

Cherwell District Council

Town and Country Planning Act 1990 (as amended)

Appeal by Hollins Strategic Land LLP against the decision by Cherwell District Council to refuse outline planning permission for the demolition of existing buildings and erection of up to 46 no. dwellings with associated works and provision of open space, Land at Tappers Farm, Oxford Road, Bodicote.

Appellant: Hollins Strategic Land LLP

Appeal Site: Land at Tappers Farm, Oxford Road, Bodicote

Local Planning Authority Reference: 18/00792/OUT

Planning Inspectorate Reference: APP/C3105/W/19/3222428

1. Site Description and Location

- 1.1 The appeal site is located on the eastern edge of the village of Bodicote, on the corner of White Post Road and Oxford Road. The site comprises approximately 2.19ha of land, the majority of which is an open field. A small area to the south west contains built development which comprises agricultural buildings, one of which houses the Bodicote Farm Shop. The field contains a number of mature trees, many of which are protected by TPO and the site has a 'parkland' appearance as a result of the protected trees. The field is used on occasions for car boot sales and other community events such as a travelling circus.
- 1.2 The site is flat and enclosed by established native hedgerows, trees and vegetation. Access to the site is currently via a hard surfaced track which runs along the boundary with Bishop Loveday Primary School to the west.
- 1.3 Bodicote is a village in the north of the Cherwell District and lies immediately south of Banbury. The village began as a linear settlement following the main road along the ridge of the valley, only expanding to the south, east and north in the last 150 years. The village is split between two landscape character areas, the Cherwell Valley and Ironstone Downs and Valleys as defined in the Cherwell District landscape Assessment. The geology is reflected in the rich colour and texture of the village's vernacular buildings. Bodicote's Conservation Area lies to the south of the appeal site and contains a number of listed buildings. In the latter part of the twentieth century the village has expanded significantly with new housing estates built to the east of the village.

2. Relevant Planning History

- 2.1 00/01330/F – conditional planning permission was granted for the change of use of land to allow winter storage of 8 caravans in a row behind existing agricultural building, including the removal of agricultural machinery and replacement with hedge.

- 2.2 02/01756/F – planning permission was refused for the use of land for car boot sales February to November, the erection of a flag pole and relaxation of condition 2 of the above mentioned permission to increase the numbers of caravans to 12. The reasons for refusal related to noise and disturbance to adjacent residents in respect of the car boot and visual impact in respect of the increased numbers of caravan storage.
- 2.3 03/02193/F – Conditional planning consent was granted for the increase in the number of caravan storage from 8 to 14. This consent was granted following the screening of the caravans in accordance with the initial consent.
- 2.4 04/02679/TPO – Consent was granted for the removal of a Horse Chestnut tree positioned between the agricultural buildings subject to a condition requiring a replacement tree to be planted on the site.
- 2.5 08/02000/AGN – Prior approval was not required for the erection of agricultural buildings on the site adjacent to the existing buildings.
- 2.6 14/00516/F – Conditional planning permission was granted for the increase in the number of car boot sales from 14 to 21 per year within the field.
- 2.7 09/00457/F – Retrospective conditional planning permission was granted for the use of the farm buildings for a farm shop with associated storage.
- 2.8 The above mentioned planning history (with the exception of the use of the site for car boot sales) relates to the south western corner of the site only. The remainder of the site remains in agricultural use.

3. Policy Considerations

- 3.1 It is considered that the following policies are relevant to the consideration of this appeal:

Development Plan Policy

- 3.2 The Cherwell Local Plan 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. The Local Plan 2011-2031 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. Planning legislation requires planning decisions to be made in accordance with the Development Plan unless material considerations indicate otherwise. The relevant policies of Cherwell District's Statutory Development Plan are set out below.

3.3 Cherwell Local Plan Part 1 2011-2031

- PSD1 – presumption in favour of sustainable development
- BSC1 – District wide housing distribution
- BSC2 – effective and efficient use of land
- BSC3 – affordable housing

- BSC4 – Housing mix
- BSC7 – Meeting education needs
- BSC10 – Open space, outdoor sport and recreation provision
- BSC11 – Local standards of provision – outdoor recreation
- BSC12 – Indoor sport and recreation and community facilities
- ESD1 – Mitigating and adapting to climate change
- ESD2 – Energy hierarchy and allowable solutions
- ESD3 – Sustainable construction
- ESD7 – Sustainable drainage
- ESD10 – Protection and enhancement of biodiversity and the natural environment
- ESD13 – Local landscape protection and enhancement
- ESD15 – Character of the built and historic environment
- ESD17 – Green infrastructure
- Policy villages 1
- Policy villages 2
- INF1 – Infrastructure requirements

3.4 Adopted Cherwell Local Plan 1996 (Saved Policies)

- C28 – layout, design and external appearance of new development
- C8 – sporadic development in the countryside
- C15 – Prevention of coalescence of settlements
- C31 – Compatible with residential character
- C33 – Retention of important gaps
- ENV1 – Prevention of environmental pollution

3.5 Other material considerations

- National Planning Policy Framework
- Planning Practice Guidance
- CDC Planning obligations SPD 2018
- CDC Residential Design Guide SPD July 2018
- By Design 'Urban design in the planning system: towards better practice'

Partial Review of the Cherwell Local Plan 2011-2031 – Oxfordshire's Unmet Housing Need

3.6 On 19th November 2015, the Oxfordshire Growth Board agreed a total working figure for Oxford's unmet housing need of 15,000 new homes. On 26th September 2016, following the completion of a programme of work, the Oxfordshire Growth Board agreed an apportionment of Oxford's identified unmet need to the District Councils. This included a delivery of 4,400 new homes in Cherwell by 2031 in addition to the 22,840 homes provided for by the Cherwell Local Plan Part 1 2011-2031.

3.7 There is a Plan currently being progressed to provide Cherwell's share of the unmet housing needs of Oxford to 2031. Cherwell District submitted the Local Plan Part 1 Review (Oxford's Unmet Housing Need) to the Secretary of State for housing, Communities and Local

Government for formal examination on 5th March 2018. Hearings were held in February 2019. The Inspector's Post-Hearings Advice Note was received on 10th July 2019.

3.8 The Local Plan Part 1 Review has identified a series of sites around Kidlington, Begbroke and Yarnton, north of Oxford. The Inspector advises that the approach to locate housing and infrastructure required as close as possible to Oxford, along the A44 and A4165 is an appropriate strategy because it is most likely to foster transport choices other than the private car and minimise travel distances, and least likely to interfere with the delivery of housing elsewhere in Cherwell.

4. The Case of the Local Planning Authority

4.1 Outline planning permission for the appeal proposal was refused on 31st October 2018 for the following reasons:

- Taking into account the number of dwellings already permitted across Category A villages and Cherwell District Council's ability to demonstrate a 5.4 year housing land supply which exceeds the requirements for a 3 year housing land supply, the proposal is unnecessary and undesirable as it would result in the development of an area of open land which is important in distinguishing the settlements of Banbury and Bodicote and would undermine the character and identity of Bodicote. This would be contrary to Policy Villages 2 and Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 Part 1 and saved Policies C15 and C33 of the adopted Cherwell Local Plan 1996.
- In the absence of the completion of a satisfactory Planning Obligation under S.106 of the Town and Country Planning Act 1990, the local planning authority is not convinced that the necessary infrastructure directly required to mitigate the impact of this development will be provided. This would not be in the interests of delivering sustainable, mixed and balanced communities by providing affordable housing, appropriate public open space and future maintenance arrangements, providing adequate health services and community and sports provision, meeting education needs and enhancing sustainable transport options. This would be contrary to Policies INF1, BSC3, BSC7, BSC10, BSC11, BSC12 and SLE4 of the adopted Cherwell Local Plan (2011-2031) Part 1, the council's adopted Developer Contributions Supplementary Planning Document (SPD) (February 2018) and the National Planning Policy Framework.

The Development Plan

4.2 As stated above, the Development Plan for Cherwell District comprises the saved policies of the adopted Cherwell Local Plan 1996 and the adopted Cherwell Local Plan Part 1 2011-2031. Section 70 (2) of the Town and Country Planning Act 1990 provides that in dealing with applications for planning permission, the local planning authority shall have regard to the provisions of the development plan so far as is material to the application and to any

other material considerations. Sec 38 of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had under the planning acts, the determination must be made in accordance with the development plan unless material considerations indicate otherwise. These are reflected in the National Planning Policy Framework at paragraph 11 which makes it clear that the starting point for decision making is the development plan. Cherwell District has an up to date adopted Local Plan.

- 4.3 The purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF sets out the economic, social and environmental roles of planning in seeking to achieve sustainable development; contributing to building a strong, responsive and competitive economy; supporting strong, vibrant and healthy communities; and contributing to protecting and enhancing our natural, built and historic environment (paragraph 8).
- 4.4 Policy PSD1 of the Cherwell Local Plan 2011-2031 accords with the NPPF's requirements for 'sustainable development' and that planning applications that accord with the policies in the statutory development plan will be approved without delay unless material considerations indicate otherwise.
- 4.5 The development plan also includes a number of other relevant policies to this appeal, including those related to sustainable development, flood risk and sustainable drainage, transport, sustainable construction, ecology, open space, landscape and visual impact, environment and design.
- 4.6 Policy Villages 1 of the Cherwell Local Plan 2031 provides a framework for housing growth in the rural areas of the district and groups villages into three separate categories, (A,B and C). Policy Villages 1 relates to proposals for residential development within the built up limits of villages and designates Bodicote as a Category A village and therefore one of the more sustainable based on criteria such as population, size, range of services and facilities and access to public transport. This policy allows for minor development, infilling and conversions. Paragraph C.254 of the Cherwell Local Plan 2011-2031 advises that Policy villages 1 seeks to manage small scale development proposals (typically but not exclusively for less than 10 dwellings) which come forward within the built up limits.
- 4.7 The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that conflicts with the local plan should be refused unless material considerations indicate otherwise (paragraph 12). Cherwell District has an up to date local plan and can demonstrate a five year housing land supply. Further, the effect of the Written Ministerial Statement of 12th September 2018 which addresses the matter of housing land supply in Oxfordshire is that the relevant and important policies for determining the application are only to be considered out of date where a 3 year supply of deliverable sites cannot be demonstrated.

4.8 The Cherwell Local Plan 2011-2031 seeks to allocate sufficient land to meet District Wide Housing Needs. The overall housing strategy is to focus strategic housing growth at the towns of Banbury and Bicester and a small number of strategic sites outside these towns. Policy BSC1 of the Local Plan identifies the District wide housing distribution across the Plan period to 2031. The appeal site lies in 'Rest of District'. With regard to villages, the Local Plan notes that the intention is to protect and enhance the services, facilities, landscape and natural and historic built environment of villages and rural areas. It does however advise that there is a need within rural areas to meet local and Cherwell wide housing needs.

4.9 The appeal site is not allocated for development in any of the adopted Cherwell Local Plans comprising the Development Plan. Policy Villages 1 and 2 of the Cherwell Local Plan 2011-2031 are both relevant to this application.

4.10 The Local Planning Authority acknowledges that Bodicote is identified under Policy Villages 1 as a Category A village and is also one of the larger villages in the District with a relatively wide range of services and facilities and regular bus services. It is also in close proximity to Banbury. However, it is also the case that Bodicote is a village separate from Banbury and the Local Plan policies and strategy treat it as such. The acceptability of the appeal proposal must therefore be tested against the criteria listed in policy Villages 2 of the Cherwell Local Plan, as well as other material planning considerations. In the first instance, it is important to consider the matter of scale and quantity of development, and in particular whether the proposal is in accordance with the overarching housing strategy of the Cherwell Local Plan 2011-2031.

Consideration under Policy Villages 2

4.11 In order to meet the areas housing needs, Policy Villages 2 of the Cherwell Local Plan states that 'A total of 750 homes will be delivered at category A villages. This will be in addition to the rural allowance for small site 'windfalls' and planning permissions for 10 or more dwellings as at 31st March 2014'

4.12 Policy Villages 2 then sets out that when identifying and considering sites, particular regard will be given to a number of criteria including:

- Whether the land has been previously developed or is of lesser environmental value
- Whether significant adverse impact on heritage or wildlife assets could be avoided
- Whether development would contribute in enhancing the built environment
- Whether best and most versatile agricultural land could be avoided
- Whether significant adverse landscape and impacts could be avoided
- Whether satisfactory vehicular and pedestrian access/egress could be provided
- Whether the site is well located to services and facilities
- Whether necessary infrastructure could be provided
- Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period

- Whether the land is subject of an application for planning permission could be delivered within the next five years
- Whether the development would have an adverse impact on flood risk

4.13 The Council's Annual Monitoring Report 2018 (published December 2018) identifies that permission has either been granted or there is a resolution to grant for 746 homes in Category A villages under Policy Villages 2 of the Cherwell Local Plan 2031 leaving only 4 dwellings remaining from the Policy Villages 2 requirement. On reviewing the progress of these permissions, it should be noted that planning permission for 33 of the 746 has either lapsed or not been issued.

4.14 Ahead of the publication of the Annual Monitoring Report (2019), expected in late 2019, the Council has published a table of residential completions and permissions for the Category A villages with a baseline date of 31st March 2019. This shows a total number of permissions of 750 and a total of 271 dwellings completions to date against Policy Villages 2. A further 425 are under construction. Hence, the Local Planning Authority would contend that a majority of these dwellings have, or, are most likely to be delivered within the plan period. The proposed development would provide a further 46 dwellings taking the total permitted to 796 (750 + 46). These figures do not include a recent application at Deddington for 21 dwellings which has a resolution to grant outline planning permission subject to the applicants entering into a section 106 agreement (application number 18/02147/OUT) refers.

4.15 Since 31st March 2014, the delivery rate from Policy Villages 2 has been 54 units per annum. If that rate continues, 750 homes will be delivered by 2028, three years before the end of the Plan period (2011-2031). In essence, the rate of delivery has been accelerating and this average figure takes account of the year 2014/15 when only 2 homes were delivered.

4.16 In terms of Bodicote village itself, it should also be noted that 99 dwellings have been granted permission under Policy villages 2, these being an additional 4 units on the Cala development at Cotefield Farm and 95 dwellings currently under construction by Crest, also at Cotefield Farm. Whilst it should be noted that there is no distribution requirement within Policy Villages 2, it is considered that Bodicote has already received a significant proportion of the 750 dwellings and it is important that all the development is not allocated to a few Category A villages but that the allocation is distributed across the 23 Category A villages as to maximise sustainability of rural housing provision within the District.

4.17 It is accepted that the 750 dwellings to be delivered at Category A villages is not necessarily an upper limit, but the policy describes it as a 'total' and significant deviation from this could result in unconstrained growth in less sustainable locations which would conflict with and weaken the housing strategy of the Development Plan to focus new sustainable development in urban locations and conflict with Policy BSC1, ESD1 and Policy Village 2. This conclusion has been endorsed by Inspectors in various appeal decisions including appeals at Kirtlington, Weston on the Green and Finmere. In respect of the appeal at Kirtlington the inspector stated:

'I cannot speculate what might happen in the future with regard to such matters as where housing may be most needed or the numbers that may be required, but the indications are that the provision of 95 homes in one location at this early stage of the Local Plan period would leave little scope for development on other Category A villages either in terms of numbers or timing and would thus not be in accordance with the housing strategy for the villages as set out in the Local Plan and addressed and confirmed by the Local Plan Inspector. In addition, the provision of 95 homes at Kirtlington would result in a significant increase in the population which would raise further matters'

- 4.18 In respect of the appeal relating to an outline proposal for 26 dwellings at Weston on the Green the Inspector noted that the Council had made considerable progress in relation to meeting the allocation of 750 homes to be delivered in Category A villages. The Inspector went on to state that:

'I appreciate that this is not a ceiling. However, it seems to me that there is a high probability of the figure being exceeded early in the plan period. Any significant increase over and above that number would have implications for other Category A villages later in the plan period. Unconstrained growth in the rural areas would threaten the local plan's spatial strategy of biasing housing development towards the main towns of Bicester and Banbury with more limited growth elsewhere. In light of this, and mindful that the ability of the council to demonstrate a five year supply of deliverable housing sites is not being disputed, I consider that there is no overriding need for the appeal scheme on housing delivery grounds'.

- 4.19 A similar view was also taken by an Inspector for an appeal proposal for 50 dwellings at Finmere and by an Inspector in relation to a proposal for 37 dwellings at Cropredy.

- 4.20 In terms of the more recent appeal at Launton, the Inspector focussed on completions and found that, at that time, if the annual rate of completions continued, the delivery rate would not be sufficient to produce 750 dwellings over the Plan period and therefore that the 72 houses at Launton would not breach Policy Villages 2. As identified above, the position has clearly moved on, the delivery rate has increased, the number of dwellings either constructed or commenced has substantially increased, and the number of dwellings likely to be delivered over the Plan period through Policy Villages 2 will now be met by 2028.

- 4.21 Therefore it is considered that the position the Council finds itself in, in regard to the allocation under Policy Villages 2, means that there is no pressing or urgent need to grant permission for significant additional growth under this policy, particularly where to do so would cause harm and conflict with the Development Plan in other respects. The appeal proposal for 46 new dwellings would lead to the number of permissions being granted at Category A villages exceeding the 750 dwellings in Policy 2 villages and would result in an undesirable over-concentration of new housing development in Bodicote that would

prejudice a planned and sustainable distribution of housing development across the Category A villages and seriously undermine the housing strategy of the Development Plan.

Impact on the Character of Bodicote

4.22 The appeal proposal must also be considered under the criteria for Policy Villages 2, these include considering residential development proposals against matters such as whether the land is of lesser environmental value and whether the development would contribute to enhancing the built environment in addition to other relevant policies within the Development Plan. This relates to the second part of the reason for refusal which identifies the site as an important space which provides a clear visual break and sense of rural separation between Bodicote and Banbury. It is the firm opinion of the Local Planning Authority that this space must be retained in order to safeguard against the coalescence between the two settlements.

4.23 The Local Planning Authority has a number of concerns regarding the impact of the appeal proposal on the character and village identity of Bodicote as follows:

- Connectivity and relationship with the village
- Impact on existing TPO trees
- Development scale and form
- Loss of an important undeveloped gap which provides distinction between Banbury and Bodicote

4.24 Policy C15 of the adopted Cherwell Local Plan 1996 is a saved policy that remains an adopted part of the development plan. It seeks to prevent the coalescence of settlements by restricting development which is important in distinguishing them. Whilst the NPPF does not specifically refer to the issue of coalescence, the Policy still attracts considerable weight as part of the development plan and is consistent with other national policies that promote local character and distinctiveness as does Policy ESD15 of the Cherwell Local Plan 2031. Likewise Policy C33 of the Cherwell local Plan seeks to retain undeveloped gaps which are important in preserving the character of a settlement; and the accompanying text advises that not all undeveloped land within the structure of settlements can be built on without damage to their appearance or rural character. This is the case for the appeal site.

4.25 The site as a whole has an appearance of predominantly open parkland and thus possesses an informal rural feel to which the agricultural storage buildings contribute despite their untidy and functional appearance. This is readily apparent from the slip road leading to White Post road and it is considered that the site contributes significantly towards the transition between the informality rural context and heritage of Bodicote and the urban area of Banbury. The local planning authority contends therefore that the site contributes significantly towards the local identity and distinctiveness of Bodicote as a village which would not be preserved by residential development of the scale and nature proposed.

4.26 Furthermore it is considered that the site is not just of value to Bodicote's character and identity as simply an undeveloped gap, but it also derives value from its open, informal and

agricultural character to which the low key storage buildings and access track are in keeping. The formalisation of this green space through residential development with all of the associated development that it brings (including a larger, wider and upgraded new access road) would be severely detrimental to its environmental value and to the character of Bodicote and surrounding area and with the loss of the only remaining gap and vestige of rural separation between Bodicote and Banbury, further resulting in actual and perceived coalescence between Bodicote and Banbury.

4.27 The local planning authority is of the view that the value of the site towards village character, identity of Bodicote and preventing coalescence has only increased in recent years following the development of Longford Park to the east of Oxford Road as well as the planned development south of Salt Way allocated through the Cherwell Local Plan 2031 and the resultant new access and realignment of White Post Road to enable appropriate vehicular access to be provided. The development of the site as proposed will result in inevitable harmful impact on the distinctiveness of Bodicote's independent village character as well as the character and appearance of the area.

4.28 Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 states that new development proposals, amongst other things should: 'contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views, in particular within designated landscapes, within the Cherwell Valley and within conservation areas and their setting, conserve and enhance designated and non-designated heritage assets (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings and to ensure new development is sensitively sited and integrated in accordance with the advice within the NPPF and PPG. Policy SLE4 of the Cherwell Local Plan 2031 also promotes permeable, accessible places that maximise opportunities for walking, cycling and other sustainable modes of transport.

4.29 Policy ESD13 of the Cherwell Local Plan 2011-2031 relates to local landscape protection and enhancement and therefore seeks to conserve and enhance the distinctive and highly valued local character of the entire District. The appeal proposal was accompanied by a landscape and Visual Impact Assessment which has considered the potential impacts on the landscape character and amenity of the site and surrounding area. Whilst it is accepted that the development of the appeal site as proposed would have limited landscape impact when viewed from the wider landscape and locality, the immediate local impact when viewed from White Post road and the immediate locality will be significant as it will result in the loss of an important and attractive green space. This is contrary to Policies Villages 2, ESD15 and saved policy C33.

4.30 Section 12 of the NPPF – Achieving well designed places, advises that the creation of high quality buildings and places is fundamental to what planning and the development process should achieve. At paragraph 127 it further advises that planning decisions should ensure

that 'developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

4.31 Policy ESD15 of the Local Plan advises that design standards for new development, whether housing or commercial development are equally important, and seeks to ensure that we achieve locally distinctive design which reflects and respects the urban or rural landscapes and built context within which it sits. The adopted Cherwell Local Plan 1996 contains saved Policy C28 which states that 'control will be exercised over all new development, including conversions and extensions to ensure that the standards of layout, design and external appearance, including choice of materials are sympathetic to the character of the urban or rural context of the development. Policy ESD15 also advises that the design of all new developments will need to be informed by an analysis of site context, together with an explanation and justification of the design principles that have informed the design rationale. This should be demonstrated in a Design and Access Statement. Unfortunately a Design and Access Statement was not included with the application documentation.

4.32 The appearance of new development and its relationship with its surroundings and its natural and built environment can have a significant effect on the character and appearance of an area. Securing development that can positively contribute to the character of its local environment and has longevity is therefore of key importance. Paragraph 127 of the NPPF advises on the importance of good design and the quality of new development.

4.33 The Local Planning Authority has produced a Residential Design Guide, which has the status of adopted SPD. This document provides clarity and advice on the design standards expected from residential development in Cherwell. The PPG also provides detailed practice guidance on design issues. This is supplemented by best practice guidance by CABI and set out in 'By Design: Urban design in the Planning System (2000) and Better Places to live by Design (2001). These documents provide guidance on the central urban design principles that underpin good design, including structure, layout and local distinctiveness. The proposals are for a cul-de-sac development of up to 46 new dwellings accessed from the slip road to White Post Road. The successful integration of new housing within its surrounding context is a design objective and therefore there is a need to understand the context within which the new housing will sit as well as the nature of the site itself and its immediate surroundings.

4.34 The application is accompanied by an indicative layout, but no further detail, including a Design and Access Statement have been included. Therefore it is not possible to assess the scheme in terms of the quality of design and in relation to local distinctiveness and context having regard to Bodicote village. Two pedestrian/cycle links are indicated to the eastern boundary to Oxford Road, but no direct links, other than along the access road into the site are provided into Bodicote village or the surrounding area. This is considered to contribute to undermining the character and identity of Bodicote by resulting in a development which appears, and would be experienced as, a self-contained estate separate from and not properly integrated into the village.

- 4.35 The site itself also contains a number of significant mature trees that are protected by Tree Preservation Order. Whilst Policy ESD15 of the Cherwell Local Plan 2031 is of principal relevance, other development plan policies are also relevant too when considering matters such as trees, landscaping, recreation and residential amenity, such as ESD10, BSC11 and Policy C30 of the Cherwell Local Plan 1996.
- 4.36 An illustrative layout plan has been submitted with the proposal which seeks to demonstrate that 46 dwellings can be accommodated on the site having regard to the requirements of Policy ESD15 and the retention and continued protection of the TPO'd trees on the site. Policies ESD15 and ESD10 require the retention of features of landscape importance. The majority of the trees on the site are covered by a Tree Preservation Order (TPO) and have public amenity value. The parameter plan which seeks to demonstrate the provision of public open space and the protection of trees is not to scale and has no dimensions marked on it. There is therefore no specific commitment to safeguard and protect the areas identified through the reserved matters submission, in particular the TPO'd trees, should the appeal be allowed.
- 4.37 The Local planning Authority considers that whilst the layout and parameter plan seek to demonstrate that these important trees will be retained, the Council's Arboricultural officer remains concerned that, in particular in respect of T7, that whilst the number of plots beneath T7 have been reduced, they are still equally as close. Despite these plans indicating that the trees can be retained during the construction of the development, consideration must also be given to their long-term future if dwellings are positioned close to trees as there could be pressure to severely lop, top or even fell the trees due to their impact upon residential amenity as a consequence of overshadowing gardens or the dwellings themselves or damage to the buildings themselves by root encroachment. The risk that important and established mature trees will be lost as a consequence of the development further impacts negatively on the rural heritage and village identity of Bodicote.
- 4.38 Whilst it is accepted that this is only an illustrative layout plan, it has been submitted in an attempt to demonstrate that the number of dwellings can be appropriately accommodated. It should be noted however, that the accuracy of this plan cannot be guaranteed as the north point is incorrectly identified.
- 4.39 In addition to the appeal site being considered important in terms of Bodicote retaining its identity and being an important gap between Bodicote and Banbury, it also functions as an important area of open space. Public open space is potentially one of a community's greatest assets. The best open spaces are those which not only cater for safe play and relaxation but also provide an area with a sense of identity. This site is an important community asset in that it houses a farm shop selling local farm produce and animal feed and has been used for a number of years for car boot sales and travelling circus. These uses and activities all contribute positively to the character of the site and the identity of Bodicote, as a separate community and settlement in its own right.

4.40 Having regard to the above, the local planning authority contends that the development of the appeal site as proposed would be contrary to Policies C15 and C33 of the Cherwell Local Plan 1996 and Policies ESD15 and Villages 2 of the Cherwell Local Plan 2011-2031 in terms of its significance as a green space which contributes to the character of Bodicote village and is also important in terms of it being the only gap remaining which safeguards against coalescence of Bodicote and Banbury, therefore resulting in Bodicote losing its own separate identity.

Comments on the Appellant's Statement

4.41 It is considered that the majority of points raised in the appellant's grounds of appeal have been covered in the preceding statement. However, further additional comments are made as follows:

- Whilst it is acknowledged that the proposal would result in the provision of affordable housing, the local planning authority disputes the claim at 1.10 that there is a very significant and persistent shortfall. The AMR 2018 sets out the delivery of affordable housing and if the years following the adoption of the Local Plan are assessed, it should be noted that in terms of recent delivery, the targets are being exceeded. Indeed, the latest figure for 2018/19 shows that 501 affordable homes were delivered.
- Para 1.17 – Saved Policy C15 is not out of date and remains a material consideration as stated above.
- The Council can demonstrate a 5 year housing land supply.
- Para 7.43 does not factor in permissions granted since March 2018.
- Paragraph 7.54 – the exceedance would be greater than 8 or 9 units.
- Paragraph 7.55 – Bodicote has already received 99 dwellings under Policy Villages 2 and as explained above, the appeal proposal would result in a material exceedance of the 750. Furthermore houses under this policy are being delivered at a good rate of progress, therefore the findings of the Kirtlington, Weston on the Green and Finmere Inspectors remain relevant.
- Paragraph 7.78 – the site constraints have identified that the land is Grade 2 Agricultural land.

5. Summary and Conclusion

5.1 In summary, the Local Planning Authority maintains that the District currently has a five year housing land supply and can demonstrate that the housing provision under Policy Villages 2 can be delivered within the Plan period. The local planning authority considers that the appeal proposal would be unacceptable for the reasons specified in the decision notice and will result in the loss of the only remaining green space between Banbury and Bodicote to the detriment of the character and identity of Bodicote as a village.

5.2 The site as a whole has an appearance of predominantly open parkland and thus possesses an informal rural feel to which the agricultural storage buildings contribute despite their

untidy and functional appearance. This is readily apparent from the slip road leading to White Post road and it is considered that the site contributes significantly towards the transition between the informality rural context and heritage of Bodicote and the urban area of Banbury. The local planning authority contends therefore that the site contributes significantly towards the local identity and distinctiveness of Bodicote as a village which would not be preserved by residential development of the scale and nature proposed.

- 5.3 The proposal is contrary to Policies C15 and C33 of the Cherwell local Plan 1996 and Policy ESD15 and Policy Villages 2 of the Cherwell local Plan 2011-2031. The local planning authority therefore considers that any benefits of the proposal are significantly and demonstrably outweighed by the adverse impacts and therefore respectfully requests that the appeal be dismissed.

Appendices

- 1 - Location Plan
- 2 - Appeal decision Kirtlington – application number 14/01531/OUT
- 3 - Appeal decision Weston-on-the-Green – application number 15/01953/OUT
- 4 - Appeal decision Finmere – application number 16/01209/OUT
- 5 - Appeal decision Cropredy – application number
- 6 - Appeal decision Launton – application number 17/01173/OUT
- 7 – Annual Monitoring Report 2018 – this is available in full on the Council’s website by using the following link: <https://www.cherwell.gov.uk/monitoring>
- 8 - Housing Supply at Category A Villages Table Baseline 31.03.2019