

12 May 2023

Mr Ashcroft
C/O South Oxfordshire District Council
Forward Planning Department
Abbey Close
Abingdon
OX14 3JD

Reference

Dear Mr Ashcroft,

Avison Young (AY) is instructed by Oxford Brookes University (OBU) and Crest Nicholson (Crest) in respect of town planning matters relating to the Wheatley Campus site (the Campus).

We write in respect of the Examination of the Wheatley Neighbourhood Plan on behalf of OBU and Crest, both of which have a direct interest in the campus.

On 3rd May 2023 the Parish Council issued a response to your “*Clarification Note*” (dated 30 March 2023). AY sent an interim response to the Parish Council’s response, on 10th May 2023. At that time we confirmed we had instructed a legal opinion from specialist Planning Counsel, Chris Young KC and James Corbet Burcher (No5 Chambers). This has now been received and is attached to this letter.

We are very concerned about a range of new information provided within the Parish Council’s latest response (the Response) and certain important omissions/inaccuracies within it.

In particular, we note the following:

(1) Application to Campus Site: The Parish Council has confirmed that the “Design Codes and Guidance” (DCG), which accompanies the proposed revision of the Neighbourhood Plan, is intended to apply to the Campus (pages 1, final paragraph of the Response);

(2) Contact with OBU/Crest: The Parish Council refers to its “Brookes Liaison Group” (page 2, paragraph 4 of the Response). They fail to explain why they did not contact OBU in respect of the draft Neighbourhood Plan at any stage prior to submission, notably at the Regulation 14 pre-submission consultation stage;

(3) Objections to Planning Permission: The Parish Council raise a number of objections to the extant planning permission and Local Plan allocation in the Response (page 2-3,) and states that;

"... the DCG has been prepared partly to mitigate the anomaly of a large scale, multistorey, residential development in an otherwise rural setting surrounded by Green Belt and to respond to Section 12 of the NPPF" (page 2, paragraph 2).

The Response also states that;

"The DGC was prepared to provide continuity between the existing buildings and infrastructure in the Plan area and any new development." (page 2, paragraph 4).

None of this is explained in the DGC, which makes no reference to the extant consent for 500 dwellings nor the allocation in STRAT 14.

The DCG refers to two storey development of detached and semi-detached dwellings. The extant permission and allocation authorise four storey development, including flats and apartments. The application of the DCG to the development of the campus would lead to less dwellings on the site than authorised by the extant planning permission and allocation.

(4) Land Outside Neighbourhood Area: Reference is again made to an attempt to apply the DGC to land outside the neighbourhood plan area. The Response states;

"it would seem sensible from at least the perspective of continuity that the DGC could be applied also to this part." (page 2, paragraph 5 of the Response);

(5) New Policy Wording: Entirely new policy wording is proposed for Policy SPOBU (WHE 25) requiring a decision-maker to

"take account of the rural context of the site, the openness of any Green Belt lying adjacent to the site" (page 2, paragraphs 6-7 of the Response).

(6) Advice on Changes: Finally, the Parish Council appear to wish to seek;

"recommendations and advice from the Examiner to achieve both reconciliation and compliance" (page 2, paragraph 5) and "explore an expedient way forward and accept advice from the Examiner" (page 3, final paragraph).

It is not the role of the Examiner to provide advice to a qualifying body, only to provide recommendations to the Local Planning Authority in accordance with paragraph 10 of Schedule 4B of the Town and Country Planning Act 1990. We are concerned by the qualifying body's apparent misconception that they can take advice and negotiate further changes to the Plan.

In summary, we note that the Parish Council's Response states in express terms that the DGC has been prepared to support its objection to the new outline planning application (page 2). That is not a correct basis for a plan-making exercise, especially where there is a strategic policy in place in the adopted development plan. Moreover neither; the extant consent for 500 dwellings; the allocation in STRAT 14 nor the new application are actually referred to in the evidence base. Therefore this retrospective justification for the content of the DGC does not match what has

been provided in public to date and much of the new content in the Response is plainly highly contested by OBU and Crest. OBU and Crest have not been afforded a proper opportunity to make representations on these matters to date.

We request that this letter is considered as a representation submitted post-Regulation 16 stage, in accordance with the NPIERS Guidance p32, [1.12.1] and p44, [2.8.5] which recognises that (non-exhaustively) there may be circumstances in which new information arises (here a representation from the Parish Council) itself, which would require consideration of additional representations.

Finally, our view is that the errors in the formulation of the Neighbourhood Plan are so clear that they may be capable of being addressed on paper only, through modifications.

However, if any new policy text were to be contemplated beyond confirming that the DGC does not apply to the Site, we would respectfully request that a hearing is held to ensure that OBU and Crest are given adequate examination of the issue or to ensure that OBU and Crest have a fair chance to put their case (paragraph 9(2)(a) of Schedule 4B).

Kind regards

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For and on behalf of Avison Young (UK) Limited