



**COUNCIL**

**21<sup>ST</sup> FEBRUARY 2017**

**AGENDA ITEM (13)**

**STRATEGIC SITE AT CHESTERTON, CIRENCESTER - OUTLINE APPLICATION 16/00054/OUT**

<b>Accountable Members</b>	The Council
<b>Accountable Officer</b>	<p>Nigel Adams Head of Democratic Services and Deputy Monitoring Officer 01285 623202 <a href="mailto:nigel.adams@cotswold.gov.uk">nigel.adams@cotswold.gov.uk</a></p> <p>Bhavna Patel Group Manager - Land Legal &amp; Property and Monitoring Officer 01285 623219 <a href="mailto:bhavna.patel@cotswold.gov.uk">bhavna.patel@cotswold.gov.uk</a></p>
<b>Purpose of Report</b>	<p>To note action taken by the Head of Paid Service under Council Procedure Rule 38; and to consider a number of administrative and procedural arrangements relating to the Special Council Meeting to be held in due course to determine the outline planning application for a mixed use development (including up to 2,350 dwellings) on land at Chesterton Farm, Cranhams Lane, Cirencester (known as the Chesterton Strategic Site).</p> <p>This report has been produced jointly by the Head of Democratic Services (Deputy Monitoring Officer) and Group Manager - Land Legal &amp; Property (Monitoring Officer), following consultation with the Head of Paid Service, the Strategic Director and the Chairman of the Planning and Licensing Committee (given his experience of the application of determination processes/procedures at Committee Meetings).</p>
<b>Recommendations</b>	<p>(a) That the action taken by the Head of Paid Service under Council Procedure Rule 38 to agree to the determination of planning application 16/00054/OUT by the Council (rather than the Planning and Licensing Committee) be noted;</p> <p>(b) that the existing arrangements whereby Ward Members are not able to vote on matters in their own Ward be retained in respect of this application;</p> <p>(c) that the time allowed for public speaking be increased in line with the proposals at paragraph 3.4 of this report:</p> <p>(d) that the Council endorses the approach being taken in respect of the identification of Member and Officer interests; and notes the other arrangements being put in place.</p>

<b>Reasons for Recommendations</b>	Whilst it is considered that the determination procedure/process used at meetings of the Planning and Licensing Committee should generally be followed, there are certain issues which have been raised upon which Members' views are required. Some of these previously-identified issues are the subject of formal questions elsewhere on this Council Meeting agenda.
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<b>Wards Affected</b>	Chesterton, Four Acres, and Watermoor (directly)
<b>Key Decision</b>	No

<b>Financial Implications</b>	A hire charge will apply if the Special Meeting is not held in premises owned by the Council
<b>Legal and Human Rights Implications</b>	As detailed in the report
<b>Environmental and Sustainability Implications</b>	None
<b>Human Resource Implications</b>	None
<b>Key Risks</b>	As detailed in the report
<b>Equalities Impact Assessment</b>	Not Required

<b>Related Decisions</b>	Decision by Head of Paid Service under Council Procedure Rule 38 to agree to the determination of planning application 16/00054/OUT by the Council (rather than the Planning and Licensing Committee).
<b>Background Documents</b>	None
<b>Appendices</b>	None

<b>Performance Management Follow Up</b>	Implement Council decision(s)
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<p><b>Background Information</b></p> <p>1. <u>General</u></p> <p>1.1 The outline application by Bathurst Development Ltd (BDL) for a mixed use development comprising the erection of up to 2,350 residential dwellings, and provision of employment land, a primary school, a neighbourhood centre, community facilities (including a health care facility), public open space, allotments, and playing fields on land at Chesterton Farm, Cranhams Lane, Cirencester (known as the Chesterton Strategic Site) was received and validated in January 2016.</p>
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1.2 Given the nature and scale of the application, it is subject to a Planning Performance Agreement which seeks to set out a mutually acceptable decision-making process, including obligations on the parts of the applicant and the Council, and timescales. The Agreement can be modified to reflect changing circumstances; can be terminated by either party; and does not remove the Applicant's right of appeal at any stage. At present, the Agreement identifies a Committee date of no later than 1<sup>st</sup> July 2017 (although this is subject to on-going review based on outstanding work required by both parties).

## 2. Application Determination

2.1 It was originally considered that the application would be determined in accordance with the Council's usual arrangements, i.e. by the Planning and Licensing Committee.

2.2 However, over time, suggestions were made that it might be more appropriate for the application, exceptionally, to be determined by the 'full' Council instead. Such an approach reflected the significance of the application, not only to Cirencester but to the District as a whole, given that the application site is the only strategic development site proposed as part of the emerging Local Plan.

2.3 As a result, Officers carried out formal consultation with the Chairman of the Council, the Chairman of the Planning and Licensing Committee, the Ward Members and the Leader of the Council; and an informal approach was made to the Leader of the Liberal Democrat group on the Council. The suggested approach received the overwhelming support of Council Members and, as a result, the Head of Paid Service used his powers under Council Procedure Rule 38 to agree to the determination of the planning application by the Council (rather than the Planning and Licensing Committee).

2.4 By confirming such approach at an early stage, it would hopefully provide clarity and certainty to all of those involved with, and affected by, the proposals - not least, the people of Cirencester. In addition, it would allow more time for the various related administrative arrangements, including the provision of refresher training for those Members who do not serve on the Planning and Licensing Committee.

## 3. Process

3.1 The Council has a well-established, tried and tested process for determining applications, and it is considered that, in principle, this should be retained for the determination of the Chesterton application, but with some minor modifications to reflect the nature of the application. In summary, at the Meeting, the following arrangements will apply:-

- the Case Officer will present and speak to the application; also drawing attention to any late representations;
- if necessary, Members will be given the opportunity to read through those late representations;
- a representative of the Town Council will be invited to speak;
- one or more objectors will be invited to speak (as determined by the objectors);
- one or more supporters will be invited to speak (as determined by the supporters);
- the Applicant or his/her representative/agent will be invited to speak;
- the Ward Members will each be invited to speak (there are three);
- any outstanding questions from relevant Members will be addressed;
- Members will debate the application;
- the Ward Members will be given an opportunity to respond to the debate;
- Members will vote on any proposition(s) and/or amendment(s).

3.2 Two main issues have been identified relating to the process, which are addressed below. Other aspects are also set out for information and/or comment.

### 3.3 Ward Member Voting

3.3.1 Since May 1998 (initially for a trial period of one year, and then confirmed as a permanent arrangement), the Council has adopted a policy whereby Ward Members who serve on the 'Planning Committee' cannot vote on applications within their own Wards. In addition, they cannot ask questions, take part in the debate, or make or second propositions/amendments in respect of such applications. Such restrictions have also applied in the few instances when applications have been referred to the Council for determination. The arrangements are reflected in the Planning Protocol Guidelines for Councillors and Officers.

3.3.2 The policy is not based on a legal requirement, and there is no uniform approach across authorities. The policy has been reviewed on a number of occasions, most recently by the Council in April 2012 (following a debate by the then Planning (Regulatory) Committee). At such Meeting, there was overwhelming support for the retention of the restriction; with key considerations being as follows:-

- the practice offered an extra protection to Ward Members, and developers;
- Members were not precluded from speaking on planning matters pertaining to their Wards and could represent differing views and give their own, and/or overall, opinions in respect of the issues;
- the rule enabled Members of the Committee to engage more freely with, and to be more helpful to, constituents and developers; and without the fear of allegations that a Member had been unduly influenced by a developer;
- public perception would be best served if this rule was continued.

3.3.3 The Council agenda for this Meeting includes one public question and one Member question on this subject - the Member question has been submitted by one of the Ward Members who are impacted by the current restriction. Each questioner is asking, either directly or implicitly, for the 'ruling' to be suspended in this instance given the significance and strategic nature of the application.

3.3.4 It is accepted that, on occasions, the policy has been frustrating for some Members, especially in instances where voting has been tight (even leading to the need for a Chairman's casting vote) and has gone against the strong wishes of the Ward Member. However, many Members have acknowledged the reasons for the approach, and accept that it is a fair one, the most transparent and impartial, and one which avoids any allegation of a Ward Member trying to unduly influence a decision through his/her position.

3.3.5 A key consideration relates to any risks or implications for the Council of changing the policy, which is well-established and known amongst Members, Applicants and others involved with the planning process, notwithstanding the acknowledged significance of this application. Any one-off change, however worthy it may be considered, could lead to challenges from Applicants in the future where a decision could be impacted by the inability of a Ward Member being able to vote.

3.3.6 In the light of operational experience over many years, Officers are of the view that the way forward that represents the least risk to the Council is for the existing arrangement to be retained. This would still enable the Ward Members to have an opportunity to put forward their views (in the normal way). However, if Members are minded to support a one-off change, it is recommended that independent legal advice should be sought (so as to protect the interests of the Council).

### 3.4 Length of Speaking 'Slots'

3.4.1 The current arrangements allow for a period of up to three minutes in respect of each public speaking 'slot' (Town/Parish Council; Objectors; Supporters; Applicant/Agent). If there is more than one speaker in any slot, then it is up to those speakers to agree as to how they share the allotted time.

3.4.2 Given the nature and scale of this application, and the fact that it involves the provision of community assets and large-scale infrastructure investment, it is suggested that each speaking 'slot' be extended to ten minutes.

3.4.3 A Ward Member is currently allowed to speak for up to five minutes, immediately after the public speaking. In addition, a Ward Member is also given the opportunity to respond to the debate, immediately before a vote is taken.

3.4.4 There are three Members whose Ward areas fall within the application site (to varying degrees). It is suggested that each Ward Member be given an extended period of up to ten minutes to speak to the application initially; and a period of five minutes each to respond to the debate.

### 3.5 Member/Officer Interests

3.5.1 It is vital, both in the interests of maximum transparency and in order to protect the interests of the Council and individual Members and Officers, for the issue of Member/Officer interests to be established early, and made publicly known. Such an approach will also minimise the potential for any challenge on procedural grounds.

3.5.2 Officers had already set this in train, by seeking from the Applicant details of the key individuals/companies/consultancies that have inputted into the Chesterton Development application. Details of the Applicant Company, Bathurst Development Limited, have also been obtained.

3.5.3 The Leader and Deputy Leader of the Council have also approached Officers with a suggestion that the Monitoring Officer and Deputy Monitoring Officer should seek to meet with every Member individually to discuss the issue of interests; provide appropriate advice; receive confirmation from each Member of the nature of any interest that he/she might have and its impact on participation in the Special Council Meeting; and then publish such information.

3.5.4 The Council agenda for this Meeting includes a question on this topic. Whilst public perception is 'real', declarations should be based on facts, and it is hoped that the advance work will help to overcome and dispel any perception issues.

3.5.5 The Monitoring Officer and Deputy Monitoring Officer will adopt a similar approach to any Officer who is involved in the determination process.

### 3.6 Meeting Date/Start Time/Venue

3.6.1 As previously stated, the date of the Special Meeting is as yet unknown.

3.6.2 In terms of a start time, regard needs to be had of the time likely to be taken up by Officer presentations, public etc. speaking and the potential length of the Member question and debate sessions. Despite best endeavours to secure additional representations 'sooner rather than later', not least as this will allow any points to be addressed in advance of the Meeting, it is perhaps inevitable that there will be late representations that Members will need to read at the start of the Meeting.

3.6.3 It is vital that proper and due consideration is given to the application (as with all other applications), time should not be a key consideration when seeking to arrive at a robust and reasoned decision.

3.6.4 An evening start is not considered practicable. Similarly, it would not be ideal for the Meeting to cross into a second day. The options would therefore seem to be between a standard start time of 10.00 a.m. or an early afternoon start time of, say, 1.00 p.m.

3.6.5 A morning start would provide greatest flexibility in respect of available time. Sufficient advance notification of the Meeting date should also enable interested parties to schedule in any time required away from work.

3.6.6 An early afternoon start would mean that interested parties who work would only need to seek to take half a day away from their work-place, and would also allow Officers a longer period of time to review any late representations. It would also still leave sufficient time for a full debate, and for appropriate breaks to be built into the timetable

3.6.7 On balance, a start time of 1.00 p.m. is considered to be the best approach.

3.6.8 In terms of venue, the Council Chamber suite at the Council's Trinity Road Offices is not considered to be suitable for the Meeting, given the likely number of attendees (and need for associated facilities, including parking availability). There are few large venues that would meet all of the criteria, and it is therefore proposed that the Meeting be held in the Bouffour Hall at the Royal Agricultural University (dependent upon availability at the time).

### 3.7 Sites Inspection Briefing

An all-Member Sites Inspection Briefing will be scheduled in once a Meeting date has been finalised, preceded by a factual information briefing.

### 3.8 Circulation/Availability of Papers

3.8.1 The intention would be for the agenda/Officer report to be circulated at least two weeks in advance of the Meeting. The papers would also be available in the public domain at the same time.

3.8.2 Members would be asked to read/review the documentation during the first week, and submit any questions in advance to Officers, by no later than one week in advance of the Meeting. Officers would then provide responses to such questions at least 24 hours in advance of the Meeting and, again, make these available in the public domain. By following this approach, it is hoped that the need for questions at the Meeting can be minimised, and largely restricted to any pieces of new information and/or further clarification.

3.8.3 Members of the public and other interested parties will also be encouraged to follow this approach in relation to any further comments or queries.

### 3.9 Representations

3.9.1 The rules of natural justice require the Council to take account of any representations submitted **and raising new issues** up to and during the Council Meeting (and even post-decision, up to and including the date of publication of any Decision Notice).

3.9.2 Notwithstanding this, members of the public and other interested parties will be encouraged to submit representations as soon as possible, so that they can be fully evaluated and addressed where necessary. This builds upon the approach identified at paragraph 3.9.3 above.

### 3.10 General

3.10.1 Given that the application will be determined at a Special Meeting, there will be no other business, and no public/Member question facility. However, it is considered that there is ample opportunity to submit questions/representations as part of the overall application process.

3.10.2 The Council will publicise the timescales and key events leading up to the Meeting once the arrangements have been finalised.

(END)