

Appellant's Statement of Case



Town and Country Planning Act 1990

Proposal: Residential development of 2-3 dwellings

Address: Land to Rear of Bridge House, Main Street, Wendlebury, OX25 2PW

LPA Reference: 22/01772/PIP

Appellant: Mr A. Jewson, SGJ Limited

Date: November 2022

Statement prepared by: Oakwood Planning Limited

1.0 Introduction

1.1 This statement sets out the Appellant's case in respect of an appeal against the refusal to grant Permission in Principle (PIP) for the erection of a minimum of 2 and maximum of 3 dwellings on Land to the rear of Bridge House, Main Street, Wendlebury. Cherwell District Council are the Local Planning Authority (LPA) and the application is reference 22/01772/PIP. The Appellant has instructed Oakwood Planning Ltd to lodge an appeal against Cherwell District Council's refusal of the PIP.

1.2 The PIP was refused for a single reason:

'The proposed development constitutes residential development in the open countryside for which it has not been demonstrated that there is an essential need. The development would therefore be an unjustified and unsustainable form of development, beyond the built-up limits of Wendlebury, a Category C Village, where residential development is restricted to infilling and conversions. The benefits of the scheme do not outweigh the harm identified. As such the proposal is considered to be contrary to Policies ESD1 and Villages 1 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy H18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.'

The decision notice is at Appendix 1. The LPA officer report is at Appendix 2.

1.3 The site is described in the covering letter accompanying the application dated 14.6.22.

2.0 Planning History

2.1 The LPA officer report (Appendix 2) sets out some planning history. The most recent refusal prior to refusal of this PIP was 16/01645/F. This was a full application for the erection of 2 detached dwellings and garages and the decision notice and LPA report is at Appendix 3. 16/01645/FUL was refused at a time when the Council had a 5 year housing land supply. The Council currently has only a 3.5 year housing land supply.

3.0 Planning Policy

3.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. In dealing with a PIP, Section 70 of the

Town and Country Planning Act 1990 requires that regard should be had to the provisions of the development plan so far as material to the application, a post-examination draft neighbourhood development plan, so far as material to the application, any local finance considerations so far as material to the application, and to any other material considerations.

3.2 The Cherwell Local Plan 2011-2031 - Part 1 ('CLP 2011-2031') was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031 as part of the Development Plan. The CLP 2011-2036 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the Development Plan. The Cherwell Local Plan 2011 - 2031 (Part 1) Partial Review - Oxford's Unmet Housing Need is also part of the Development Plan.

3.3 The following are considered policies in the CLP 2011-2031 relevant to this PIP:

Policy PSD 1: Presumption in Favour of Sustainable Development

Policy SLE 4: Improved Transport and Connections

Policy BSC 1: District Wide Housing Distribution

Policy ESD 1 Mitigating and Adapting to Climate Change

Policy ESD 6: Sustainable flood risk management

Policy ESD 7: Sustainable Drainage Systems

Policy ESD 13: Local Landscape Protection and Enhancement

Policy ESD 15: The Character of the Built and Historic Environment

Policy Villages 1: Village Categorisation

The following are considered relevant policies in the Cherwell Local Plan 1996 (CLP 1996):

Policy C28 Layout, design and external appearance of new development

Policy C30 Design of new residential development

Policy H18 New Dwellings in the Countryside

3.4 It is also necessary to consider any material considerations relevant to the development proposal such as the National Planning Policy Framework (NPPF) and national planning guidance contained within Planning Practice Guidance (PPG), as well as locally adopted supplementary planning documents (SPD).

- 3.5 A key material consideration is the Council's 5 year housing land supply position, set out in the December 2021 Annual Monitoring Report (AMR) (Appendix 4). AMR para 5.54 sets out that the District can demonstrate a 3.5 year supply for the five year period 2022-2027. This is a significant undersupply.
- 3.6 NPPF Paragraph 11 sets out that plans and decisions should apply a presumption in favour of sustainable development. For decision making this means, as set out at Para 11 of the NPPF,
- c) approving development proposals that accord with an up to date development plan without delay; or
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - (ii) 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.

The reference to 'out of date' includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer).

This PIP should therefore be assessed against NPPF para 11d.

4.0 Main issue

- 4.1 The main issue is whether the site is suitable for 2 or 3 dwellings, in principle, bearing in mind the settlement policies of the development plan, the policies of the NPPF, the accessibility of the site, the effect of the development on the pattern of development in the area and taking into account the Council's housing land supply position.
- 4.2 Policy Villages 1 identifies Wendlebury as a Category C village suitable for infilling and conversions. The development is not a conversion and CLP para C.264 defines infilling

which is also not applicable as it is not a frontage site therefore not complying with CLP 2015 Policy Villages I and saved Local Plan Policy H18.

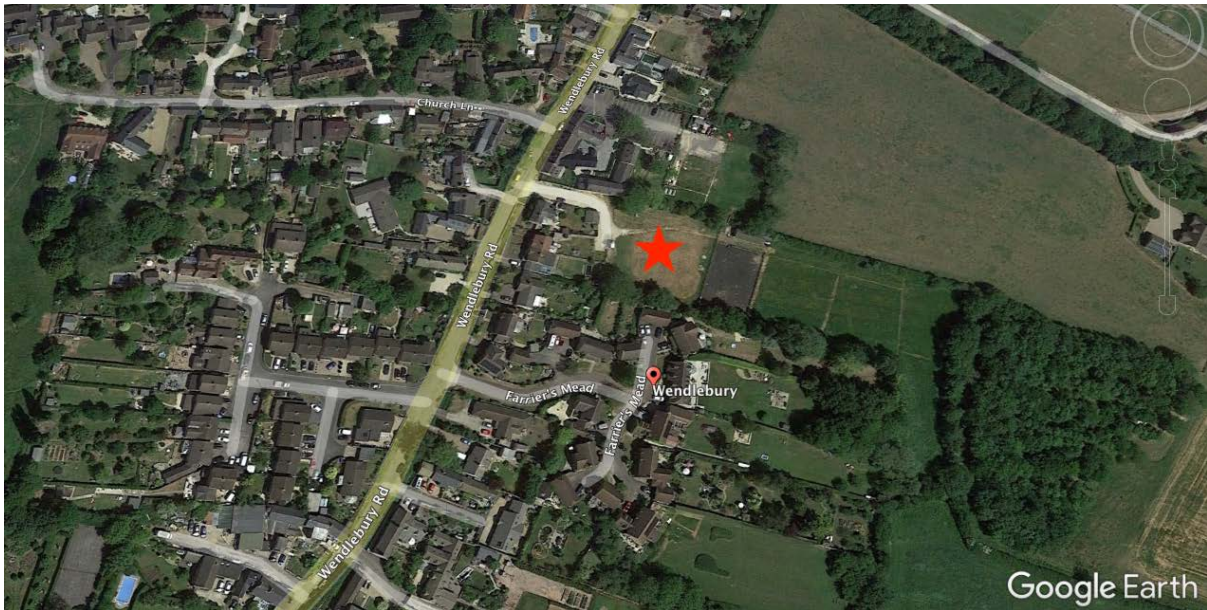
- 4.3 However in the absence of a 5 year housing land supply, although there is some conflict with CLP 2015 Policy Villages I and saved Local Plan Policy H18, it is considered this conflict and these policies should be given limited weight. At Appendix 5 is a committee report relating to a scheme elsewhere in Cherwell District which also sets out at para 9.35 that the weight to be given these policies should be reduced. Consideration therefore needs to go on to NPPF para 11d and whether:
- (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - (ii) 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.
- 4.4 It cannot be questioned that Wendlebury, being a Category C village, is a village considered locationally sustainable and suitable for modest housing growth. Policy Villages I makes this clear in allowing new housing in Wendlebury in principle. Policy ESD1 of CLP 2011-2031 states measures will be taken to mitigate the impact of development on climate change and deliver the goals of sustainable development. This includes distributing housing growth to the most sustainable locations as defined in the Local Plan and delivering development which reduces the need to travel. On the basis of Wendlebury being a location where modest housing growth is acceptable in principle, and its proximity to Bicester, a large and expanding town, the site is considered locationally sustainable for the proposed development.
- 4.5 Paragraph 79 of the NPPF states that *'to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a nearby village'*.
- 4.6 The LPA's officer report only remarks on the village public house however Wendlebury has a small number local amenities including a village hall, playground and the site lies next to The Red Lion pub. The pub also has 13 stay over bedrooms. The site is located fairly

centrally within the village within easy walking distance of these local amenities. The road through the village is a 20mph road and speeds are low. The site is located in a relatively accessible location. The proximity of the site to Bicester, which is one of the District's largest towns, is material. Bicester has numerous shops, services, employment and is where there has been/is substantial housing growth. The LPA officer report para 8.9 confirms Bicester as one of the most sustainable locations.

- 4.7 At Appendix 6 are two maps produced by the Appellant and a bus timetable to show the relationship of the site within Wendlebury, its transport connections and the relationship to Bicester and its numerous facilities, all demonstrating the accessibility of the site. Contrary to the LPA report at para 8.16, there are alternatives to the private car.
- 4.8 Attached at Appendix 7 are some walking and cycling routes. There are sheltered bus stops in lay-bys on either side of the A41. The south-west bound bus stop is shown to have a walk time of under 7 minutes from the appeal site (approx 0.3 miles). These bus stops provide good access to Bicester and Oxford and locations in between. The bus timetable is at Appendix 6. The site lies on National Cycle Route 51. The Park and Ride is only 1.7miles via bicycle from the appeal site, taking less than 7 minutes. The Park and Ride has covered cycle stands and provides an opportunity to transfer from bicycle onto the Park and Ride service which takes you into Bicester and elsewhere. Onwards from Bicester town centre there is an X5 bus service to Buckingham, Milton Keynes and Bedford. Bicester also has two train stations providing connections to London, Oxford and Birmingham. The train stations and Bicester town centre can also be reached directly via bicycle with all of these being within 4 miles. It is therefore considered that the site is within an accessible location with viable options other than the private car. East-West rail, when completed, will also allow train travel onwards from Bicester Village Station to Milton Keynes, Bedford and Cambridge. The NPPF acknowledges at para 105 that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making. The proximity of this site to so many shops, services and employment opportunities demonstrates that the site is not locationally disadvantaged. If using a car, there is likely to be much shorter car journeys to the large town of Bicester from Wendlebury, compared to many more distant but larger villages which may have more amenities than Wendlebury, but which are still limited and reliant upon access to larger towns.

Additionally there is a growing trend towards working from home following the pandemic which also reduces car journeys.

- 4.9 The Government's objective is to significantly boost the supply of homes (para 60 NPPF). Furthermore as para 69 of the NPPF sets out small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. This site is a small site.
- 4.10 In light of the lack of the Council's five-year housing land supply, any conflict with saved CLP 1996 Policy H18 and CLP 2011-2031 Policy Villages I should be afforded limited weight and is outweighed by the accessibility of the location. The site is well located within Wendlebury, is close to Bicester and it is established above that the site is locationally sustainable for 2 or 3 houses.
- 4.11 The site is well related to the village having residential development to the west and south, equestrian uses to the east and the public house use and accommodation block to the north/north-west. The heritage assessment which accompanied the PIP describes the evolution of the village. The pattern of development in the village is mixed, including built form (including dwellings) projecting back from the road as shown in the below google earth image. The development of this site with 2-3 dwellings would not be out of keeping with the pattern of development for example there are a number of small cul de sac developments of various layouts and designs leading off them. This includes Farrier's Mead to the immediate south. Some of the dwellings and gardens to Farrier's Mead dwelling project significantly further eastwards than the appeal site.



Site shown by red star. Source – from google earth

- 4.12 Contrary to the LPA's views, the site does not have a detached relationship with the surrounding built environment. This is evident in the below photos taken within the site which show the close connection with adjacent residential and public house. In fact the access drive is shared with other residential properties and provides access to their garages, demonstrating a clear physical connection with the surrounding built development contrary to para 8.13 of the LPA report. Furthermore boundaries to some adjacent dwellings are presently fairly open with low post and rail fencing and the recently built public house accommodation is immediately adjacent part of the site. There is clear visual and physical connection with the village.



Photo looking west towards houses Bridge House and 1 and 2 The Villas fronting Main Street. Clear physical and visual connection



Photo looking south towards properties at Farriers Mead



Photos looking north – north-western part of site, access visible. Beyond is fairly recently constructed accommodation extension to public house.

4.13 The LPA's views are disputed that the site has a detached relationship with the built development. In fact, the site feels closely related to the village and on most of three of its boundaries is surrounded by features of village life and activity and not open fields. It is not until you are some way beyond the east of the appeal site that the site has more of an open countryside feel but there is not a public right of way through the site so this impression will not be experienced by members of public.

4.14 The proposed amount of development is considered to be of a scale suitable for the size of the village and proximity to nearby (much larger) settlement. The existing land use is grassland and the site also includes the existing vehicular access. The proposed residential use is not considered to be inappropriate in the context of neighbouring uses.

5.0 Other Matters

5.1 It is noted the LPA are satisfied other matters would be dealt with at Technical Details Stage (para 8.18, LPA report Appendix 2). Notwithstanding this the appellant has reviewed the third party and consultation responses on the PIP. Although not reasons for refusal

by the LPA, the appellant wishes to respond to some third party/consultation comments received on the application. In respect of highways the appellant has entered into pre-application discussions with OCC Highways since the PIP refusal. Those discussions are at Appendix 8 and OCC Highways were satisfied. In any event, highways matters will be considered as part of Technical Details Consent. With regards flood risk, the appellant commissioned a Flood Risk Statement to review the third party comments made. This is at Appendix 9. It should be referred to in full and it is noted that the conclusions include that the site offers scope to deliver the proposed development such that it will be appropriate for the flood risk and is not expected to increase the risk of flooding elsewhere. Flooding matters will also be considered as part of Technical Details Consent.

6.0 Conclusions and Planning Balance

- 6.1 In the absence of a 5 year housing land supply, NPPF para 11d sets out that permission should be granted unless:
- (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - (ii) 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.
- 6.2 There is a listed building, a designated heritage asset, immediately adjacent the appeal site. A heritage impact statement accompanied the PIP and as set out in para 6.7 of the LPA report at Appendix 2, the LPA's Conservation Officer raised no heritage objection in principle. Part of the site access is understood to lie in flood zone 2 and 3. The Council have not raised flood risk as an in principle reason for refusal in the PIP. Referring to Appendix 9 conclusions, the site offers scope to deliver the proposed development such that it will be appropriate for the flood risk and is not expected to increase the risk of flooding elsewhere. It is also noted that the LPA did not refuse 16/01645/F (refer to highlighted key issue in Appendix 3) on the grounds of flood risk.
- 6.3 The application of policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed. The proposed dwellings would positively contribute to the Council's housing supply. The LPA's officer report at 8.17 sets out that this is a 'significant' benefit and this is agreed. The site lies fairly central to Wendlebury which has some amenities and in close proximity to the

large settlement of Bicester. It has been demonstrated that there need not be total reliance on the private car and there are alternatives e.g. by bus or bicycle. NPPF para 105 acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making. The proximity of this site to the park and ride and so many shops, services and employment opportunities demonstrates that the site is not locationally disadvantaged. The site has a clear visual and physical connection with the village and the pattern of development would not be out of keeping with the locality and the evolution of the village which has been described in the submitted heritage report. The additional dwellings would bring social benefits with new housing to the village, economic benefits during construction and through spending in local facilities e.g. the pub, and the potential for environmental benefits such as the more efficient use of land and incorporation of renewables (subject to technical details consent stage). The location, land use and amount of development is considered acceptable. For all these reasons, it is considered that significant and demonstrable harm would not arise to outweigh the benefits and that permission in principle should be forthcoming.

Appendices (see separate documents)

Appendix 1 – Decision Notice 22/01772/PIP

Appendix 2 – LPA report 22/01772/PIP

Appendix 3 – Decision Notice and LPA report 16/01645/F

Appendix 4 – December 2021 Annual Monitoring Report

Appendix 5 – Committee Report 21/04271/F

Appendix 6 – Accessibility maps produced by Appellant and bus timetable

Appendix 7 - Walking and cycling routes produced by Appellant

Appendix 8 – Pre-application discussions with OCC Highways

Appendix 9 – Flood Risk Statement, dated 17 November 2022, RAB Consultants

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