



**TOWN AND COUNTRY PLANNING ACT 1990**

**APPEAL AGAINST CHERWELL DISTRICT COUNCIL'S DECISION TO REFUSE  
PLANNING PERMISSION**

**IN RESPECT OF A PLANNING APPLICATION (20/00964/OUT) FOR  
OUTLINE PLANNING PERMISSION FOR THE ERECTION OF UP TO 8  
DWELLINGS IN THE DOMESTIC CURTILAGE OF THE BEECHES**

**AT  
THE BEECHES, HEYFORD ROAD, STEEPLE ASTON,  
OXFORDSHIRE, OX25 4SN**

**APPELLANT:  
MR ADRIAN SHOOTER**

**STATEMENT OF CASE**

**OCTOBER 2020  
LPA REFERENCE. 20/00964/OUT  
GM/10100**

## LIST OF ENCLOSURES

- Enclosure 1**    Public Inquiry Statement
- Enclosure 2**    Stroud District Council -v- SoS and Gladman [2015] EWHC 488 (Admin)
- Enclosure 3**    Kidlington Green Social Club Committee Report 04.06.20
- Enclosure 4**    Housing Land Supply in Oxfordshire Written Ministerial Statement 12.09.18
- Enclosure 5**    OGB and MHCLG Meeting Minutes 06.08.20

## LIST OF CORE DOCUMENTS SUBMITTED WITH THE APPEAL

Core Doc	Document
<b>CD A</b>	<b>Documents forming Application Submission March 2020 (Ref: 20/00964/OUT)</b>
CD A1	Archaeological Desk Based Assessment (March 2019)
CD A2	Bat Assessment Report (June 2019)
CD A3	Biodiversity Impact Assessment (March 2020)
CD A4	Design and Access Statement (July 2019)
CD A5	Ecological Impact Assessment Rev A (June 2019)
CD A6	FRA and Drainage Strategy (June 2019)
CD A7	Heritage Assessment (July 2019)
CD A8	Landscape and Visual Assessment (July 2019)
CD A9	Planning Statement (August 2019)
CD A10	Transport Statement (July 2019)
CD A11	Tree Report (July 2019)
CD A12	Utilities Assessment (July 2019)
CD A13	Advice of Counsel (January 2020)
CD A14	Landscape Strategy 7140.LSP.03
CD A15	Montage 1_Year 1+10
<b>CD B</b>	<b>Drawings submitted with Application Submission March 2020 (Ref: 20/00964/OUT)</b>
CD B1	Site Location Plan (drawing no. 10100.01)
CD B2	Aerial Plan (drawing no. 10100.02)
CD B3	Site Survey - Built Development to be removed
CD B4	Indicative Site Plan (drawing no. 372A01-101_C)
CD B5	Access Plan (drawing no. 20388-02)
<b>CD C</b>	<b>Amended Submission to Application Ref: 20/00964/OUT, April 2020</b>
CD C1	Response in respect of Conservation Area
<b>CD D</b>	<b>Amended Submission to Application Ref: 20/00964/OUT, May 2020</b>
CD D1	Response to Oxfordshire County Council Minerals and Waste
<b>CD F</b>	<b>Delegated Report and Decision Notice</b>
CD F1	Officers delegated report (01 June 2020)
CD F2	Decision Notice (01 June 2020)
<b>CD G</b>	<b>Documents Submitted with Appeal, August 2020</b>
CD G1	Biodiversity DEFRA Metric Calculation
<b>CD H</b>	<b>Other Relevant Documents</b>
CD H1	Sibford Ferris Appeal 3229631
CD H2	Weston-on-the-Green Appeal 3233293
CD H3	Bodicote Appeal 3222428

CD H4	Ambrosden Appeal 3228169
CD H5	Launton Appeal 3188671
CD H6	Cherwell Annual Monitoring Report December 2019

## 1.0 INTRODUCTION

1.1 On 27<sup>th</sup> March 2020 an application (20/00964/OUT) for outline planning permission was submitted to Cherwell District Council (LPA) via the planning portal for the following form of development:

*“Erection of up to 8 dwellings in the domestic curtilage of The Beeches”*

1.2 All matters of detail other than access from the public highway were reserved for subsequent approval.

1.3 The LPA validated the application on 6<sup>th</sup> April 2020 and formally acknowledged receipt of the application on 9<sup>th</sup> April 2020.

1.4 The application was accompanied by the following documents (see Core Documents CD A1-CD B5):

### Documents

- Archaeological Desk Based Assessment (March 2019)
- Bat Assessment Report (June 2019)
- Biodiversity Impact Assessment (March 2020)
- Design and Access Statement (July 2019)
- Ecological Impact Assessment Rev A (June 2019)
- FRA and Drainage Strategy (June 2019)
- Heritage Assessment (July 2019)
- Landscape and Visual Assessment (July 2019)
- Planning Statement (August 2019)
- Transport Statement (July 2019)
- Tree Report (July 2019)
- Utilities Assessment (July 2019)
- Advice of Counsel (January 2020)

## Plans

- Site Location Plan (drawing no. 10100.01)
- Aerial Plan (drawing no. 10100.02)
- Site Survey - Built Development to be removed
- Indicative Site Plan (drawing no. 372A01-101\_C)
- Access Plan (drawing no. 20388-02)

1.5 During the application process following receipt of consultation responses and discussions with the LPA, further submissions were made to the LPA. Firstly, on 24<sup>th</sup> April 2020 comprising:

- Response in respect of Conservation Area (CD C1)

1.6 A second submission was made on 18<sup>th</sup> May 2020, comprising:

- Response to Oxfordshire County Council Minerals and Waste (CD D1)

1.7 On 1<sup>st</sup> June 2020 the application was refused via delegated powers. (CDs F1 and F2)

1.8 It is considered that there is a material difference in planning judgement between ourselves and the planning officer. This material difference, in our view, relates to a proper interpretation of policy. It is an error of law to not interpret policy properly.

1.9 In consideration of this view, it is considered that the best way to test the interpretation of policy is through a Public Inquiry and cross examination of the relevant criteria attached to policy. A statement outlining the reasons why this appeal should be dealt with through the Public Inquiry route is available at **Enclosure 1**.

## 2.0 SUBMISSIONS

2.1 The application was refused outline planning permission by Cherwell District Council for the following two reasons and forms the basis of this Appeal:

1. *The proposed development represents new housing that would significantly encroach into the countryside beyond the built-up limits of Steeple Aston, contrary to the housing strategy of the Development Plan for the area, for which it has not been demonstrated that there is a justified need. In its proposed location the development would therefore be an unjustified and unsustainable form of development. As such the proposal is contrary to Policy ESD1 and Villages 1 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policy H18 of the Cherwell Local Plan 1996, Policy PD1 of the Mid Cherwell Neighbourhood Plan 2018 and Government guidance contained within the National Planning Policy Framework.*
  
2. *The proposed development represents inappropriate 'back-land' development that would fail to relate well to the pattern of development in the area and would appear as an intrusion of built form into the countryside, detracting from the rural character and quality of the area the setting of the village. As such the proposal is contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996, and Government guidance contained within the National Planning Policy Framework.*

### **Reason for Refusal 1**

2.2 Taking each reason for refusal in turn, reason 1 asserts that the proposals are contrary to: Policy ESD1 and Villages 1 of the Cherwell Local Plan 2011-2031, Saved Policy H18 of the Cherwell Local Plan 1996 and Policy PD1 of the Mid Cherwell Neighbourhood Plan 2018.

2.3 Reason 1 states that the proposed new housing would “*significantly encroach into the countryside beyond the built-up limits of Steeple Aston, contrary to the housing strategy of the Development Plan for the area*”.

2.4 Policy BSC 2 of the Cherwell Local Plan sets out that “*housing development in Cherwell will be expected to make effective and efficient use of land. The Council will encourage the re-use of*

*previously developed land in sustainable locations*". The site is previously developed land (which has been agreed at pre-application discussions and also in the officers report at para 8.17b) and is therefore consistent with Policy BSC 2. The Framework (117) also confirms that *"Planning policies and decisions should promote an effective use of land in meeting the needs for homes..."* it also considers that this should be done *"in a way that makes as much use as possible of previously-developed or 'brownfield' land"*.

- 2.5 The site is also located adjacent the settlement boundary of Steeple Aston (Category A village), whereby there are policies within the adopted Cherwell Local Plan 2011-2031 and Mid-Cherwell Neighbourhood Plan 2018 which allow for development adjacent to settlement boundaries, subject to certain criteria.

***Policy ESD1 of Cherwell Local Plan 2011-2031***

- 2.6 Policy ESD1 deals with mitigating and adapting to climate change at a strategic level, and considers that *"at a strategic level, this will include:- (1) distributing growth to the most sustainable locations as defined in this Local Plan; (2) delivering development which seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars..."*.
- 2.7 It is considered that this is a high-level strategic policy and, it is therefore hard to see why there is any conflict arising from this proposal given that policies Villages 1 and Villages 2 specifically provide, at the spatial level, for the distribution of housing, in particular at category A villages. Steeple Aston is identified as a category A or service village under policy Villages 1.

***Policy Villages 1 of Cherwell Local Plan 2011-2031***

- 2.8 Policy Villages 1 identifies that Steeple Aston is a Category A village. This identification as a Category A village anticipates that minor development infilling and conversions will be considered suitable as such settlements are considered to be larger and to have a range of facilities sufficient to support such development. The Cherwell Local Plan itself did not seek to define, in map terms, the built-up area boundary.

***Saved Policy H18 of the Cherwell Local Plan 1996***



- 2.9 Saved policy H18 states that *“planning permission will only be granted for the construction of new dwellings beyond the built-up limits of settlements when (i) it is essential for agriculture or other existing undertakings, or (ii) the proposal meets the criteria set out in policy H6; and (iii) the proposal would not conflict with other policies in this plan”*.
- 2.10 Saved policy H6, referred to in policy H18, relates to a rural exceptions policy for an identified local housing need.
- 2.11 Whilst this policy is saved, it appears to be in conflict with Policy Villages 2 (adopted Cherwell Local Plan 2011-2031) which allows for development outside the built-up limits of settlements where certain criteria are met (Policy Villages 2 is discussed further below in relation to reason for refusal 2). Moreover, saved policy H6 also appears to conflict with Policy PD1 of the Mid Cherwell Neighbourhood Plan 2018 which, like Policy Villages 2, provides a series of criteria for residential development outside any settlement areas of the villages.

***Policy PD1 of the Mid Cherwell Neighbourhood Plan 2018***

- 2.12 As referred to above, Policy PD1 of the MCNP provides a series of criteria for residential development outside any settlement areas of the villages. These criteria are considered below:

*a) The site should be immediately adjacent to the settlement area*

- 2.13 This site is immediately adjacent to the built form and settlement area of Steeple Aston, as identified in the MCNP.
- 2.14 It is readily apparent both in plan form and on the ground that this criterion is met. Indeed, as much is acknowledged in the second sentence of paragraph 8.17(a) of the officers delegated report, which sets out that *“Whilst the red outline boundary of the application site sits adjacent the settlement boundary at the north-eastern corner of the site, the development site significantly extends beyond the western edge of the settlement boundary”*.
- 2.15 The officer’s suggestion that the effect of a tree line within the site would mean that the location is *“somewhat divorced from the existing pattern of residential development”* is not a criterion within the policy and is considered irrelevant.

b) The site should not be the best and most versatile agricultural land and the use of previously developed land is particularly likely to be acceptable.

2.16 The site is considered previously developed land in the context of its definition within the NPPF and will not impact best and most versatile agricultural land, as has previously been accepted by the officer in his report (paragraph 8.17(b)).

2.17 The extent of the previously development land can be seen on the 'Site Survey - Built Development to be removed' plan (document CD B3).

c) The development should conserve and, where possible, enhance the landscape.

2.18 In the officer's report (paragraph 8.17(c), it is stated that:

*"The introduction of significant new residential development on the site would be contrary to the existing character and appearance of the site, notwithstanding existing fairly low-key buildings on the site, increasing the prominence of the built form intruding into the open countryside failing to conserve the valued rural landscape."*

2.19 The officer's assessment avoids dealing with its current planning status as PDL and asserts that the site forms a "valued rural landscape". In the light of the decision in *Stroud District Council -v- SoS and Gladman [2015] EWHC 488 (Admin)* (**Enclosure 2**) under the former NPPF (2012) and the terms of paragraph 170(a) of the NPPF (2019) this assertion is without justification. There is also no assessment as to how the existing residential curtilage of the site forms part of countryside character, any more than any other residential curtilage within Steeple Aston.

2.20 The LVIA (CD A8) confirms that the proposed buildings and domestic curtilage can be visually contained and the sensitive landscape treatment of the greater part of the site will protect the character of the rural setting. The proposed dwellings have been set back towards the northern and southern boundary, this is to retain views from the Public Right of Way (PRoW) to the west of the site into the site and beyond.

2.21 The LVIA's considered assessment is that the proposed development will have a low visual impact and no features of landscape sensitivity will be lost.

2.22 Views from the PRoW to the west have been identified as those potentially most sensitive to residential development on this site (paragraph 8.38 of officer's report). To demonstrate that views from the PRoW are not adversely affected, a photomontage was submitted, providing a view of the proposed development from the PRoW to the west of the site.

*d) The development should conserve and, where possible, enhance the special interest, character and appearance of the conservation areas and the significance of other heritage assets (see Appendix K: Heritage and Character Assessment).*

2.23 The proposed site, known as The Beeches, is located on the west boundary of Rousham Conservation Area, but is not within the conservation area. However, it is within its setting. There are no heritage assets within The Beeches site and the site is not close enough to any listed buildings, parks or gardens to have an effect on their setting.

2.24 The Heritage Assessment (CD A7) confirms the site itself, while within the landscape around Rousham, was not designed as part of the landscape and has no particular association with Rousham House or gardens. The Heritage Assessment concludes that the proposed development will not negatively affect the setting, nor the character and appearance of Rousham Conservation Area.

2.25 The officer agrees, concluding at para 8.17(d) that *"the proposals would not likely result in significant detrimental impacts on these heritage assets or the setting of such"*.

*e) The development should not give rise to coalescence with any other nearby settlement. This particularly applies to Steeple Aston and Middle Aston.*

2.26 The development of this site for residential use will not give rise to any coalescence with nearby settlements and this is agreed by the officer's report at para 8.17(e).

### **Reason for Refusal 2**

2.27 Reason for refusal 2 considers that *"The proposed development represents inappropriate 'back-land' development that would fail to relate well to the pattern of development in the area and would appear as an intrusion of built form into the countryside, detracting from the rural character and quality of the area the setting of the village"*.

2.28 Reason for refusal 2 refers to policies ESD13 and ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1 and Saved Policies C28 and C30 of the Cherwell Local Plan 1996.

2.29 These policies predominantly address landscape character, design and the historic environment. The policies are set out below:

***Policy ESD13 of Cherwell Local Plan 2011-2031***

2.30 Policy ESD13 (Local Landscape Protection and Enhancement) states:

*Opportunities will be sought to secure the enhancement of the character and appearance of the landscape, particularly in urban fringe locations, through the restoration, management or enhancement of existing landscapes, features or habitats and where appropriate the creation of new ones, including the planting of woodlands, trees and hedgerows.*

*Development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided.*

*Proposals will not be permitted if they would:*

- *Cause undue visual intrusion into the open countryside*
- *Cause undue harm to important natural landscape features and topography*
- *Be inconsistent with local character*
- *Impact on areas judged to have a high level of tranquillity*
- *Harm the setting of settlements, buildings, structures or other landmark features, or*
- *Harm the historic value of the landscape.”*

2.31 Taking each point in turn:

- Cause undue visual intrusion into the open countryside

2.32 The indicative layout plan has been prepared with local landscape and historic character in mind. The LVIA confirms that the proposed development will have a low visual impact and no

features of landscape sensitivity will be lost. Views from the PRoW to the west have been identified as the most sensitive to residential development on this site (paragraph 8.38 of officer's report). To demonstrate that views from the PRoW are not adversely affected, a photomontage was submitted, providing a view of the proposed development from the PRoW to the west of the site.

2.33 The landscape officer considers that the montage *"is a reasonable projection of the height of structural vegetation for the benefit of visual receptors on the PRoW to the west on the site."*

2.34 It is considered that the proposals do not cause undue visual intrusion into the open countryside, and satisfy the policy criterion.

- Cause undue harm to important natural landscape features and topography

2.35 It is considered that the proposed development would not cause undue harm to important natural features and topography. The proposals are to be located on previously developed land, which is subject to existing development (railway line, station building and other associated railway buildings).

2.36 The proposals, through the preparation of the landscape strategy, ensure that the proposals will not be seen from the PRoW to the west. It ensures that views through the site, towards the east, will remain. This is demonstrated by the submitted Montage (year 1 and year 10).

- Be inconsistent with local character

2.37 The LVIA concludes that, by adopting the landscape led strategy, that the proposals will be visually contained. It also concludes that *"the sensitive landscape treatment of the greater part of the site will protect the character of the rural setting."*

- Impact on areas judged to have a high level of tranquillity

2.38 The officer's report considers that *"The western part of the site sits within tranquil open countryside and as noted within the submitted LVIA is visible from the PRoW to the west of the site."*

2.39 It is submitted, as previously stated, that the proposal land is located on previously developed land where existing buildings are currently located.

2.40 Again, as set out, the Appellant has acknowledged the footpath to the west and instructed the preparation of a landscape strategy and a montage to demonstrate that views through the site, towards the east, will remain.

2.41 The officers report also states “*whilst not a formally designated PRoW it was also evident that an informal footpath route existed along the southern boundary of the site, and the proposed development would also be experienced from this route*”. It is considered that the additional planting proposed, as shown on the landscape strategy, would not impact the use of the permissive footpath to the south of the site.

- Harm the setting of settlements, buildings, structures or other landmark features, or

2.42 Rousham House is located approximately 1.5km to the south of the site. The heritage assessment concludes that “*The site itself, while within the landscape around Rousham, as not a designed part of the landscape and has no particular association with Rousham House or gardens. Overall, the site makes a neutral contribution to the setting of Rousham Conservation Area.*”

2.43 The officer agrees, concluding at para 8.17(d) that “*the proposals would not likely result in significant detrimental impacts on these heritage assets or the setting of such*”.

- Harm the historic value of the landscape

2.44 The historic value of the landscape is related to Rousham House, and the associated Rousham Conservation Area. As above, the heritage assessment concludes that “*The site itself, while within the landscape around Rousham, as not a designed part of the landscape and has no particular association with Rousham House or gardens. Overall, the site makes a neutral contribution to the setting of Rousham Conservation Area.*”

2.45 With regard to Conservation Areas (as addressed in Policy ESD13) the Heritage Assessment concludes (para 5.4-5.5):

5.4 *It is intended that the boundary planting around the site will be retained and reinforced, meaning that any views of the proposed buildings will be very limited, if visible at all, from outside the plot itself. The proposed development would not have any effect on any important views and a negligible effect of any other views from within the conservation area.*

5.5 *The proposed development will not negatively affect the setting, and therefore the character and appearance of Rousham Conservation Area. Paragraphs 195 and 196 of the NPPF would not be engaged."*

2.46 The officer agrees, concluding at para 8.17(d) that *"the proposals would not likely result in significant detrimental impacts on these heritage assets or the setting of such"*.

2.47 It is considered that the proposals would not conflict with any of the bullet points set out in policy ESD13.

2.48 The conclusions of the officer appear to be contrary to that of the landscape officer who has not offered any objection. Instead offering comments on the photomontage and tree details which can be dealt with at detailed planning.

2.49 It is considered that matters regarding landscape could be dealt with through the preparation of a Statement of Common Ground. However, if this is not forthcoming, we reserve the right to call on a landscape witness.

***Policy ESD15 of Cherwell Local Plan 2011-2031***

2.50 Policy ESD15 states that *"Where development is in the vicinity of any of the District's distinctive natural or historic assets, delivering high quality design that complements the asset will be essential."* It also considers that *"new development proposals should:*

- *Be designed to deliver high quality safe, attractive, durable and healthy places to live and work in. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions*
- *Deliver buildings, places and spaces that can adapt to changing social, technological, economic and environmental conditions*

- *Support the efficient use of land and infrastructure, through appropriate land uses, mix and density/development intensity*
- *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, sustain and enhance designated and non designated 'heritage assets' (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG. Proposals for development that affect non-designated heritage assets will be considered taking account of the scale of any harm or loss and the significance of the heritage asset as set out in the NPPF and NPPG. Regeneration proposals that make sensitive use of heritage assets, particularly where these bring redundant or under used buildings or areas, especially any on English Heritage's At Risk Register, into appropriate use will be encouraged*
- *Include information on heritage assets sufficient to assess the potential impact of the proposal on their significance. Where archaeological potential is identified this should include an appropriate desk based assessment and, where necessary, a field evaluation.*
- *Respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages*
- *Reflect or, in a contemporary design response, re-interpret local distinctiveness, including elements of construction, elevational detailing, windows and doors, building and surfacing materials, mass, scale and colour palette*
- *Promote permeable, accessible and easily understandable places by creating spaces that connect with each other, are easy to move through and have recognisable landmark features*
- *Demonstrate a holistic approach to the design of the public realm to create high quality and multi-functional streets and places that promotes pedestrian movement and integrates different modes of transport, parking and servicing. The principles set out in The Manual for Streets should be followed*



- *Consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space*
- *Limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation*
- *Be compatible with up to date urban design principles, including Building for Life, and achieve Secured by Design accreditation*
- *Consider sustainable design and layout at the masterplanning stage of design, where building orientation and the impact of microclimate can be considered within the layout*
- *Incorporate energy efficient design and sustainable construction techniques, whilst ensuring that the aesthetic implications of green technology are appropriate to the context (also see Policies ESD 1 - 5 on climate change and renewable energy)*
- *Integrate and enhance green infrastructure and incorporate biodiversity enhancement features where possible (see Policy ESD 10: Protection and Enhancement of Biodiversity and the Natural Environment and Policy ESD 17 Green Infrastructure). Well designed landscape schemes should be an integral part of development proposals to support improvements to biodiversity, the micro climate, and air pollution and provide attractive places that improve people’s health and sense of vitality*
- *Use locally sourced sustainable materials where possible.”*

2.51 The application was made in outline with all matters reserved except for access. It is considered that matters of design would be dealt with at the reserved matters stage. Notwithstanding this, it is considered that the indicative layout and design principles set out with the Design and Access Statement provide an acceptable basis for a detailed application to be prepared , which would then address these policies more specifically.

***Saved policy C28 of Cherwell Local Plan 1996***

2.52 Saved Policy C28 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 the choice of external-finish materials, are sympathetic to the character of the urban or rural context of that development. in sensitive areas such as conservation areas, the area of outstanding natural beauty and areas of high landscape value, development will be*

*required to be of a high standard and the use of traditional local building materials will normally be required.”*

2.53 As above it is considered that the indicative layout and design principles set out with the Design and Access Statement provide an acceptable basis for a detailed application to be prepared , which would then address these policies more specifically.

2.54 With regard to Conservation Areas, the officer has agreed with the submitted Heritage Statement, concluding at para 8.17(d) that *“the proposals would not likely result in significant detrimental impacts on these heritage assets or the setting of such”*.

***Saved policy C30 of Cherwell Local Plan 1996***

2.55 Saved policy C30 states that:

*“Design control will be exercised to ensure:*

- (i) that new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity;*
- (ii) that any proposal to extend an existing dwelling (in cases where planning permission is required) is compatible with the scale of the existing dwelling, its curtilage and the character of the street scene;*
- (iii) that new housing development or any proposal for the extension (in cases where planning permission is required) or conversion of an existing dwelling provides standards of amenity and privacy acceptable to the local planning authority.”*

2.56 As above it is considered that the indicative layout and design principles set out with the Design and Access Statement provide an acceptable basis for a detailed application to be prepared , which would then address these policies more specifically.

2.57 When assessing the suitability of this site, it is useful to consider the site against Policy Villages 2 within the Cherwell Local Plan.

## **Policy Villages 2 of Cherwell Local Plan 2011-2031**

- 2.58 Policy Villages 2 deals with the distribution of growth across the rural areas and specifically anticipates that a total of 750 homes will be delivered at category A villages. It states *“this will be in addition to the rural allowance for small site “windfall” and planning permission for 10 or more dwellings as at 31 March 2014”*.
- 2.59 The policy goes on *“sites will be identified through the preparation of Local Plan Part 2, through the preparation of Neighbourhood Plans where applicable, and through the determination of applications for planning permission”*.
- 2.60 A recent committee report, in respect of another proposal at Kidlington, (**Enclosure 3**), has set out the following with regard to Policy Villages 2:

*“9.15. The Council’s most recent AMR (December 2019) sets out that 953 dwellings have been identified for meeting the Policy Villages 2 requirement which are sites with either planning permission or a resolution to approve and are identified, developable sites. This is made up of 582 dwellings either complete or under construction, 333 dwellings with planning permission and 38 dwellings that are considered developable (this 38 is made up of two sites – one with a resolution for approval and one for which the planning permission has lapsed).*

*9.16. In recognition that not all sites will necessarily be developed or will not necessarily deliver the full number of dwellings granted, a 10% non-implementation rate has been applied to sites with permission but on which development has not yet started. This reduces the 333 dwellings (i.e. those with planning permission but not implemented) reported in paragraph 9.15 to 300 dwellings. This would give the number of dwellings identified under Policy Villages 2 either completed, under construction, with planning permission or developable as 920 dwellings. There was also a further resolution for approval granted for a site at Fritwell at the December 2019 Planning Committee for 28 dwellings, which would be additional to the 920 dwellings.*

*9.17. Five appeal decisions have been received over the past year which have considered the application of Policy Villages 2. These are for sites at Launton, Ambrosden,*

*Bodicote, Sibford Ferris and Weston on the Green. The first four were allowed, and the numbers approved at those four sites are included within the figures. The key conclusions resulting from the Launton, Bodicote, Weston on the Green and Sibford Ferris appeals can be summarised as:*

- *The Policy Villages 2 number of 750 dwellings has not been ‘delivered’ yet.*
- *The number of 750 has development management significance in terms of the Local Plan strategy.*
- *Not all dwellings approved might be delivered (hence the Council’s inclusion of a 10% non-implementation rate in the most recent AMR)*
- *The number of dwellings proposed must be considered as to whether that number would undermine the strategy of the Local Plan*
- *There is no spatial strategy to the distribution of the 750 houses allocated in the rural areas under Policy Villages 2 beyond distribution to the Category A villages.*
- *Assessment of the sustainability of the settlement in question is required, and indeed this has been a primary consideration in a number of appeals relating to major housing development at Category A villages, with appeals at Finmere, Fringford and Weston on the Green having been dismissed, in each case the sustainability of the settlement being a key issue.”*

2.61 The committee report refers to five appeal decisions:

**1) North of Shortlands and South of High Rock, Hook Norton Road, Sibford Ferris (3229631) (CD H1)**

- Up to 25 dwellings
- Allowed 23<sup>rd</sup> December 2019

**2) Land to the west of Northampton Road, Weston-on-the-Green (3233293) (CD H2)**

- Up to 18 dwellings
- Dismissed 17<sup>th</sup> December 2019

**3) Land at Tappers Farm, Bodicote (3222428) (CD H3)**

- Up to 52 dwellings
- Allowed 30<sup>th</sup> October 2019

**4) Land at Merton Road, Ambrosden (3228169) (CD H4)**

- Up to 84 dwellings
- Allowed 9<sup>th</sup> September 2019

**5) Land off Blackthorn Road, Launton (3188671) (CD H5)**

- Up to 72 dwellings
- Allowed 18<sup>th</sup> September 2018

2.62 The Inspector in the Weston-on-the-Green appeal (CD H2) agreed with the Inspector in the Bodicote appeal (CD H3) and the Ambrosden appeal (CD H4), whereby it was concluded that the 750 homes figure provided under Policy Villages 2 is not a cap, ceiling or limit (para 10 of Bodicote Appeal and para 11 of Ambrosden appeal).

2.63 The Bodicote Inspector (CD H3) also noted that (para 10) *“Policy Villages 2 contains no requirements in respect to the distribution of housing across the Category A villages, as well as no timeframe or trajectory for their delivery”*. The Inspector continue to note that *“the policy requires the delivery for 750 units, not just a requirement to grant planning permission for this number”*.

2.64 The Inspector for the Sibford Ferris appeal decision (CD H1), set out (para 14) that *“The Council identifies that by 31st March 2019 planning permissions had been granted for over 750 houses on 18 large sites and to date 271 units had been built out on these sites in line with policy PV2. However, none of these have been permitted within the Sibfords. Evidence provided through the Annual Monitoring Report (AMR) acknowledged the accelerating rate of delivery since 2015 and the Council anticipate that the 750 homes will be build out by 2028.”*

2.65 The Inspector goes on to consider the issue of ‘material exceedance’, *“a term used to describe the extent to which decisions to allow development above the figure of 750 houses for the Category A villages would erode the basis of CLPP1”* (para 15 of Appeal decision (CD H1).

2.66 The Inspector considers at para 16 of his decision that:

*“16. I do not consider ‘material exceedance’ to be an issue for this appeal given the modest number of units proposed and the categorisation and size of the Sibfords. The category A status of the village in the plan warrants further investment in housing. Although the plan period is only 4 years old I do not consider that a decision to allow*

*this appeal would undermine the essential thrust of policy PV2 and by extension the local plan.”*

2.67 The AMR 2019 (published December 2019) (CD H6) identifies the following:

Dwellings with planning permission at Category A villages

- 582

Housing completions at Category A villages for meeting Policy Villages 2 (10 or more dwellings)

- 271

Housing Sites at Category A villages for meeting Policy Villages 2 (10 or more dwellings) (Sites with planning permission but not started and sites without planning permission at 12/11/2019)

- 333 (300 when applying 10% non-implementation rate)

2.68 It is interesting to note, similar to the situation at Sibford Ferris, that none of these sites identified are located in Steeple Aston.

2.69 As concluded by the Inspector at Sibford Ferris, it is not considered that a decision to allow this appeal would undermine the essential thrust of Policy Villages 2 and, by extension, the local plan.

2.70 Policy Villages 2 allows for development outside the built-up limits of settlements where certain criteria are met. It is therefore necessary to assess these proposals against the criteria of Policy Villages 2; these are addressed below:

*Whether the land has been previously developed land or is of lesser environmental value*

2.71 It has been agreed with Cherwell District Council, through pre-application discussions, that the site is considered previously developed land in the context of its definition within the NPPF. Therefore, the proposal responds to Policy BSC2 ‘Effective and Efficient Use of Land’ which seeks to encourage the re-use of previously developed land.

*Whether significant adverse impact on heritage or wildlife assets could be avoided*

## Heritage

- 2.72 The proposed site, known as The Beeches, is located on the west boundary of Rousham Conservation Area, but is not within the conservation area but is within its setting. There are no heritage assets within The Beeches site and the site is not close enough to any listed buildings, parks or gardens to have an effect on their setting.
- 2.73 The Heritage Assessment confirms the site itself, while within the landscape around Rousham, was not a designed part of the landscape and has no particular association with Rousham House or gardens. The Heritage Assessment concludes that the proposed development will not negatively affect the setting, and nor the character and appearance of Rousham Conservation Area.

## Wildlife

- 2.74 The Ecological Impact Assessment (EIA) (CD A5) undertook a Phase 1 Habitat survey as well as assessing the site for protected and priority species. The woodland and hedgerows are likely to be indirectly impacted through increased noise and light disturbance, however a number of recommendations have been made in the EIA which will ensure that the development avoids impacts to protected species and off-sets biodiversity loss. All other habitats on Site were either considered to have negligible value to ecology or were not due to be impacted by the proposed development.
- 2.75 A landscape strategy (drawing no. 7140/ASP3) (CD A14) has been produced to maximise the biodiversity opportunities on site. It is proposed that any detailed application should follow this landscape strategy.
- 2.76 Proposed biodiversity enhancements include:
- Existing planting on western boundary to be enhanced with proposed native tree and shrub planting;
  - Proposed posted rail fencing to maintain 3m buffer to site boundary;
  - Ornamental planting to front of properties to provide visual and ecological value;
  - Proposed area of open space planted with native tree and shrub planting to encourage biodiversity; and,

- Feature specimen Beech tree to be planted to connect existing entrance Beech and site name.

2.77 The submitted Biodiversity Impact Assessment (CD A5) and subsequent DEFRA Biodiversity Metric Calculation (CD G1) confirms that the proposals would achieve a net biodiversity gain, as set out below:

- Habitat units +0.80 (+18.95%)
- Hedgerow units +1.54 (+98.26%)

*Whether development would contribute in enhancing the built environment*

2.78 As established, the site currently comprises 'The Beeches' and its domestic curtilage. A 'narrow gauge railway' currently runs throughout the site in a figure of eight formation. A number of structures are located within the curtilage of The Beeches which are associated with the operation of the railway track. The associated structures comprise engine and carriage sheds and a station pavilion.

2.79 The proposal will be for 8 high quality designed dwellings by Malcolm Payne Associates who are a well-respected architectural and design practice who have strong track record of high-quality design. The Beeches and neighbouring Orchard House are large forms of development. The dwellings proposed on this site would seek to follow the established forms of development in the locality and are at an appropriate scale for the site. When complete the proposals would constitute development at a density of 5.9 dwellings per hectare.

*Whether best and most versatile agricultural land could be avoided*

2.80 The site is considered previously developed land in the context of its definition within the NPPF and will not impact best and most versatile agricultural land.

*Whether significant adverse landscape and impacts could be avoided*

2.81 The LVIA confirms that the proposed buildings and domestic curtilages can be visually contained and the sensitive landscape treatment of the greater part of the site will protect the character of the rural setting. The proposed dwellings have been set back towards the northern



and southern boundary, this is to retain views from the Public Right of Way (PRoW) to the west of the site into the site and beyond.

2.82 The LVIA's considered assessment is that the proposed development will have a low visual impact and no features of landscape sensitivity will be lost.

2.83 Views from the PRoW to the west have been identified as those that are potentially the most sensitive. To demonstrate that views from the PRoW will not be adversely affected, a photomontage has been prepared (CD A15), providing a view of the proposed development from the PRoW to the west of the site.

*Whether satisfactory vehicular and pedestrian access/egress could be provided*

2.84 The Transport Statement accompanying this application (CD A10) demonstrates that access, both vehicular and pedestrian, can be provided at this site. The Access Plan (drawing no. 20388-02) demonstrates vehicular access can be satisfactorily be delivered. The development will be served from an existing improved access road into the site.

2.85 The Transport Statement also demonstrates that a footpath connection can be provided to join up with the formal footpath which currently exists along Heyford Road. This will provide a formal footpath link to the village. It is proposed that two crossings will be provided, one close to the entrance of the site and a second which crosses back over Heyford Road to join the formal footpath.

2.86 The Transport Statement concludes that the development impact is minimal and will have no material adverse impact on the local highway network.

*Whether the site is well located to services and facilities*

2.87 As established, the site is located immediately adjacent to the settlement area of Steeple Aston, abutting it to the north. Steeple Aston is defined as a Category A village (Service Village). Category A villages are considered the most sustainable villages based on population size; access to, and range of, facilities; accessibility and employment opportunities.

Whether necessary infrastructure could be provided

- 2.88 The submission material accompanying this application demonstrates that the necessary information to deliver such a scheme can be provided. The submission material addresses and confirms that drainage, utilities and access can all be provided to the proposed development, all of which are necessary to deliver the proposal.

Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period

- 2.89 The site was not considered for allocation; however, the site is available now and suitable. There is a willing landowner in place. The site is not considered as 'major development' and there is a reasonable prospect it can be developed within the plan period.

Whether land the subject of an application for planning permission could be delivered within the next five years

- 2.90 There is a willing landowner in place. The site is available now and suitable. The site is not considered as 'major development' and is achievable within the next 5 years.

Whether the development would have an adverse impact on flood risk.

- 2.91 The Flood Risk Assessment (CD A6) confirms the site is located wholly within Flood Zone 1 (low risk of fluvial and tidal flooding) and is at low risk of flooding from all other sources. The FRA confirms the proposed would not have an adverse impact on flood risk. Whilst this application is for up to 8 dwellings, the FRA and Drainage Strategy demonstrates that this site can drain acceptably drain with 9 dwellings.

- 2.92 It is considered that the proposals satisfy the criteria set out at Policy Villages 2.

- 2.93 Policy PH1 'Open Market Housing Schemes' requires developments of 10 dwellings or more to provide the housing mix set out in the below table. It also requires smaller schemes should aim for a similar mix where possible. As this proposal is for 8 dwellings it is not a policy requirement to provide the mix identified in Policy PH1. However, the Appellant have made every effort to meet this housing mix. The table below also provides a summary of the proposed housing mix.

MCNP Housing Mix (10 or more dwellings)	Dwellings Proposed	Proposed Housing Mix
30% 1 or 2 bedrooms	2	25%
46% 3 bedrooms	3	37.5%
24% (no more than) 4 bedrooms or more	3	37.5%

### Housing Land Supply

- 2.94 In a recent committee report, dated 04.06.20 (**Enclosure 3**) concerning proposals in Kidlington, the LPA confirm that they can “*demonstrate a 4.6 year housing land supply (for the current period 2019-2024) with a 5% buffer and a 4.4 year housing land supply for the next 5 year period (2020-2025).*”
- 2.95 This would usually engage paragraph 11d of the Framework (presumption in favour of sustainable development). However, Cherwell’s housing land supply is currently subject to the Written Ministerial Statement (“WMS”) made in September 2018, where this sets out the requirement for a 3 year supply of deliverable housing sites (with the appropriate buffer) from the date it was made (12/09/2018) until the adoption of the Joint Statutory Spatial Plan (JSSP) (Oxfordshire 2050 Plan).
- 2.96 It should be noted that under the Oxfordshire Housing and Growth Deal, the Oxfordshire authorities were committed to the adoption of the JSSP by 31st March 2021. The JSSP has not yet been submitted, and in fact it is yet to undertake the second part of its Regulation 18, the ‘options consultation’, having undertaken the issues consultation in June 2019.
- 2.97 The Written Ministerial Statement (12 September 2018) (**Enclosure 4**) confirmed the “*temporary change to housing land supply policies as they apply in Oxfordshire*” where “*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*”.
- 2.98 The statement continues, and states that “*This statement applies from today [12<sup>th</sup> September 2018] and remains in effect until the adoption of the Joint Statutory Spatial Plan in each area, provided the timescales agreed in the Housing and Growth Deal are adhered to. I will monitor*

*progress against these timescales and keep the planning flexibility set out in this statement under review.”*

2.99 At a recent meeting between the Oxfordshire Growth Board (OGB) and MHCLG concerning a “*Review and Reposition of the Oxfordshire Housing and Growth Deal*” (**Enclosure 5**), it is noted that the OGB asked for:

- A request for an extension to the timeline to adopt the Oxfordshire Plan to within the 5-year Deal timeline
- Clarity about how the statutory requirements of the plan preparation process should be applied to strategic plans
- Flexibility for LPAs (including five-year land supply) to allow development to be led by the planning process

2.100 Under item 5, and with regard to the flexibilities afforded the Oxfordshire authorities (including 3yhls), it is noted:

*“MHCLG recognised the issue of the flexibilities granted to Oxfordshire to deliver the Plan needed to align to a revised timeline but reminded Oxfordshire that the current flexibilities were enshrined in a ministerial statement and consequently flexing these presented a serious challenge and not likely to be supported.”*

2.101 The Government agreed to the housing land supply flexibilities to support a strategic approach to housing delivery through joint working. However, this has evidently not been delivered to date.

2.102 It is considered that the 3YHLS should not be seen as a mechanism to restrict the delivery of housing that is otherwise acceptable. Whilst it is accepted that the NPPF presumption per se does not apply, nor should the supply figure be considered as some form of cap or maximum. It is submitted that weight ought to be attributed to the current shortfall in housing land supply irrespective of the operation of the presumption.

### 3.0 CONCLUSIONS

3.1 The Appellant submits that the proposal is one that clearly should be permitted. It comprises in a modest and appropriate scale of development, on previously developed land adjacent to a Category A village and where there are no technical objections to withhold consent.

3.2 In addition, it will be submitted that the LPA has failed to have proper regard not only to the terms of the application but a proper interpretation and application of policy and which has led to the refusal of a sustainable development which would make efficient use of brownfield land.