

Statement of Common Ground

Appeal for 46 dwellings – Land at Tappers Farm, Oxford
Road, Bodicote, Banbury, Oxfordshire, OX15 4AB

for Hollins Strategic Land LLP

PI Ref: APP/C3105/W/19/3222428

LPA Ref: 18/00792/OUT

Contents:

1. Introduction	1
2. Appeal Proposal	1
3. Area Description	3
4. Planning History	5
5. Planning Policy	6
6. Planning Considerations	9
7. Conditions	15
8. Core Document List	16

1. Introduction

- 1.1 This is a Statement of Common Ground with respect to an appeal by Hollins Strategic Land (The Appellant). It has been prepared and agreed by the Appellant and Cherwell District Council (the LPA).

2. Appeal Proposal

- 2.1 The planning appeal seeks outline planning permission for 46 no. dwellings with associated works, access and provision of open space. Matters of scale, layout, landscaping and appearance are all reserved for future consideration; however only for illustrative purposes an indicative layout plan was included within the submission.
- 2.2 During the determination of the planning application, the number of proposed dwellings was reduced from 52 to 46. This followed consultation responses and the LPA seeking a more detailed development footprint in order to protect the existing trees, provide a wider ecological corridor and defining the main area of open space. An indicative parameters plan was then proposed to be conditioned as set out in the update to committee. A scaled version at 1:1250 has been provided to the LPA and if agreed will be provided to the Inspector in advance of the hearing.
- 2.3 The key aspects of the proposed development can be summarised as follows:
- Up to 46 dwellings. The mix of types and sizes are to be agreed at reserved matters);
 - Affordable dwellings (35%);
 - New vehicular access to the site off White Post Road;
 - Associated landscaping, including an area of public open space on the northern part of the site;
 - Except to allow for the new vehicular and pedestrian accesses into the site, the retention of existing trees and hedgerows and provision of new landscaping including new tree planting;
 - Ecological mitigation and enhancement.
- 2.4 The application was accompanied and validated on the basis of the following documentation.
- **Core Document 1.1** – Covering Letter, Application Form and Certificates
 - **Core Document 1.2** – Planning, Design and Access Statement

- **Core Document 1.3** – Location Plan and Illustrative Masterplan
- **Core Document 1.4** - Transport Statement
- **Core Document 1.5** - Phase 1 Ecology Report
- **Core Document 1.6** - Landscape Visual Appraisal
- **Core Document 1.7** – Tree Survey Report
- **Core Document 1.8** – Bat Survey Report
- **Core Document 1.9** - Topographical Survey
- **Core Document 1.10** - Flood Risk Assessment and Drainage Management Strategy
- **Core Document 1.11** - Utility Study
- **Core Document 1.12** - Ground Conditions Desk Study Report

2.5 Between the submission of the application and determination the illustrative layout changed and additional documents were submitted. The documents are as follows:

- Updated documents following agreed illustrative layout. These revised documents are:
- **Core Document 1.13** – Illustrative layout;
- **Core Document 1.14** DEFRA Matric and Biodiversity Calculator;
- **Core Document 1.15** Flood Risk Assessment and Drainage Management Strategy;
- **Core Document 1.16** Noise Impact Assessment; and,
- **Core Document 1.17** LVA Addendum and associated plans.
- **Core Document 1.18** – Parameters Plan.
- **Core Document 1.19** – Proposed S106 Contributions.

2.6 On the basis of the revised documents, the application was considered by committee on the 25th October 2018 with an officer recommendation for approval. The committee report and update (listing draft conditions) is **Core Document 2.1 and 2.2** respectively. Members voted against the officer's recommendation and the application was refused on the 31st October 2018. There are 2 reasons for refusal in the decision notice (**Core Document 2.4**).

2.7 The minutes of the meeting are **Core Document 2.3**.

3. Area Description

- 3.1 The appeal site is located on the northern edge of Bodicote, which is to the south of Banbury. It is not allocated for development in the development plan.
- 3.2 The existing site comprises a rectangular parcel of land. The Bodicote Flyover Farm Shop together with its associated hard- standing, access road and an area for the lawful storage of up to 14 no. caravans is located within the site, in the southern corner. Only this element of the site is previously developed land (PDL). The site measures 2.19 hectares in area.
- 3.3 The site is bound to the immediate east by Oxford Road (A4260), a primary route that links Banbury in the north with Oxford (23 miles) to the south. The section of Oxford Road adjacent to the appeal site serves residential properties, comprising semi-detached and bungalow style dwellings. There is also a Petrol Filling Station (PFS) that contains a Spar convenience store, Starbucks, bakery and an ATM; and a car dealership.
- 3.4 Residential properties along Park End Close border the site to the south, with Cherwell District Council's offices (Bodicote House) further to the south west. Bishop Loveday Primary School is on the western boundary. The Bodicote flyover is to the immediate north with intervening mature planting and level differences which contributes to the separation between Bodicote and Banbury. Beyond the immediate development, the Bankside allocation is under construction and is visible from and across the appeal site. Banbury 17, which is an allocated site is located further to the west and the access for the first phase is from White Post Road.
- 3.5 The Lodge to Bodicote House (Grade II) approximately 130m to the south west and the Council offices at Bodicote House (Grade II) approximately 170m to the south are the closest designated heritage assets. Approximately 30 more listed buildings are found within the Bodicote Conservation Area, situated much further to the south west of the appeal site.
- 3.6 Whilst in close proximity, Bodicote House and its Lodge are well screened by mature planting ensuring there would be no impact on the heritage assets and their settings from any form of development proposed.
- 3.7 The accompanying arboricultural assessment identifies 41 trees and 7 groups of trees or hedges dispersed throughout the appeal site. A number of the trees are mature and in good condition and the appellant's assessment of the condition of the trees can be found in the accompanying Arboricultural Assessment. The Council's Arboricultural Officer's comments and assessment of the Arboricultural assessment and the proposal are summarized in the Committee Report.

- 3.8 The site would benefit from cycle and pedestrian links to the services and facilities in Bodicote via the new access road onto White Post Road and the proposed new pedestrian access onto Oxford Road. There would also be access to the new services and facilities proposed approximately 1km to the south east at the Bankside development on the opposite side of the main A4260 Oxford Road. Banbury is also accessible via Oxford Road and its associated footpath/cycleway. There are no public rights of way within the appeal site. It is agreed that the appeal site is locationally accessible.

4. Planning History

4.1 The planning history of the site is set out below.

Application Ref.	Proposal	
00/01330/F	Change of use to allow a winter storage area for 8 No. caravans.	Application Permitted
02/01756/F	Use of agricultural land for car boot sales and increase caravan storage numbers from 8 to 12.	Application Refused
03/02193/F	Allow increase of caravan storage numbers from 8 No. to 14.	Application Permitted
04/00516/F	Increase statutory number of permitted car boot sales from 14 to 21 per year.	Application Permitted
04/02679/TPO	Fell 1 No. Horse Chestnut subject to TPO 1/93	Application Permitted
08/02000/AGN	Erection of 2 no. agricultural storage buildings	Prior Approval Not Required
09/00457/F	Retrospective: Use of site as a farm shop.	Application Permitted

4.2 The above applications are applicable to the current use of the site.

4.3 A pre-application submission was previously made on the site for residential development. The details are:

Application Ref.	Proposal
16/00346/PREAPP	Pre- Application Enquiry - Re-development of the site for residential - 22 dwellings

4.4 Paragraphs 4.2 and 4.3 of the Committee Report (CD2.1) for the appeal proposal summarises the pre-application advice given to a different proposal in 2016 for 22 dwellings.

4.5 It is agreed that the appeal proposal should be considered against the Development Plan, NPPF and other material considerations.

5. Planning Policy

- 5.1 Section 38 of the Planning and Compulsory Purchase Act (2004) requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 5.2 For the purposes of the proposed development, the development plan comprises the Cherwell District Local Plan 2011 – 2031 Part 1 and the saved policies of the Cherwell Local Plan 1996. Consideration should also be given to the policies of the National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG).

Development plan

- 5.3 The development plan comprises the Cherwell District Local Plan adopted in July 2015 and the saved policies of the Cherwell Local Plan 1996. The relevant policies are as follows.

Cherwell District Local Plan (CDLP) 2011 – 2031 (Part 1) – Core Document 3.2

- 5.4 The relevant policies for the application are:

- Policy PSD1: Presumption in Favour of Sustainable Development;
- Policy SLE4: Improved Transport and Connections
- Policy BSC1: District Wide Housing Distribution;
- Policy BSC2: The Effective and Efficient Use of Land – Brownfield Land and Housing Density;
- Policy BSC3: Affordable Housing;
- Policy BSC4: Housing Mix;
- Policy BSC7: meeting education needs;
- Policy BSC9: Public Services and Utilities;
- Policy BSC10: Open Space, Outdoor Sport and Recreation Provision;
- Policy BSC11: Local Standards of Provision – Outdoor Recreation;
- Policy BSC12: Indoor Sport, Recreation and Community Facilities;

- Policy ESD1: Mitigating and Adapting to Climate Change;
- Policy ESD2: Energy hierarchy and allowable solutions;
- Policy ESD3: Sustainable Construction;
- Policy ESD6: Sustainable Flood Risk Management;
- Policy ESD7: Sustainable Drainage Systems (SuDS);
- Policy ESD10: Protection and Enhancement of Biodiversity and the Natural Environment;
- Policy ESD13: Local Landscape Protection and Enhancement
- Policy ESD15: The Character of the Built and Historic Environment;
- Policy ESD17: Green Infrastructure;
- Policy Villages 1: Village Categorisation
- Policy Village 2: Distributing Growth across the Rural Areas
- Policy INF 1: Infrastructure

Cherwell Local Plan 1996 – Saved Policies Core Document 3.1

5.5 The relevant saved policies of the plan are as follows:

- Policy C28 – Layout, design and external appearance of new development;
- Policy C8 – Sporadic development in the countryside;
- Policy C15 – Prevention of Coalescence of Settlements;
- Policy C31 – Compatibility with residential character;
- Policy C33 – Retention of important gaps; and,
- Policy ENV1 – Prevention of environmental pollution.

Other material considerations

5.6 The following are other material considerations for this appeal:

- National Planning Policy Framework,
- Planning Practice Guidance,
- CDC Residential Design Guide SPD July 2018, and
- CDC Planning Obligations SPD 2018

Partial Review of Cherwell District Local Plan 2011 – 2031- Oxford's Unmet Housing Need - Core Document 3.5

- 5.7 In Part 1 of the CDLP, the Council committed to work which seeks to address the unmet objectively assessed housing need (OAN) from elsewhere in the Oxfordshire Housing Market Area (HMA).
- 5.8 In September 2016, under the duty to co-operate, the apportionment of Oxford's unmet housing need to the Oxfordshire districts was agreed. This included a further 4,400 homes to be provided within Cherwell District (2011 – 2031). The 4,400 dwellings are additional to the existing level of need identified in Part 1 (22,840 dwellings).
- 5.9 Consultation on the Proposed Submission Draft of the Plan was undertaken between July 2017 and October 2017, prior to going before the Council Executive for approval in February 2018.
- 5.10 The Plan has been submitted for Examination to the Secretary of State (SoS) and Hearings were held in February 2019. The Inspector's Post Hearings Advice Note was received on 10th July 2019 (CD3.12)

Cherwell District Local Plan (CDLP) 2011 – 2031 (Part 2)

- 5.11 Following initial Issues Consultation in January 2016, work on Part 2 of the Local Plan has paused as work on the review of Part 1 of the CDLP was progressed as a priority.

Cherwell Developer Contributions SPD (February 2018) - Core Document 3.6

- 5.12 The Developer Contributions SPD was adopted by the Council in February 2018. The SPD sets out the Council's approach to seeking contributions for the delivery of infrastructure required to support development. This includes for transport, education and community facilities and services.

6. Planning Considerations

6.1 Reason for Refusal 1 states:

"1. Taking into account the number of dwellings already permitted across the Category A villages and Cherwell District Council's ability to demonstrate a 5.4 year housing land supply, which exceeds the requirement for a 3 year housing land supply the proposal is unnecessary and undesirable as it would result in 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.

- 6.2 This one reason raises two key issues which are housing need and whether the proposal accords with the housing strategy set out in the development plan for the area, and the impact of the development on the character and identity of Bodicote in particular by developing an area of open land that is said to distinguish it from Banbury.
- 6.3 The committee report sets out the matters for consideration as part of the case. In total twelve planning considerations were examined and it was informed by the various statutory and non-statutory consultee responses and other consultation letters during the determination period. Members of the Council refused the application and the LPA's position is that set out in the decision notice and their Hearing Statement. It is agreed that the LPA has not identified any conflict with the policies not set out in the reasons for refusal.
- 6.4 With regard to Policy Village 2 sets out 11 criteria to assess development proposals against. The policy does not require compliance with every the criterion; rather they are planning considerations for a proposal to be assessed against.
- 6.5 The position of each party on the key issues is as follows.

1) Housing Need and Housing Strategy

- 6.6 The committee report and determination of the application was based on the supply at 1st April 2017. The new housing monitoring data has been published and is **Core Document 3.3**. for Cherwell it records the housing supply position to be:

"The conclusion is that the district has 5.0 years supply of deliverable sites for 2018-2023 and 5.2 years for 2019-2024 (the latter being effective from 1 April 2019)."

6.7 The Appellant considers that the figure for 2018-2023 is more relevant as it is properly reflective of what is known at the relevant base date.

6.8 On 12 September 2018, the Secretary of State for Ministry of Housing, Communities and Local Government issued a written statement (**Core Document 4.2**) containing a 'temporary change to housing land supply policies as they apply in Oxfordshire'. He stated:

"For the purposes of decision-taking under paragraph 11(d), footnote 7 of the National Planning Policy Framework will apply where the authorities in Oxfordshire cannot demonstrate a three year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73).... If a local authority intends to fix their land supply under paragraph 74 they will still be required to demonstrate a minimum of five year supply of deliverable housing sites, with the appropriate buffer..."

6.9 The recommendation to committee was based on the LPA demonstrating a housing land supply of 5.4 years and within the context of the Ministerial Statement. With the updated figures at 1st April 2018 and 1st April 2019 that overall position has not changed although the supply has decreased to 5.0 years or 5.2 years respectively.

6.10 With regard to housing delivery in Policy Villages 2, the AMR states:

"Between 1 April 2014 and 31 March 2018 there were a total of 168 net housing completions on the above sites. This equates to 22.4% of the total requirement of 750 dwellings. At 31 March 2018 there are 4 dwellings remaining from the Policy Villages 2 requirement".

6.11 For Policy Villages 2, it is agreed that:

- the 750 requirement is neither an absolute minimum nor an absolute maximum but it is expressed as a total;
- since the AMR was published, the Council has resolved to approve a further 21 dwellings at Deddington;
- the policy requires the delivery of 750 dwellings;
- the delivery targets in the policy have not yet been exceeded but will be exceeded if all committed sites are built out. The respective positions of each party on these sites are set out in their statements or in the Core Documents and in an updated note on housing supply at the April 2019 base date to be provided in advance of the hearing.

6.12 The weight to be given to the housing need is set out in each parties statements.

Affordable Housing

6.13 Table 18 of the 2018 AMR sets out the delivery of affordable housing since 2011 as follows:

Year	Completions
2011/12	204
2012/13	113
2013/14	140
2014/15	191
2015/16	322
2016/17	278
2017/18	426
2018/19	511
Total	2,185

6.14 Based on an annual need of 407 dwellings per annum, the need for affordable homes since 2011 has been 3,256 affordable homes. 2,185 affordable homes have been delivered which is 67% of the required amount. Looking at the delivery of affordable housing over the last two years, the affordable housing target has been exceeded.

6.15 It is agreed that the delivery of 35% affordable housing accords with the development plan.. This complies with Policy BSC3.

2) Visual impact and effect on the character and identity of the village including its setting and Coalescence

6.16 It is agreed that the dispute between both parties is;

- (a) whether and to what extent the site acts as an important open gap between Banbury and Bodicote which has the function of separating Bodicote and Banbury and preserving the distinct and separate identity of Bodicote village;
- (b) the extent to which the appeal proposals would harm any such function; and,
- (c) the contribution the appeal site makes to the historically rural character, setting and

identity of Bodicote village and the impact of the appeal proposals.

6.17 Whilst the LPA's case refers to the sites value, both parties agree that the appeal site is not:

- a valued landscape for the purposes of paragraph 170(a) of the Framework; or,
- Local Green Space as defined in the NPPF.

6.18 The LPAs position is that policies C15 and C33 do not seek to impose an arbitrary "ban" on all development; they are concerned with restricting development where it is considered inappropriate or harmful to the objectives of these policies.

Visual issues

6.19 Viewpoints of the site are limited to local views including those from:

- Oxford Road, represented by viewpoints 4, 5 and 6 in the LVA.
- White Post Road as it wraps around the north-western part of the site, represented by viewpoint 1 and 2 and 7; and
- The Bodicote Flyover over Oxford Road, represented by viewpoint 10 in the LVA.
- The site is also visible from Sycamore Drive on the approach into Bodicote

6.20 The viewpoints are shown on Viewpoint Location Plan L3 from the LVA, attached here for convenience.

6.21 The site is not visible from the Conservation Area.

6.22 There are no clear views from the west or south.

6.23 The current proposals will not result in any significant adverse visual effects, partly because the viewpoints are from roadside footpaths or roads which have a relatively low sensitivity.

Landscape character issues

6.24 The site and its setting are not open countryside, but are part of the interface between Bodicote and Banbury. The site has development on three sides and roads to the north. As a result, the characteristics of the Upstanding Village Farmlands character type from the Oxford Wildlife and Landscape Study are no longer immediately apparent in the immediate context of the site.

- 6.25 However the village has an interface with open countryside along its southern and western edge and the Upstanding Village Farmlands character type remains the historic and wider landscape setting of the village.
- 6.26 Extensive development underway to the east and consented to the north-west serves to expand the urban area.
- 6.27 The northern part of the site is part of a green link that includes the playing fields and recreation grounds to the west and the woodland planting on the embankments leading to the flyover.
- 6.28 It is agreed that the recommendation for approval to committee was based on the proposal was policy compliant and the tilted planning balance not being engaged.
- 6.29 However, the LPA now considers that the principle of development is not acceptable due to conflict with the policies listed in the decision notice. The Appellant considers the appeal proposal is in conformity with the development plan and the planning balance is firmly in favour of permission being granted.

3) Highways/Access

- 6.30 Whilst traffic was raised by local residents, the committee report confirms no objection from the highway authority. The Highway Authority and LPA have confirmed that the proposed development could be accommodated on the local highway network. The indicative plan shows that a vehicular and pedestrian access and egress can be provided that is satisfactory in highway safety terms. This included acceptance of the applicant's trip generation, speed survey results and visibility splay proposals.

4) Impact on Trees/Hedgerows

- 6.31 Except to allow for the new vehicular and pedestrian accesses into the site, the proposal allows for the retention of existing trees and hedgerows and provision of new landscaping including new tree planting. The Council's Arboricultural Officer has assessed this and his comments are summarized in the committee Report. The Appellants position is that the Parameters Plan and Indicative Layout was based on having no impact on the existing TPO trees in respect of root protection zones.

5) Heritage Impact

- 6.32 The proposed development would not affect any heritage assets or their setting.

6) Ecology and Biodiversity Impact

- 6.33 There is no objection from Natural England or the LPA's ecologist and the appropriate conditions are set out. It is agreed that there could be a modest net gain in biodiversity achieved by provision of amenity grassland, species rich grassland, SuDs features and hedgerow restoration subject to confirming the layout and agreeing detailed landscaping proposals and the retention of existing trees and vegetation. Further net gains beyond this can be achieved by the provision of enhancements such as bird and bat boxes, hibernacula and improvement and enhancement of hedgerows and trees. It is agreed that that the proposal is acceptable in respect of impacts on wildlife and ecology.

7) Drainage

- 6.34 Oxfordshire County Council as Lead Drainage Authority and Thames Water have all been consulted as part of this application. Thames Water raise no objection. OCC initially objected to the development but following the submission of additional drainage information now raise no objection to the proposed development subject to the imposition of planning conditions which includes a detailed SuDS drainage scheme. As a result, the development is considered to be acceptable in terms of its flood risk/drainage implications.

8) Impact on residential amenity and noise

- 6.35 The application is in outline and subject to detailed design. However it is agreed that the illustrative layout demonstrates that the proposed development could be satisfactorily accommodated on site without having any unacceptable adverse impacts upon the amenities of neighbouring residents.

9) Impact on local infrastructure and S106 matters

- 6.36 A range of financial contributions are set out which would be included in the Section 106 agreement subject to the CIL tests being met. It is agreed that subject to the provision of a completed S106 that the necessary infrastructure can be provided to adequately accommodate the development. The submission of a completed Section 106 agreeable to both parties would overcome Reason for Refusal 2.

10) Other matters

- 6.37 Matters of ground conditions and utilities are agreed to not be issues to withhold permission

7. Conditions

- 7.1 As set out in the committee update report.

8. Core Document List

Application Documents

- **Core Document 1.1** – Covering Letter, Application Form and Certificates
- **Core Document 1.2** – Planning, Design and Access Statement
- **Core Document 1.3** – Location Plan and Illustrative Masterplan
- **Core Document 1.4** - Transport Statement
- **Core Document 1.5** - Phase 1 Ecology Report
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- **Core Document 1.12** - Ground Conditions Desk Study Report
- **Core Document 1.13** – Illustrative layout;
- **Core Document 1.14** DEFRA Matric and Biodiversity Calculator;
- **Core Document 1.15** Flood Risk Assessment and Drainage Management Strategy;
- **Core Document 1.16** Noise Impact Assessment; and,
- **Core Document 1.17** LVA Addendum and associated plans.
- **Core Document 1.18** – Parameters Plan.
- **Core Document 1.20** – Proposed S106 Contributions.

Committee Documents

- **Core Document 2.1** - Committee Report
- **Core Document 2.2** - Committee Report Update
- **Core Document 2.3** - Minutes
- **Core Document 2.4** - Decision Notice

Policy Documents

- **Core Document 3.1** - Cherwell Local Plan 1996 Saved Policies (CLP 1996)
- **Core Document 3.2** - Cherwell Local Plan 2011 - 2031 Part 1 (CLP 2031)
- **Core Document 3.3** - 2018 AMR
- **Core Document 3.4** - CLP2031 Local Plan Inspectors Report
- **Core Document 3.5** - Partial Review of Cherwell District Local Plan 2011 – 2031- Oxford's Unmet Housing Need
- **Core Document 3.6** - Cherwell Developer Contributions SPD (February 2018)
- **Core Document 3.7** – Local Plan Inspectors Procedural Note on 29th October 2018
- **Core Document 3.8** - CLP2031 Inspectors Report Addendum
- **Core Document 3.9** - State of the District's Housing 2018
- **Core Document 3.10** - Addendum to Topic Paper 2: Housing Village Categorisation Update 2014
- **Core Document 3.11** - CLP2031 Submission Draft
- **Core Document 3.12** – Inspectors Advice Note on Partial Review of Cherwell District Local Plan 2011 – 2031- Oxford's Unmet Housing Need

Other Documents

- **Core Document 4.1** - Launton Appeal Decision
- **Core Document 4.2** - Written Ministerial Statement dated 12th September 2018

Signed on behalf of the appellant

.....Stephen Harris..... Position.....Director – Emery Planning..... Date...23 August 2019.....

Signed on behalf of local planning authority

Alex Keen
.....Position..... Major Projects Manager Date..... 23/08/19