeal and the effect of the misplaced concessions made by those from the planning department in that Appeal.

The Firethorn (Bicester North-West) development was appealed by the developers on the basis of a lack of timely decision. This delay in the planning committee hearing the Planning Application, had in fact been brought about by constant late changes by the developers to their proposed plan. In the meantime, you, the democratically elected members of the Cherwell DC Planning Committee heard evidence regarding these plans and undertook significant work reading the mass of documents before reaching the decision to reject planning permissions for these development plans.

As such the un-elected civil servants of the planning department had a mandate to defend that decision of their own elected Councillors on the Planning Committee, whatever their own personal views were or whatever connection they had formed with developers; indeed that was the initial stance taken by the planning department of Cherwell District Council as they initially opposed the developer’s Appeal.

However, only days before the Appeal was due to be heard by the Inspector, those same un-elected civil servants, independently and with no recourse back to their own elected Councillors chose, for unspecified reasons, to entirely capitulate and instead

of opposing the Appeal and defending the decisions of the Planning Committee, instead chose to not only entirely agree with, but to actually support the position of the developer.

The concessions that they entered were not only entirely against the decision of the Planning committee but flew in the face of their own Cherwell Local Plan.

The concerns of this whole affair and its effect on all future planning applications in Cherwell and beyond are twofold:

- 1) Firstly, the un-elected civil servants in Cherwell Planning department have unilaterally and without mandate taken a decision to undermine the democratic basis upon which the whole planning process is in law based upon, entirely undermining the decision of democratically elected Councillors.

The concern brought about by their actions in relation to Firethorn and over many of the decisions in and around the North-West Bicester developments, is that the civil servants in the planning department have become far too close to, and complicit with, the large developers and it has now got to the stage where the officers of the Planning Committee perform no kind of check or balance, as they are supposed to, to the financial power of the big developers, let alone attempt to actually hold them to account or even challenge their plans.

This appears to have become an unhealthy relationship which undermines any independence and leads to the planning officers simply capitulating and failing to oppose any development or aspect of a particular development, however those plans conflict with a Local Plan or other planning considerations or however flawed those plans are.

- 2) Secondly, the Local Plan Policy BSC3 sets out a clear requirement for 30% affordable housing on any scheme. This is not only a local policy, but a national one. During the Appeal of Firethorn, the civil servants of the planning department managed to concede and agree with the developers that they (the developers) could not 'viably' deliver the requirement for true Carbon Zero for the build, which is also a requirement of the Local Plan (and again a national

planning requirement), whilst also providing the required 30% affordable housing.

As such the planning officers inexplicably concluded and agreed that 10% affordable housing was sufficient.

It is worth considering what “Viability” in this context actually means. The Civil Servants managed to agree a formula whereby the developers get a minimum profit of 20% on the sale of the main housing units on these developments (or in real terms, given the average price on similar developments in the area about £100,000 to £120,000 profit on average on each of the non-affordable houses on these developments or put another way on the 477 full price houses on the Firethorn development approx. some £57 million of profit. On other such developments at Bicester North-West this approach would lead to a “viability” of about £334 million on the 3100 homes that Hallam are contending for at Hawkwell. Of course on top of this, the Civil Servants agreed the application of a formula which allowed the developers to additionally make at least 10% profit on the so-called affordable housing element of these builds.

Some in society may suggest that a profit of £50 to £300 million is not a definition of something being “viable” but is instead, a demonstration of massive greed at the cost of the poorer in society and certainly not the basis for an unelected civil servant to entirely abrogate their duties to protect the basic building principles of the entire Cherwell planning policy and the Local Adopted Plan and instead of protecting the need for housing for those who most need it, happily give that away to allow the developers to make massive profits.

The electorate would be appalled to know that this stance has been taken by a planning department or if it is argued that it properly reflects Cherwell District Council policy; then the electorate are unlikely to support such a mandate from their Council.

Given that the whole Local Plan and every single major development is 'sold' to the public on providing much needed 'affordable housing' this is quite extraordinary as well as undemocratic decision which undermines the entire Planning regulations and procedure.

If the public and we anticipate Councillors were aware that 30% affordable housing would in fact mean 10%, no one would have agreed the Local Plan or indeed the vast tracks of development around the County and Bicester in particular.

The simple answer is that if the developer's plans are insufficient to deliver 'viably' a development plan which meets the basic requirements of the Local Plan, then those plans are clearly wrong and flawed and should clearly be objected to and rejected, with those plans by developers which actually meet the requirements supported.

However, the planning department appears unable to oppose developers and defend the principles of the Local Plan, even when they are the key features of it.

In the circumstance we would ask that an urgent enquiry is launched by Cherwell District Council and the Overview and Scrutiny Committee into the behaviour of the Civil Servants in the planning department in undermining the democratic mandate and their relationship and additionally their contact with the developers whose plans they are supposed to be 'independently evaluating'.

Finally, it is of some considerable concern that we have received the proposed plans for the Cherwell Local Plan 2040. Despite the planning department being given a clear indication to consider and amend the local plan to reflect principles of protecting farm land and forming a proper green belt / buffer between proposed developments and existing residents, the latest proposed plan for Bicester North-West, which amounts to only 3 pages, that has originated from the same planning department which is presently considering the flawed proposals for Hawkwell, simply reflects in identical terms the plans of the present applicant developer for Hawkwell.

No independence of thought appears to have been applied to this at all and instead kowtows to the demands of the developer whilst increasing the proposed number of houses in the same Bicester North-West site from 6,000 (LP 2014) to 7,000 (in the proposed LP 2040) which coincidentally would allow for the extra 500 houses proposed by the developer Hallam for the Hawkwell site, which would otherwise be outside the number of houses allowed under the present Local Plan for this site.

We are afraid that this in itself tends to support the unfortunate conclusion that the planning department is no longer capable of carrying out independent or balanced oversight of the planning process, let alone supporting the decisions and policies of the democratically elected Councillors.

We look forward to your urgent response

Yours sincerely

Chris Wells

Chair, Bucknell Parish Council

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