

Land north of Berry Hill Road, Adderbury

Planning Statement of Case

Appeal against the refusal of an application for outline planning permission for up to 40 dwellings with associated landscaping, open space and vehicular access off Berry Hill Road (all matters reserved other than access)

LPA Ref: 19/00963/OUT

Hollins Strategic Land

February 2021

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1 Introduction

1.1 This Planning Statement of Case (PSoC) is written in support of an appeal against the decision of Cherwell District Council (CDC) to refuse an application (no. 19/00963/OUT) for outline planning permission for the erection of up to 40 dwellings (all matters reserved other than access) on land north of Berry Hill Road, Adderbury.

Planning Background

1.2 The application was a resubmission of application 17/02394/OUT which was submitted in November 2017 and was originally for outline permission for up to 60No. dwellings (all matters reserved other than access)¹. The description of development was amended during the application process following discussions with the LPA; it confirmed the proposals were for up to 55 dwellings (all matters reserved other than access)².

1.3 Application 17/02394/OUT was recommended for refusal by Officers at the Committee Meeting in May 2018³. Members decided to follow the recommendation and the application was refused⁴ on 25/05/2018.

1.4 An appeal (Ref: 3216992) was submitted in November 2018. The appeal was due to be considered by way of a Public Inquiry but was withdrawn in June 2019.

1.5 Application 19/00963/OUT was submitted on 24/05/2019 and initially sought outline permission for up to 55 dwellings (all matters reserved other than access). The applicant and LPA met on 26/06/2019 to discuss the resubmission and it was agreed that the description of development could be amended to reduce the amount of development to up to 40 dwellings. The Appellant reduced the amount of development to respond positively to CDC concerns on application 17/02394/OUT. The updated Design and Access Statement⁵ sets out how the scheme evolved during the application processes, revealing and enhancing views of St Marys Church, providing additional on-site public open space in response to an identified shortfall and creating a soft transition to the open countryside to the east.

¹ Appendix 1: Application 17/02394/OUT - Original Masterplan

² Appendix 2: Application 17/02394/OUT - Revised Masterplan

³ Appendix 3: Application 17/02394/OUT - Committee Report

⁴ Appendix 4: Application 17/02394/OUT - Decision Notice

⁵ Appendix 5: Updated Design and Access Statement (not provided to LPA during application process)

- 1.6 It was also agreed that the resubmission package would be updated to reflect the amended description of development and that the applicant and LPA would work proactively to reduce the reasons for refusal.
- 1.7 The majority of the revised resubmission package was forwarded to the LPA on 09/10/2019. It was confirmed that the Planning Statement would follow the publication of a decision on a relevant appeal (Ref: 3222428) relating to land off Oxford Road, Bodicote. Hollins Strategic Land was appellant for the Bodicote appeal⁶ which was allowed on 30/10/2019 and the Planning Statement was submitted to the LPA on 30/10/2019.
- 1.8 Relevant correspondence was exchanged between the LPA and HSL during the remainder of the application process⁷. This included the submission of illustrative visualisations of the proposed development⁸ on 08/01/2020 to respond positively to comments made by Historic England (HE)⁹. HE had previously provided the LPA with consultee comments on 06/11/2019¹⁰, which stated:

As with earlier versions of this scheme, indicative layout and supporting information acknowledges and establishes the importance of views of the church from Berry Hill Road, which is welcomed and we also acknowledge that allowing public access to proposed green space in the north of the site would enable new, clear views of the church, which would allow for a better appreciation of this building within the landscape. However, the reduction in dwelling numbers and amended layout do not fully address our concerns regarding this application. The amended masterplan suggests 1 channelled view of the church from the access point to the western end of the proposed estate (pedestrian) and along the estate road but the separation gap between dwellings appears too close to ensure that these views are clear. Furthermore, the views are over landscaped areas or front gardens, which would potentially be planted with trees or filled with paraphernalia, and provides little certainty of views being maintained over the long term. Along the eastern side of the development, however, the indicative plan shows fewer houses and greater scope for maintained views towards St Mary's church, which is welcomed.

This proposal's indicative layout show adjustments which could result in improved views of the church from Berry Hill Road and that views from within the site could be enhanced through increased public accessibility. However, we recommend that in order to minimise the harm to the significance of the church the layout of the scheme could be further improved, to provide a

⁶ See Appendix 22

⁷ Appendix 6: Application 19/00963/OUT - Relevant Correspondence

⁸ Appendix 7: Application 19/00963/OUT - Illustrative Visualisations

⁹ No visualisations had been submitted previously

¹⁰ Appendix 8: HE Consultation comment

sufficiently broad and permanent view from Berry Hill Road towards St Mary's at the western end of the development.

1.9 The submitted visualisations demonstrated that beneficial views could be provided and resulted in HE advising the LPA that an appropriate development could be achieved at Reserved Matters stage.

1.10 Neither the visualisations nor the HE advice was received by the LPA in time to inform the Committee Report¹¹ but was reported verbally at the Committee Meeting on 16/01/2020. The Planning Officer stated HE *"have advised that it appears from the indicative plans and layouts that there is a possible proposal that could address their heritage concerns and achieve improved views of the church and publicly accessible public open space"*. The Planning Officer continued to state the following:

So in response to that I had a conversation with HE this afternoon and they've confirmed that their concerns primarily relate to the fact that the site is in outline and therefore there is a lack of clarity regarding the ability to achieve views towards the Church of St Mary's. They've confirmed that there are no serious concerns regarding the principle of development on the site in heritage terms but more so in relation to how a development could be accommodated meaning it is possible that a scheme could be achieved without causing harm necessarily on heritage grounds. So on this basis, and notwithstanding what's written in the report and the conclusions reached there, officers do recommend an update to the wording of reason for refusal number two to remove the wording stating that it would also result in less than substantial harm to the setting of the Church of St Mary's and harm stemming from the proposals is not considered to be outweighed by public benefits. So it would leave reason for refusal two as drafted but remove that specific wording. We advise that that should be deleted on the basis that we don't think that would be a strong argument to defend at appeal given Historic England's position.¹²

1.11 Having provided this verbal update, the formally resolved position of the LPA was that there was no heritage reason for refusal. Officers recommended that the application be refused for three reasons and Members followed the recommendation. The application was refused on 20/01/2020¹³.

¹¹ Appendix 9: Application 19/00963/OUT - Committee Report

¹² Source: Planning Committee webcast

¹³ Appendix 10: Decision Notice

Reasons for Refusal

1.12 The application was refused for the following reasons:

- 1. The development proposed, by reason of its scale and siting beyond the built up limits of the village, in open countryside and taking into account the number of dwellings already permitted in Adderbury, with no further development identified through the Adderbury Neighbourhood Plan 2014-2031, is considered to be unnecessary, undesirable and unsustainable development. The site itself is in an unsustainable location on the edge of the village, distant from local services and facilities and would result in a development where future occupiers would be highly reliant on the private car for day to day needs. The proposal is therefore unacceptable in principle and contrary to Policies ESD1, BSC1, SLE4 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, Saved Policy H18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.*
- 2. The development proposed, by virtue of its poorly integrated relationship with existing built development, its extension beyond the built limits of the village (beyond the Adderbury Settlement Boundary as defined in the Adderbury Neighbourhood Plan 2014 - 2031) causing significant urbanisation and its visual impact on the rural character, appearance of the locality and local settlement pattern, would cause unacceptable harm to the character and appearance of the area and the rural setting of the village and would fail to reinforce local distinctiveness. The proposal is therefore contrary to Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, Saved Policies C8, C27, C28 and C33 of the Cherwell Local Plan 1996, Policy AD1 of the Adderbury Neighbourhood Plan - 2014 - 2031 and Government guidance contained within the National Planning Policy Framework.*
- 3. In the absence of the completion of a satisfactory S106 Planning Agreement, the Local Planning Authority is not convinced that the necessary infrastructure directly required both on and off site as a result of this development, in the interests of safeguarding public infrastructure, mitigating highway safety concerns, delivering mixed and balanced communities by the provision of affordable housing and securing on site future maintenance arrangements will be provided. This would be contrary to Policy INF1, PSD1, BSC2, BSC9, BSC11 and ESD7 of the adopted Cherwell Local Plan (2011-2031) Part 1 and the advice within the National Planning Policy Framework.*

1.13 The Appellant intends to submit a s106 Agreement so that Reason for Refusal 3 can be resolved in advance of the Hearing.

1.14 It is therefore considered that the main issues for the appeal are the:

- principle of the proposed development;
- locational sustainability of the appeal site; and,
- impact on the character and appearance of the locality.

Appeal proposals

1.15 The appeal proposals are for up to 40 dwellings including 35% affordable housing (up to 14 units).

1.16 It should be noted that the Appellant also proposes that a condition is imposed securing the provision of 5% housing that is suitable for the elderly¹⁴. As set out in section 10 of this PSoC, this responds to an identified need and will provide a benefit of weight in the decision making process. It is anticipated that this can be agreed in the Statement of Common Ground.

1.17 It is therefore requested that the appeal be determined on the basis of a scheme for 'up to 40 dwellings including 35% affordable housing' and that 5% of the housing will be suitable for the elderly, secured by condition. The Appellant's Statements of Case have been written on this basis.

Landscape Statement of Case

1.18 Mr Nigel Evers provides a Landscape Statement of Case (LSoC) on behalf of the Appellant.

Planning Statement of Case

1.19 This PSoC should be read together with the LSoC, the application plans/documents and planning policy/guidance to demonstrate that the appeal should be allowed. It comprises of:

- a Planning Policy Update;
- the Case for the Appellant; and,
- Summary and Conclusion.

¹⁴ 2-bedroomed units built to Lifetime Homes standards

2 Planning Policy Update

2.1 The Planning Statement sets out policy, guidance and evidence base documents relevant at the time of its submission to the Local Planning Authority. The Committee Report sets out policy considered relevant by the LPA.

Local Plan Part 1 (2011 - 2031)

2.2 The Local Plan Part 1 (LPp1)¹⁵ was formally adopted by Cherwell District Council (CDC) on 20/07/2015. It was examined under NPPF 2012. The LPp1 will be more than 5 years old during the appeal process. It provides the strategic planning policy framework for the District to 2031.

2.3 The LPp1 policies considered relevant by the Appellant and CDC are set out in the Statement of Common Ground.

2.4 CDC contends that the appeal proposals conflict with the following LPp1 policies:

| Policy Reference | Policy Heading |
|-----------------------------|---|
| Reason for Refusal 1 | |
| ESD1 | Mitigating and adapting to climate change |
| BSC1 | District wide housing distribution |
| SLE4 | Improved transport and connections |
| Policy Villages 2 | Distributing growth across the rural areas |
| Reason for Refusal 2 | |
| ESD13 | Local landscape protection and enhancement |
| ESD15 | The character of the built and historic environment |
| Policy Villages 2 | Distributing growth across the rural areas |

Table 1: LPp1 policies listed in Reasons for Refusal 1 and 2

¹⁵ Appendix 11: Local Plan Part 1

Cherwell Local Plan 1996 Saved Policies

- 2.5 The Cherwell Local Plan 1996 (CLP)¹⁶ was adopted on 06/11/1996. A number of policies were then originally ‘saved’ on 27/09/2007, in the context of Planning Policy Statement 7 (2004) and prior to the publication of NPPF 2012. The LPp1 replaced a number of the ‘saved’ policies of the CWP though many of the ‘saved’ policies are retained by CDC and remain part of the development plan. Appendix 7 of the LPp1 lists those CLP policies that have been replaced. The CLP policies are dated and in many cases, reflect a policy context that has now changed significantly, as addressed in the Case for the Appellant.
- 2.6 The CLP policies considered relevant by the Appellant and CDC are set out in the Statement of Common Ground.
- 2.7 CDC contends that the appeal proposals conflict with the following CLP policies:

| Policy Reference | Policy Heading |
|-----------------------------|--|
| Reason for Refusal 1 | |
| H18 | New dwellings in the countryside |
| Reason for Refusal 2 | |
| C8 | Sporadic development in the open countryside |
| C27 | Development in villages to respect historic settlement pattern |
| C28 | Layout, design and external appearance of new development |
| C33 | Protection of important gaps of undeveloped land |

Table 2: CLP policies listed in Reasons for Refusal 1 and 2

Adderbury Neighbourhood Plan 2014 – 2031

- 2.8 The Adderbury Neighbourhood Plan (ANP)¹⁷ was Made on 16/07/2018, prior to the publication of the 2018 NPPF and in the context of the 2012 NPPF.
- 2.9 The LPp1 policies considered relevant by the Appellant and CDC are set out in the Statement of Common Ground.

¹⁶ Appendix 12: Cherwell Local Plan 1996

¹⁷ Appendix 13: Adderbury Neighbourhood Plan

2.10 CDC contends that the appeal proposals conflict with the following ANP policies:

| Policy Reference | Policy Heading |
|-------------------------------------|-------------------------------|
| Reason for Refusal 2 | |
| <i>Adderbury Neighbourhood Plan</i> | |
| AD1 | Adderbury settlement boundary |

Table 3: ANP policies listed in Reasons for Refusal 1 and 2

Supplementary Planning Documents

2.11 The following Supplementary Planning Documents (SPD) are considered relevant:

- Cherwell Residential Design Guide SPD (2018); and,
- Developer Contributions SPD (2018)¹⁸.

Local Plan Part 1 Partial Review

2.12 A Partial Review of the adopted Local Plan 2011 – 2031 Part 1 (PR) to help meet the unmet housing needs of Oxford was adopted on 07/09/2020. It is anticipated that the Statement of Common Ground will confirm that its policies are not relevant to the appeal proposals. The PR was submitted in March 2018 and Hearings commenced in February 2019. The Appellant made Representations to the PR process, as confirmed in the Planning Statement.

Emerging Development Plan documents

2.13 There are a number of emerging development plan documents which may have some weight in the decision-making process depending on their progress at the time of the Hearing. This PSoC sets out the latest position on the emerging documents and it is anticipated that the Statement of Common Ground can be used to provide a further update and that it can also be reviewed shortly before the Hearing by the LPA and Appellant.

¹⁸ Appendix 14: Relevant SPDs

Emerging Local Plan Part 2

- 2.14 The LPp1 Inspector considered that the Local Plan part 2 (LPp2) would be completed relatively swiftly, according to the CDC Local Development Scheme at the time of the Examination. Following initial Issues Consultation in January 2016, work on the LPp2 stalled as work on the PR was progressed as a priority. The LPp2 will no longer be progressed as it will be combined with the Cherwell Local Plan Review (CLPR). The Appellant had intended to promote the site via the LPp2 as it was intended by CDC that it would allocate sites at Category A villages in line with LPp1 policy PV2.

Emerging Cherwell Local Plan Review

- 2.15 The LDS states that a CLPR was scheduled to commence in April 2020, with adoption scheduled for July 2023¹⁹.
- 2.16 District Wide Issues Consultation on ‘Planning for Cherwell to 2040’ was due to be undertaken in July and August 2020. A Community Involvement Paper Consultation took place between July and September 2020. The Appellant submitted a Consultation Statement²⁰.
- 2.17 District Wide Options Consultation was due to be undertaken in February and March 2021. At the time of writing this PSoC, the consultation has not started.

Emerging Oxfordshire Plan 2050

- 2.18 As part of the Oxfordshire Housing and Growth Deal agreement with the Government, the six Oxfordshire authorities – Cherwell District Council, Oxford City Council, Oxfordshire County Council, South Oxfordshire District Council, Vale of White Horse District Council and West Oxfordshire District Council - have committed to producing a joint statutory spatial plan (JSSP), known as the Oxfordshire Plan 2050 (OP).
- 2.19 The OP will provide an integrated strategic planning framework and evidence base to support sustainable growth across the county to 2050, including the planned delivery of new homes and economic development, and the anticipated supporting infrastructure needed.

¹⁹ Appendix 15: Local Development Scheme (March 2020)

²⁰ Appendix 53: Consultation Statement – Planning for Cherwell to 2040: Community Involvement Paper

- 2.20 As part of the formation of the plan, the authorities are committed to ensuring there will be early, proportionate and meaningful engagement between plan makers and communities, local organisations, businesses, infrastructure providers and statutory bodies.
- 2.21 The Oxfordshire Plan 2050 was due to be submitted to the Planning Inspectorate for independent examination by 31 March 2020 and adopted by 31 March 2021, subject to the examination process. However, following discussions with the Government, a revised timetable was put forward which took account of slippage and would have resulted in adoption in March 2022. The March 2022 target was confirmed in the LDS.
- 2.22 The LDS March 2020 stated that consultation on the Preferred Strategy (Regulation 18) would take place in June/July 2020. However, the COVID pandemic impacted on progress, as confirmed in a Report by the Oxfordshire Growth Board Director²¹ (02/06/2020). The Report stated that the OP would not be adopted until October 2022 and the seven-month extension “*must be considered as a minimum extension as the full effects of COVID-19 are yet to be known*” (para. 34).
- 2.23 A revised timetable was then presented to the Oxfordshire Growth Board in November 2020 via the ‘Proposed new timetable and quarter two report’ (‘the Timetable Report’)²². It states that consultation on the Spatial Growth Options will take place during the summer of 2021 and the OP will not be adopted until May/June 2023.

Written Ministerial Statement: Housing Land Supply in Oxfordshire (WMS) (12/09/2018)

- 2.24 The WMS introduced a temporary change for Cherwell and other Oxfordshire authorities providing short term flexibility from the NPPF on maintaining a 5 year housing land supply. to support the delivery of local plans and ensure authorities can focus efforts on the OP.
- 2.25 It states that “*for the purposes of decision-taking under para. 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 para 73)*”. The WMS does not negate the requirement for LPAs to identify a five-year supply of deliverable housing sites (para. 73, NPPF),

²¹ Appendix 16: Report by Oxfordshire Growth Board Director

²² Appendix 54: Oxfordshire Plan: Proposed new timetable and quarter two report

the lack of which does demonstrate a need to release land for housing and provide a robust supply pipeline.

2.26 The WMS “*is a material consideration in planning decisions*” and remains in effect until the adoption of the OP, “*provided the timescales agreed in the Housing and Growth Deal are adhered to*”. The production of the OP has suffered from significant slippage since the WMS was published. The WMS states that the planning flexibility will be kept under review.

2.27 The Timetable Report (see Appendix 54) states the following:

Growth Board will be aware that Oxfordshire currently benefits from a flexibility in the housing land supply requirement which was separately enshrined in a ministerial statement in 2018. This provides for Oxfordshire Local Planning Authorities to maintain a 3-year land supply, rather than a 5-year land supply, and remains in place until 31 March 2021. In the conversations with MHCLG on extending the timetable for the Plan, they have indicated that an extension to this flexibility is not likely to be supported (para. 14)

2.28 Whilst not confirmed at the time of writing this PSoC, it appears likely that Oxfordshire will not benefit from a flexibility in the housing land supply requirement at the time a decision is made on this appeal. It is anticipated that the SoCG can provide an update on the WMS.

3 Case for the Appellant: Introduction

- 3.1 It is the Appellant's case that the appeal proposals are in compliance with the development plan as a whole and that the proposals should be allowed.
- 3.2 However, even if the Inspector disagrees, the Appellant nevertheless considers that the presumption in favour of sustainable development would apply on the basis that the policies that are most important for determining the application are out of date²³ and there are no adverse impacts that would significantly and demonstrably outweigh the benefits.
- 3.3 Notwithstanding the above, even if some conflict with the development plan were found, and a straight planning balance applied, it is clear that permission should be granted. The benefits, when considered alongside compliance with development plan policies, would justify the appeal being allowed.

Policy Context

- 3.4 The development plan for the purposes of this appeal comprises the Local Plan part 1 (LPp1), adopted 20/07/2015, the Cherwell Local Plan 1996 saved policies (CLP) and the Adderbury Neighbourhood Plan (ANP), Made on 16/07/2018.
- 3.5 Statutory duty requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise²⁴ and, if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development²⁵. Should the proposed development for housing be contrary to the development plan as a whole it should be refused unless material considerations are found to indicate otherwise.

²³ The presumption in favour of development would also apply should the Council no longer benefit from a flexibility in the housing land supply requirement afforded by the WMS. This is because the Council has confirmed that it cannot demonstrate a five-year supply of deliverable housing land (see Section 10). It is anticipated that the SoCG can provide an update on the WMS.

²⁴ s38(6) Planning and Compulsory Purchase Act 2004

²⁵ s38(5) Planning and Compulsory Purchase Act 2004

Development plan policies

- 3.6 It must be reasonably assumed that CDC considers the appeal proposals do or can, at reserved matters stage, comply with all relevant policies which are listed in the Committee Report but are not referenced in the Reasons for Refusal (RfR). CDC has alleged no conflict with any other policies besides those in the RfR (see Section 2).
- 3.7 The Landscape Statement of Case of Mr Nigel Evers addresses the impact on the character and appearance of the locality, focussing on RfR 2, and demonstrates that the appeal proposals comply with policies ESD13, ESD15, PV2, C8 and C27.
- 3.8 This Planning Statement of Case (PSoC) relies upon the LSoC and addresses the principle of development, including locational sustainability. It addresses the development plan policies cited in RfR1, as well as other policies relevant to the determination of the application, including ANP policy AD1.
- 3.9 An assessment of the proposals can be considered under the following issues for the appeal:
- CLP 1996 Saved Policy H18;
 - LPp1 policy BSC1;
 - ANP policy AD1;
 - Locational sustainability;
 - Reason for Refusal 2; and,
 - Benefits of appeal proposals.
- 3.10 The Appellant's case is then summarised and it is concluded that the appeal should be allowed.

4 Case for the Appellant: CLP 1996 Saved policy H18

- 4.1 CLP 1996 saved policy H18 relates to new dwellings in the countryside and states that permission will only be granted for the construction of new dwellings beyond the built-up limits when (i) it is essential for agriculture or other existing undertakings; or (ii) the proposal meets the criteria set out in policy H6 (rural exception sites). The proposals do not comply with criterion (i) and they do not result in the application site being a rural exception site. As such, CDC considers that proposals do not comply with LP 1996 saved policy H18. However, CLP 1996 saved policy H18 is out of date.
- 4.2 The policy was adopted nearly 24 years ago in November 1996. It is of significant age and is not consistent with the NPPF. It was 'saved' in the context of PPS7 and is far removed from the nuanced and cost/benefit approach now enshrined in the NPPF. Policy H18 seeks to protect the countryside for its own sake, rather than recognise the intrinsic character and appearance of the countryside and apply a cost/benefit consideration to whether development in the countryside should be permitted.
- 4.3 This is evident from the reasoned justification for CLP policy H18, which states:
- Policy H18 is a continuation of past policies and reflects Central Government advice. Its intention is to ensure that the countryside is protected from sporadic development whilst, at the same time, recognising the legitimate needs of agriculture and forestry (para. 2.76, CLP)*
- 4.4 The reasoned justification expressly recognises that the policy directly reflects the policies for restriction contained in previous national planning policy statements (e.g. PPS7) and prohibited all development other than essential development in the open countryside. That is not the effect of the NPPF²⁶ ²⁷.
- 4.5 Additionally, the CLP was drawn up to cover the period to 2001, and the built-up limits reflected the need for and supply of land for new development, particularly housing, at the time the plan was adopted. Development has since been sanctioned outside the 1996 built-up limits, whether that be via allocations in the LPp1 or permissions granted by application and/or appeal. Policy H18, which seeks to apply a blanket restriction to further development on the basis that housing needs up to 2001 could be accommodated within the settlement limits is now plainly out of date some 19 years later.

²⁶ Appendix 17: Telford and Wrekin BC v Secretary of State for Communities and Local government;

²⁷ Appendix 18: Colman v Secretary of State for Communities and Local Government

- 4.6 LPP1 does of course require significant development in the rural areas; 24% of housing is to be delivered in the Rest of District outside Banbury and Bicester, which includes a specific focus on Category A villages via policy PV2 in order to significantly boost housing in sustainable rural locations. It was also anticipated that the LPP2 would have resulted in boundary changes via allocations, bringing the policy gap up-to-date. The development plan strategy in the more recently adopted plan does not prohibit development outside settlement limits and is in fact dependent upon it, thereby rendering policy H18 out of date. LPP1 policy PV2 takes a cost/benefit approach to the determination, in accordance with the NPPF, by weighing a number of matters in the balance in determining whether or not greenfield development is acceptable.
- 4.7 As previously stated, if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan²⁸. In the circumstances of this appeal, the conflict between CLP policy H18 and LPP1 policy PV2 must be resolved in favour of PV2.
- 4.8 This has been confirmed in recent appeal decisions. A Committee Report relating to an application (no. 19/02341/F) for residential development in Kidlington²⁹, a Category A village, confirms that there have been five recent appeal decisions relating to Category A village development and only one references policy H18. These decisions are:
- Appeal 3188671: Land off Blackthorn Road, Launton³⁰ (decision date: 18/09/2018);
 - Appeal 3228169: Land at Merton Road, Ambrosden³¹ (decision date: 20/08/2019);
 - Appeal 3222428: Land at Tappers Farm, Oxford Road, Bodicote³² (decision date: 30/10/2019);
 - Appeal 3229631: North of Shortlands and South of High Rock, Hook Norton Road, Sibford Ferris³³ (decision date: 05/11/2019); and,

²⁸ S38(5) Planning and Compulsory Purchase Act 2004

²⁹ Appendix 19: Application 19/02341/F - Committee Report

³⁰ Appendix 20: Appeal 3188671 - decision

³¹ Appendix 21: Appeal 3228169 - decision notice and decision letter

³² Appendix 22: Appeal 3222428 - decision notice and decision letter

³³ Appendix 23: Appeal 3229631 - decision notice and decision letter

- Appeal 3233293: Land west of Northampton Road, Weston on the Green³⁴ (decision date: 17/12/2019)³⁵.

4.9 There has since been a sixth appeal decision, which also does not reference policy H18:

- Appeals 3242236 and 3247698: South of Clifton Road, Deddington³⁶ (decision date: 19/10/2020).

4.10 Each of the six appeals related to land within the open countryside, yet only one decision notice referred to CLP policy H18. Furthermore, the Committee Report for application 19/02341/F refers to a “*further resolution for approval granted for a site at Fritwell at the December 2019 Planning Committee for 28 dwellings*” (para. 9.16). The Committee Report for the Fritwell application³⁷ (no. 19/00616/OUT) confirms that the site is open countryside and lists H18 as a relevant policy but does not refer to it when assessing the proposals. The LPA has adopted an inconsistent approach to the application of CLP policy H18 for Category A development. Consistency in decision making is an important material consideration and CDC has not provided any reasoning to depart from the approach taken by the LPA and Inspectors to CLP policy H18.

4.11 Reason for Refusal 1 of the Sibford Ferris decision (application 18/01894/OUT) cited CLP policy H18. The Inspector for the Sibford Ferris appeal briefly addressed CLP policy H18 stating that the proposals “*are not in conflict with ‘saved’ policy H18 given the status of the village defined by PSV1 and PSV2*” (para. 23)³⁸. The Inspector found that LPP1 policy PV2 takes precedence over the blanket protection of CLP policy H18 when considering development at Category A villages, which is an approach consistent with s38(5) of the Planning and Compulsory Purchase Act 2004.

4.12 The Inspector for the Sibford Ferris appeal stated the following, which the Appellant contends is an approach that should be taken for the appeal proposals:

Part of the CLPP1’s spatial strategy is to strictly control development in the open countryside. However, current national policy within the Framework does not couch protection of the countryside in terms of ‘strict control’. It is

³⁴ Appendix 24 Appeal 3233293 - decision notice and decision letter

³⁵ These five appeal decisions are all highly material to the appeal proposals in relation to CLP policy H18, LPP1 policies BSC1, PV1 and PV2. Therefore, a summary of each decision is provided at Appendix 27 but of course each decision should be read in full.

³⁶ Appendix 55: Appeal 3242236 and 3247698 – decision notices and decision letter

³⁷ Appendix 25: Fritwell Committee Report

³⁸ This was put to the LPA during the application process – see Appendix 6

also clear, and accepted, that in applying Policy PV2 locations on the edge of Category A villages would be used and are therefore likely to be in open countryside locations. I consider that should a proposal satisfy Policy PV2, if there was any inconsistency between it and one of the Council's objectives, such as strict protection of the countryside (which in itself could be considered to not be on all fours with the Framework's absence of a blanket protection of the countryside), the policy should take precedence. This was a point conceded by the Council.

- 4.13 Even where there is notional conflict with policy H18 (which is out of date), there is conflict between H18 and LPp1 policy PV2; the conflict has to be determined in accordance with PV2 (s38(5) of 2004 Act) and, providing there is no conflict with PV2, this would not bring the proposal into conflict with the development plan as a whole.
- 4.14 It is also of note that, of the five aforementioned appeals, only the Sibford Ferris decision (3229631) refers to CLP policy H18. LPp1 policy PV2 must take precedence over CLP policy H18 and this is an interpretation that is consistent with the fact that H18 has not previously been relied upon by the LPA and Inspectors³⁹.

³⁹ See also Appendix 26: Banbury Rd, Adderbury appeal decision, para. 10

5 Case for the Appellant: Local Plan part 1 policy BSC1

- 5.1 This policy relates to the district wide housing distribution, confirming that CDC “*will deliver a wide choice of high quality homes by providing for 22,840 additional dwellings between 1 April 2011 and 31 March 2031*”. The policy sets out how housing will be distributed across Bicester, Banbury and the Rest of District (RoD). The table incorporated within policy BSC1 sets out how housing will be distributed:

| | Bicester | Banbury | Rest of District | Totals |
|---------------------------|-----------------|----------------|-------------------------|---------------|
| Completions | 365 | 213 | 528 | 1,106 |
| Permissions (10+) | 1,934 | 2,346 | 1,760 | 6,040 |
| Allocations | 7,726 | 4,344 | 2,350 | 14,420 |
| Windfalls (<10) | 104 | 416 | 754 | 1,274 |
| Totals | 10,129 | 7,319 | 5,392 | 22,840 |

- 5.2 CDC alleges that the proposed (up to) 40 dwellings would undermine this housing strategy. The Appellant disagrees.
- 5.3 The policy table is recreated below with the housing provided as percentages. It demonstrates that the LPp1 envisaged some 76% of housing to be provided in Banbury and Bicester.

| Sub area | Total | Total as percentage |
|------------------|--------------|----------------------------|
| Banbury | 7319 | 32% |
| Bicester | 10129 | 44% |
| Rest of District | 5392 | 24% |
| TOTALS | 22840 | 100% |

Table 4: LPp1 policy BSC1 housing distribution as percentage

- 5.4 The AMR 2020 provides CDCs most up-to-date data on housing completions and commitments.

| Sub area | Completions (gross) 2011-2020 and commitments | Completions (gross) and commitments as percentage |
|-----------------|---|---|
| Banbury | 6359 | 35.98% |
| Bicester | 7135 | 40.37% |
| Remaining areas | 4181 | 23.65% |
| TOTALS | 17675 | 100% |

Table 5: Housing completions (gross) and commitments according to AMR 2020

- 5.5 Table 5 demonstrates that the LPp1 is delivering completions and commitments in line with the housing strategy from 2011 – 2020 in terms of the sub area split. The AMR states that CDC has achieved “*the continued delivery of the housing target and a distribution of net completions according to the adopted strategy*” (para. 5.71).
- 5.6 At the time of the Ambrosden appeal decision (see para. 19), some 73% of housing (completions (gross) and commitments) was in Banbury and Bicester against a LPp1 policy BSC1 target of 76%. The Ambrosden Inspector confirmed that “*the Council accepts that the overall strategy of the plan to deliver most housing to Bicester and Banbury is currently succeeding*” (para. 19)⁴⁰. Table 5 demonstrates some 76% of housing is now in Banbury and Bicester, in line with the target set by policy BSC1.
- 5.7 It is the appellant’s case that a development of the scale proposed could not undermine the overall housing strategy. The following table incorporates the additional (up to) 40 dwellings in the ‘Remaining Areas’ (RoD) completions/commitments. The proposed development is so insignificant in this regard that the percentage difference is minimal.

| Sub area | Completions (gross) 2011-2020 and commitments | Completions (gross) and commitments as percentage |
|-----------------|---|---|
| Banbury | 6359 | 35.90% |
| Bicester | 7135 | 40.28% |
| Remaining areas | 4221 | 23.83% |

⁴⁰ See Appendix 21 for appeal decision

| | | |
|--------|-------|------|
| TOTALS | 17715 | 100% |
|--------|-------|------|

Table 6: Commitments incorporating proposed (up to) 40 dwellings

5.8 It is therefore the Appellant’s case that the proposals comply with policy BSC1.

6 Case for the Appellant: Local Plan part 1 Policy Villages 2

- 6.1 Adderbury is identified as a Category A village in LPP1 Policy Villages 1 (PV1). Category A villages are considered to be the most sustainable villages which offer a wide range of services and are well connected to major urban areas, particularly by public transport. The Committee Report states that “*Adderbury is one of the largest category A villages in the District in terms of size and it is one of the more sustainable in terms of the range of facilities it provides as well as the transport connections available*” (para. 9.26).
- 6.2 Of the 23 Category A villages, 6 are also identified as service centres for the “satellite villages”, forming a “village cluster”. Adderbury is also identified as a service centre. The LPP1 states that clustering will allow for “*the support of community facilities (such as shops) in service centres by locating new development and therefore people/customers close to as well as within service centre villages*” (para. C.258).
- 6.3 LPP1 policy PV2 concerns the distribution of growth across the district’s rural areas. The policy indicates that 750 homes will be delivered at Category A Villages in addition to the rural allowance for small site windfalls and planning permission for 10 or more dwellings that existed at 31 March 2014. Development proposals are to be considered on balance with particular regard given to a number of criteria set out in policy PV2. These criteria are all factors to be taken into account in determining whether or not there is compliance with the policy overall.
- 6.4 CDC alleges that the proposals will result in material exceedance, or harm, and subsequent non-compliance with PV2 on the grounds set out in the Committee Report. Namely, that the proposals would:
- A. undermine the District’s housing strategy of directing housing to Banbury and Bicester; and,
 - B. place undue constraint on other villages to meet any specific or identified housing needs during the relevant plan period via an unbalanced approach across the rural area⁴¹.
- 6.5 The Appellant can demonstrate, making use of the six aforementioned recent appeal decisions relating to PV2⁴², that this is not the case and that the proposals comply with LPP1 policy PV2.

⁴¹ See para. 9.27 of Committee Report

⁴² Launton, Ambrosden, Bodicote, Sibford Ferris, Weston on the Green and Deddington

Appeal History

- 6.6 The appended appeals summary⁴³ and decisions⁴⁴ demonstrate that CDC has consistently been unable to provide any substantive evidence that a material increase over the 750 figure would result in planning harm, including harm to the overall locational strategy of new housing in the district or harm on other villages. Of the six appeals, five were allowed. Only the Weston on the Green appeal was dismissed but the Inspector found that “*the proposed scheme would not necessarily undermine the District’s housing strategy nor place any undue constraint on other villages*” (para 16).
- 6.7 Furthermore, CDC attempted to challenge the Ambrosden appeal decision in the High Court but were refused permission by Mrs Justice Lang DBE in January 2020⁴⁵ (all five appeal decisions had been published during 2018 and 2019):

I agree with the First and Second Defendants’ submission in their Summary Grounds of Defence that it is unarguable that the Inspector misinterpreted Policy PV2. He correctly identified the issue as whether the proposal would lead to an overconcentration of new housing development in Ambrosden which would undermine the Council’s housing strategy and prejudice a more balanced distribution of housing growth, contrary to the Cherwell Local Plan policy and policies in the National Planning Policy Framework (‘the Framework’), and he determined that issue by applying a series of planning judgements to the material before him. He concluded that the proposal would not materially undermine the Council’s housing strategy or prejudice the achieving of a more balanced housing growth (at paragraph 35).

Policy PV2 did not impose a strict ceiling of 750 homes, and although it had a constraining effect on total numbers, it did not limit the number of dwellings which could be built at any one Category A village, at any particular time in the plan period.

Moreover, the Inspector was entitled to find that strict control of development in the countryside, under CLPP1’s spatial strategy, would not be consistent with the Framework’s absence of a blanket protection of the countryside.

- 6.8 The refusal was issued shortly after the decision notice for application 19/00963/OUT. Had it been received in advance of the Committee meeting, the Committee Report

⁴³ Appendix 27: Appeals summary

⁴⁴ See Appendices 20 - 24 and 55

⁴⁵ Appendix 28: Refusal of Permission to challenge

should have reported that permission to challenge had been refused and the Appellant considers that the recommendation should have differed from that set out in the Decision Notice. The Appellant invites CDC to change its position on compliance with PV2 and BSC1 via the Statement of Common Ground and the Council's Statement of Case.

- 6.9 The appended appeals summaries⁴⁶ and decisions⁴⁷ set out the approach to policy PV2, the District's housing strategy and the impact on other villages that was adopted by Inspectors in the five recent decisions and endorsed by Mrs Justice Lang DBE. The Adderbury appeal proposals should be considered against this approach which can be summarised in I - XI below:

The PV2 Strategy

- I. The PV2 strategy was to alter the local pattern of recent housing growth, as a disproportionate percentage (almost half) had taken place in smaller settlements, adding to commuting by car and congestion on the road network at peak hours.

The headline figure

- II. The PV1 headline figure of 750 is not a ceiling⁴⁸ and this has been acknowledged by CDC at para. 9.27 of the Committee Report;
- III. The policy requires the actual delivery of 750 units, not just a requirement to grant planning permission for this number.
- IV. 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 the LPP1, is not referred to in the development plan⁴⁹.
- V. If the issue of 'material exceedance' does apply, the proposals would need to be considered in the context of the circumstances pertaining at the time of the appeal. It is relevant to consider housing completions and commitments to date in Banbury, Bicester, the rural area and Category A villages⁵⁰.
- VI. When considering the issue of 'material exceedance', it is appropriate to consider whether it applies to the proposals, in relation to the number of units proposed and categorisation and size of the village⁵¹.

⁴⁶ See Appendix 27

⁴⁷ See Appendices 20 - 24

⁴⁸ See: para. 13, Launton decision; para. 21, Ambrosden decision; para. 10, Bodicote decision; para. 13, Sibford Ferris decision; para. 11, Weston on the Green decision

⁴⁹ See para. 23 of Ambrosden decision

⁵⁰ See para. 22 of Launton decision

⁵¹ See para. 22 of Sibford Ferris decision

- VII. The specific management criteria of Policy PV2 ensures that it is a self-regulating policy; if the point is reached where the number of dwellings granted in Category A villages is likely to undermine the Council's overall spatial strategy ('material exceedance'), a series of planning harms is likely to emerge⁵².

Delivery and distribution

- VIII. The policy does not set out a distribution of delivery within the villages. There is no spatial dimension⁵³.
- IX. There is no timeframe or trajectory for delivery associated with the overall figure. There is no temporal dimension⁵⁴.

Balanced housing provision across rural area

- X. Development at Category A Villages which exceeds the 750 homes figure need not place any undue constraint on other villages to meet any specific or identified housing needs, as other policies contained within the development plan, for example Policy Villages 1 and Policy Villages 3 of the CLPP1, would be relevant considerations to cater for any such needs⁵⁵.
- XI. Whilst the Council categorises Category A villages as the more sustainable settlements it is apparent that, comparatively, some settlements are clearly more sustainable than others. It is reasonable to consider population, access to local facilities and services, access to main towns⁵⁶.
- XII. In considering proposed sites, particular regard is to be given to a list of 11 specified criteria⁵⁷.

- 6.10 The application of the approach adopted by Inspectors and endorsed by Mrs Justice Lang DBE demonstrates that the appeal proposals comply with LPp1 policy PV2 and, in turn, policy BSC1.

CDC Housing Strategy

- 6.11 It has been demonstrated that the LPp1 is successfully achieving its desired distribution of housing to Bicester and Banbury (see section 5). Whereas almost half of new housing was provided in smaller settlements prior to the adoption of the LPp1, the 2020 AMR demonstrates that completions (gross) since 2011 and commitments are

⁵² See para. 25 of Ambrosden decision

⁵³ See para. 24 of Ambrosden decision; para. 16 of Bodicote decision; para. 17 of Deddington decision

⁵⁴ See para. 10 of Bodicote decision; para. 24 of Ambrosden decision

⁵⁵ See para. 14 of Weston on the Green decision

⁵⁶ See para. 27 of Ambrosden decision

⁵⁷ See para. 12 of Ambrosden decision; para. 10 of Sibford Ferris decision;

providing some 76% of housing in Banbury and Bicester against a plan period target of 76%. The additional 40 dwellings proposed is insignificant in this regard. It cannot reasonably be suggested that this proposal for 40 dwellings would unbalance the housing strategy of the LPP1. Compliance with LPP1 policy BSC1 is of course highly material to compliance with PV2.

- 6.12 The 2020 AMR also sets out how many dwellings have been delivered in the Category A villages. It confirms that 750 dwellings have not been delivered. Table 39 of the AMR⁵⁸ demonstrates that only 415 dwellings had been delivered from 2014/15 – 2019/20. This equates to an average of 69 dwellings per annum. If this delivery rate were to continue, the headline figure of 750, which is not a maximum, would be provided by 2024/2025 and 1164 dwellings would be provided during the plan period to 2031. This would not represent a ‘material exceedance’ to the extent that it would undermine the housing strategy. As shown in table 5 below, if the additional 414 dwellings (69 per annum from 2025/26 – 2030/31) were added to the total of 5392 dwellings set out in policy BSC1, there would be minimal percentage change to the distribution:

| Sub area | Total as per BSC1 | Total as percentage | Total including additional delivery | Total as percentage |
|------------------|-------------------|---------------------|-------------------------------------|---------------------|
| Banbury | 7319 | 32% | 7319 | 31.47% |
| Bicester | 10129 | 44% | 10129 | 43.56% |
| Rest of District | 5392 | 24% | 5806 | 24.97% |
| TOTALS | 22840 | 100% | 23254 | 100% |

Table 7: LPP1 policy BSC1 housing distribution plus additional 69dpa Cat A delivery

- 6.13 The 2020 AMR sets out CDCs latest position on dwellings identified to meet the PV2 headline figure of 750 (delivered and commitments):

Since 1 April 2014 a total of 977 dwellings have been identified for meeting the Policy Villages 2 requirement of 750 dwellings. These are included in the Housing Delivery Monitor in Appendix 2. Policy Villages 2 requirement has already been exceeded by 227 dwellings when considering all of the

⁵⁸ Appendix 56: 2020 AMR

planning permissions and identified sites without planning permission in the above (608+309+60). (AMR 2020, para. 5.175)

6.14 The planning permissions and identified sites are set out in Tables 39 and 40 of the 2020 AMR. Table 40 confirms that 60 dwellings (referenced in above extract) are included on four sites that did not have planning permission as at 31/10/2020:

1. Fewcott Road, Fritwell (28 dwellings):

- The application was approved by Members subject to a legal agreement in December 2019;
- Appendix 2 of the 2020 AMR confirms that the housebuilder, CALA, was contacted but did not respond to CDC; and,
- at the time of writing this PSoC, permission has still not been granted.

2. Cascade Road, Hook Norton (12 dwellings):

- The application was approved subject to a legal agreement in May 2020;
- Development Management Officer advised (November 2020) that there were ongoing discussions and that planning permission should have been issued by the end of 2020; and,
- At the time of writing this PSoC, permission has still not been granted.

3. South Side, Steeple Aston (10 dwellings):

- The application was approved subject to a legal agreement in March 2020;
- The housebuilder advised the LPA that permission was expected to be issued in December 2020; and,
- At the time of writing this PSoC, permission has still not been granted.

4. Sandy Lane, Yarnton (10 dwellings):

- The application was approved on 18/02/2021.

6.15 It is anticipated that the SoCG can provide further updates on these sites, but at the time of writing this PSoC, it would be reasonable to question whether sites 1 - 3 should presently be relied upon to contribute towards the dwellings identified to meet the PV2 headline figure of 750. This is particularly the case for the Fritwell site given the time that has passed since the approval subject to s106 in December 2019 and the fact that the housebuilder did not respond to the LPA. If the Fritwell site alone were discounted, the identified supply would reduce to 949.

6.16 Table 40 incorporates a 10% non-implementation rate for permitted dwellings not yet started, but does not do so for the dwellings without permission. It would be reasonable for the 10% non-implementation rate to be applied to the remaining 60 dwellings without

to apply the 10% rate to the 60 units without permission (32 excluding Fritwell). This would reduce the supply from 977 to 971 (946 excluding Fritwell).

6.17 The addition of the (up to) 40 dwellings (minus 10%) proposed at the appeal site would increase the figure to 1013 dwellings (982 excluding Fritwell). It is the Appellant’s case that this would not represent a ‘material exceedance’ to the extent that it would undermine the housing strategy. 1013 dwellings would represent only 4.4% of the overall district wide housing requirement (22,840 dwellings). If the additional 263 dwellings (1013 – 750) were added to the total of 5392 dwellings set out in policy BSC1, there would be minimal percentage change to the distribution:

| Sub area | Total as per BSC1 | Total as percentage | Total including additional delivery | Total as percentage |
|------------------|-------------------|---------------------|-------------------------------------|---------------------|
| Banbury | 7319 | 32% | 7319 | 32% |
| Bicester | 10129 | 44% | 10129 | 44% |
| Rest of District | 5392 | 24% | 5665 | 25% (24.5) |
| TOTALS | 22840 | 100% | 23113 | 100% |

Table 8: LPp1 policy BSC1 housing distribution plus additional Cat A development

6.18 It cannot be determined what the tipping point would be, if any, but the success of the LPp1 in delivering its housing strategy does suggest that it is some way off and certainly significantly in excess of 40 dwellings. Of course, the 750 figure is not a ceiling and the NPPF seeks to significantly boost housing; the delivery of additional dwellings that do not undermine the plan strategy and are acceptable having regard to policy PV2, should be viewed positively.

6.19 In the case of the Sibford Ferris appeal⁵⁹, the Inspector concluded that the issue of ‘material exceedance’ did not apply to the proposed development of 25 dwellings. The Inspector stated “*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*” (para. 22). It is the Appellant’s case that the same should be said of the appeal proposals.

⁵⁹ See Appendix 23

6.20 Furthermore, as set out by previous Inspectors, PV2 ensures that it is a self-regulating policy; if the point is reached where the number of dwellings granted in Category A villages is likely to undermine the Council's overall spatial strategy ('material exceedance'), a series of planning harms is likely to emerge. The Inspector for appeal 3228169 states that "*these might include the point where local infrastructure is unable to cope, land of higher environmental value is sought, or out-commuting and traffic congestion manifest themselves*" (para. 35). CDC is satisfied that this is not the case for the appeal proposals, as confirmed by the Committee Report and Decision Notice⁶⁰.

6.21 CDC contend that the appeal proposals would, by virtue of a 'material exceedance', undermine the LPP1 housing strategy but it has been demonstrated that:

- The 750 figure is not a ceiling and the NPPF seeks to secure a significant boost to the supply of housing;
- The LPP1 has successfully distributed completions and commitments in line with policy BSC1;
- An additional 40 dwellings would be insignificant in the context of the required distribution;
- If the delivery rate in Category A villages to date were continued through the plan period, it would result in some 1164 dwellings being provided which does not represent a 'material exceedance';
- If all commitments were to come forward (allowing for a 10% non-implementation rate) the figure would rise to 1013 dwellings (982 excluding Fritwell) but this would not represent a 'material exceedance' to the extent that it would undermine the housing strategy.
- The issue of 'material exceedance' should not apply to the appeal proposals in light of the amount of development proposed, the categorisation and size of the village of Adderbury; and,
- PV2 is a self-regulating policy and no planning harms arise from the appeal scheme that would result in a 'material exceedance'.

6.22 The delivery of housing that does not undermine the LPP1 housing strategy and is acceptable having regard to the PV2 criteria is a positive for CDC.

⁶⁰ It is also of note that commuting patterns may change as a result of the COVID pandemic. It is widely considered that home-working will be more prevalent in the future. It is very much an unknown entity at the time of writing this PSoC and it is acknowledged that this cannot attract much weight yet, but there is potential for additional development in Category A villages to have significantly less impact on traffic than CDC would have expected at the time of adopting the LPP1

Constraint on other villages

- 6.23 RfR 1 states that the appeal proposals are “unnecessary, undesirable and unsustainable development”, taking into account, inter alia, “the number of dwellings already permitted in Adderbury”. The Committee Report expands upon this, stating:

Adderbury is one of the largest category A villages in the District in terms of size and it is one of the more sustainable in terms of the range of facilities it provides as well as the transport connections available. The village has been subject to a number of large developments approved since 31 March 2014 (3 sites for 120 dwellings); however, a further 65 dwellings were approved in January 2014 giving an overall total of 185 dwellings in the village either under construction or recently completed. The 120 dwellings approved under Policy Villages 2 (i.e. since 31 March 2014) represents 16% of the 750 dwellings and it is for this reason that the Adderbury Neighbourhood Plan does not allocate a further site for development at the village.

The 750 dwellings allocated by Policy Villages 2 have not yet been delivered, and it is acknowledged that in any event this number cannot be considered a ceiling. However, the number does have significance in terms of the spatial strategy of the Local Plan in directing the majority of growth to the towns of Banbury and Bicester whilst limiting growth in the rural areas. There will come a point at which harm will have been caused e.g. through a material exceedance of 750 dwellings delivered under Policy Villages 2, acknowledging that the pipeline of permissions as noted at para 9.24 will, in practice mean a significant exceedance. Whilst Inspectors have confirmed that Policy Villages 2 does not provide a spatial strategy for the distribution of the 750 dwellings allocated at Category A villages, the policy applies to all 24 villages identified by Policy Villages 1 and concentrating a large proportion of the number of new dwellings in a few larger villages would conflict with the spatial strategy of the Local Plan as a whole, which seeks to ensure a sustainable, planned and balanced approach to the distribution of housing in the rural areas.

As has been concluded, the Policies in the Neighbourhood Plan and the Development Plan for the supply of housing can be considered up to date. The provision of 40 additional dwellings in Adderbury would conflict with the spatial strategy for the provision of dwellings in the rural areas given that the village has already accommodated a large proportion of the overall 750 dwellings (16%) (albeit of the 920 dwellings reported in the AMR, the percentage would be 13%) and no further need for development in the village has been identified through the recently adopted Neighbourhood Plan. (para. 9.26 – 9.28)

- 6.24 CDC contends that Adderbury has delivered its share of the Category A housing and that a further 40 dwellings would place undue constraint on other villages to meet any specific or identified housing needs during the relevant plan period. The Inspectors disagreed with CDC on this point in the Ambrosden, Bodicote, Weston on the Green and Dedington appeals (3228169, 3222428, 3233293 and 3242236/3247698). There is no spatial or temporal dimension to LPp1 policy PV2.
- 6.25 Firstly, as confirmed by the Inspector for the Weston on the Green appeal (3233293), *“development at Category A Villages which exceeds the 750 homes figure need not place any undue constraint on other villages to meet any specific or identified housing needs, as other policies contained within the development plan, for example Policy Villages 1 and Policy Villages 3 of the CLPP1, would be relevant considerations to cater for any such needs”* (para. 14).
- 6.26 While this alone is sufficient to overcome CDCs concern, it is also demonstrable that Adderbury is a settlement that should accommodate a reasonable proportion of Category A development due to its population, access to local facilities and services, and access to main towns. It makes more planning sense for more sustainable villages to take a greater proportion of growth as not all villages are the same. As stated in the Committee Report, *“Adderbury is one of the largest category A villages in the District in terms of size and it is one of the more sustainable in terms of the range of facilities it provides as well as the transport connections available”* (para. 9.26).
- 6.27 In the case of the Ambrosden appeal, the Inspector found it unsurprising that recent housing schemes had been permitted in Ambrosden because it is one of the most sustainable Category A villages. The Inspector found that Ambrosden:
- is by population the fifth largest Category A village;
 - benefits from a range of services;
 - is some 4.6km from Bicester;
 - benefits from 2 bus services running through the village linking it with Bicester;
 - is linked to Bicester via an off-road cycle path; and,
 - is within ready cycling distances of employment areas.
- 6.28 It is evident that Adderbury is also one of the most sustainable Category A villages, as acknowledged by the LPA, because it:
- is by population the third largest Category A village⁶¹;

⁶¹ Appendix 30: Population of Category A villages

- benefits from a range of services, ranked joint 4th among Category A Villages⁶²;
- is some 6.1km from Banbury, ranked 7th in terms of proximity to Banbury/Bicester amongst Category A villages⁶³;
- benefits from the S4 Gold service running through the village linking it with Banbury to the north and Oxford to the south; and,
- is within ready cycling distance of Banbury and employment⁶⁴.

6.29 It is therefore unsurprising that housing schemes within Adderbury have been permitted and delivered by appeal. It is a sustainable location for residential development and accords with the LPP1 strategy.

6.30 The Committee Report states that “*the village has already accommodated a large proportion of the overall 750 dwellings (16%) (albeit of the 920 dwellings reported in the AMR, the percentage would be 13%)*” (para. 9.28). It was deemed appropriate by the LPA/Inspectorate for Adderbury to accommodate 16% of the 750 figure. It is the share of the overall 920, or 1013 as updated above, that would be more relevant if this were an issue to be given weight in the decision-making process for this appeal. According to the AMR 2019 (Table 40), Adderbury would provide 122 dwellings; this would increase to 162 if the appeal proposals were allowed (158 allowing for a 10% non-implementation rate). As stated above, there could be 1013 dwellings (allowing for a 10% non-implementation rate) delivered in Category A villages. This would result in Adderbury contributing 16% of the overall housing, a figure deemed appropriate by CDC.

6.31 It is of note that the emerging Weston on the Green Neighbourhood Plan (eWNP) proposes 15% household growth in a village which is ranked 22nd of all Category A villages in terms of population; 11th in terms of services/facilities; and 12th in terms of distance to main Bicester/Banbury. The Examiner’s Report on the eWNP was issued in June 2020, noting that CDC did not object to the proposed 15% household growth and recommending that the eWNP proceed to a referendum⁶⁵ (not scheduled to take place until May 2021 due to COVID). Not only does this reconfirm that CDC does not view the 750 figure as a ceiling, it also shows that CDC is content for further development to take place in Category A villages without undermining the housing strategy and that CDC is content for development to take place in Category A villages that are less sustainable than Adderbury. It is also worth noting that the ANP confirmed

⁶² Appendix 31: Table showing services/facilities in Category A villages

⁶³ Appendix 32: Table showing distance to Banbury/Bicester from Category A villages

⁶⁴ See Accessibility Statement, Appendix 38

⁶⁵ Appendix 33: WNP Examiner’s Report

that there were 1126 households plus consent for 65 more before the ANP was Made (1191 households). Applying a 15% household growth to Adderbury would result in an increase of 179 dwellings during the ANP period; to date, only 122 dwellings (which contribute to the Category A headline figure) have been consented since the start of the ANP period. If 15% household growth were deemed appropriate in Adderbury, as per Weston on the Green, the appeal proposals would be acceptable.

6.32 It is the Appellant's case that a further 40 dwellings in Adderbury, one of the most sustainable Category A villages and a service centre, would not be disproportionate and is consistent with the NPPF which seeks to direct growth to sustainable settlements.

6.33 CDC contend that the appeal proposals would, by virtue of a 'material exceedance', place undue constraint on other villages to meet any specific or identified housing needs during the relevant plan period. The Appellant has demonstrated that:

- CDC was unsuccessful with this argument in recent appeal decisions;
- other policies contained within the development plan, for example Policy Villages 1 and Policy Villages 3 of the CLPP1, would be relevant considerations to cater for any such needs;
- Adderbury is one of the largest category A villages in the District in terms of size and it is one of the more sustainable in terms of the range of facilities it provides as well as the transport connections available; and,
- The appeal proposals would result in Adderbury contributing 16% of the overall housing in Category A villages, a figure deemed appropriate by CDC.

LPp1 Policy PV2 criteria

6.34 Having concluded that the proposals would be in accordance with the LP part 1 housing strategy, it falls to give regard to the list of 11 specified criteria set out in PV2 and those that are relevant to the appeal. As stated in the Deddington appeal decision, "*so long as development has at least some relationship with the village and its pattern of development, it would be permitted in principle subject to the criteria set out within the policy*" (para. 17, see Appendix 55).

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

- The site is largely private greenfield land but by reason of the site's absence of specific landscape quality designations, it is reasonable on the present context to consider it as land of comparatively lesser environmental value⁶⁶.

⁶⁶ See para. 39 of the Deddington appeal (Appendix 55)

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

- The supporting Heritage and Ecological submissions demonstrate there are no significant adverse impact on heritage or wildlife assets;
- There will be a significant biodiversity net gain (see Section 10) and the proposals will create and enhance views of St Marys Church, as confirmed by Historic England.

3. Whether development would contribute in enhancing the built environment

- The layout, appearance, scale and landscaping of the proposals are all reserved matters but the updated DAS, the LSoC and the illustrative plans and visualisations demonstrate that good design can be achieved, including enhanced views of St Mary's Church.

4. Whether best and most versatile agricultural land could be avoided

- The land is presently used for horses, not agriculture, and its topography and small contained nature, separate from wider fields, does not lend itself to viable agriculture⁶⁷.

5. Whether significant adverse landscape impacts could be avoided

- PV2 does of course rely on the development of greenfield land and so is not seeking to avoid all landscape impacts, just significant adverse impacts;
- strict control of development in the countryside, would not be consistent with the Framework's absence of a blanket protection of the countryside;
- The LSoC demonstrates that there are no significant adverse effects on landscape or visual receptors, and indeed benefits have been identified.

6. Whether satisfactory vehicular and pedestrian access/egress could be provided

- Oxfordshire County Council has confirmed that satisfactory vehicular and pedestrian access/egress could be provided.

7. Whether the site is well located to services and facilities

⁶⁷ See para. 39 of the Deddington appeal (Appendix 55)

- The supporting highways submissions and Section 8 of this PSoC confirm that the site is well located to services/facilities and OCC does not object on this matter.

8. Whether necessary infrastructure could be provided

- Necessary infrastructure can be provided subject to a s106 Agreement which, as stated, will be provided in advance of the Hearing.

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

- Not applicable to appeal proposals.

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

- The land could be delivered in full in less than four years with the Appellant proposing a condition that the application for reserved matters (RM) should be made within 12 months of the date of the outline permission, an allowance of 12 months being made for a start on site following submission of RM and a build out rate of 35 dwellings per annum being achieved.

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

- The supporting flood/drainage submissions demonstrate that the proposals would not have an adverse impact on flood risk and this has been confirmed by CDC.

6.35 As such, the proposals comply with LP Part 1 policy PV2 and represent a form of development encouraged by the LPp1.

7 Case for the Appellant: Neighbourhood Plan policy AD1

- 7.1 The ANP defines a settlement boundary. ANP policy AD1 supports proposals for infill development within the boundary but does not support development of the type proposed by the Appellant outside the boundary unless it is demonstrated that *“it will enhance, or at least not harm, local landscape character”*.
- 7.2 The Committee Report refers to ANP policy AD1 as *“the key policy in respect to considering the principle of development”* (para. 9.15) and confirms that it was supported by CDC because *“the District Council does not consider it desirable or necessary for any additional major contribution from Adderbury to meeting the needs of Local Plan Policy Villages 2”* (para. 9.16).
- 7.3 ANP policy AD1 is out of date. Para. 65 of the NPPF states that *“strategic policies should also set out a housing requirement for designated neighbourhood areas which reflects the overall strategy for the pattern and scale of development and any relevant allocations”*. Para. 66 of the NPPF states the following:
- Where it is not possible to provide a requirement figure for a neighbourhood area (because a neighbourhood area is designated after strategic policies have been adopted (see footnote 31)), the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body. This figure should take into account factors such as the latest evidence of local housing need, the population of the neighbourhood area and the most recently available planning strategy of the local planning authority.*
- 7.4 This is to ensure that a NP is consistent with the strategic policies of the development plan but also to ensure that where NP policies seek to allocate land or restrict development based on housing need, this is based on an evidence based figure that it should test through the process of examination⁶⁸.
- 7.5 The 2018 NPPF imposed the same requirement as that set out above. However, the ANP was Made in July 2018, the same month as NPPF 2018 was published and the ANP was examined under NPPF 2012, which did not necessitate a requirement figure. The Appellant understands that the ANP Steering Group has not sought to rectify this matter over the past two and a half years. The LPp2, which could have provided housing requirements for Category A villages, has been abandoned.

⁶⁸ See also NPPG Reference ID 41-009-20190509

- 7.6 ANP policy AD1 relies upon a housing figure for Adderbury (PV2 development already approved in Adderbury) that has not been derived taking into account the factors set out in the NPPF 2019, namely the latest evidence of housing need, the population of the area or the most recently available planning strategy, and nor has it been robustly tested at examination alongside these factors. The housing figure, which is said to justify the policy of restriction in AD1, is not consistent with the NPPF or NPPG. Nor is it consistent with LPP1 policy PV2, in respect of which, the aforementioned five recent appeal decisions have confirmed that there is no spatial distribution inherent in that policy. As such, the restrictive policy AD1 is out of date.
- 7.7 It is also demonstrable that policy AD1 should be afforded reduced weight in the decision making process for a number of reasons.
- 7.8 NP policy AD1 states that “*development proposals will not be supported outside the Adderbury Settlement Boundary unless it is demonstrated they will enhance, or at least not harm, local landscape character*”. The Landscape Statement of Case addresses the impact the appeal proposals would have on the character of the area. It is acknowledged that the proposed development, in whatever form it might take following reserved matters approval, would clearly have a change on the site by reason of the change from paddock to housing.
- 7.9 However, almost all forms of development on greenfield land would cause some harm. NP policy AD1 is therefore effectively seeking to restrict/strictly control development outside the settlement boundary. Current national policy within the NPPF does not couch protection in this regard in terms of ‘strict control’ or restriction to this extent. As such, the policy could be considered to not be on all fours with the NPPFs absence of a blanket protection of the countryside. This results in the policy being out of date and attracting reduced weight⁶⁹. It is also worth noting a recent SoS decision (3230827⁷⁰) where it was determined that policies which restricted development outside the settlement boundaries were out of date (see para. 18 of SoS decision letter).
- 7.10 In addition, CDC applies AD1 as if it were a strategic policy when national policy makes clear that neighbourhood plans should be non-strategic (para. 28, NPPF). The application of AD1 cannot therefore be applied with full force as if it were a strategic policy as to do so would be to apply more weight than even national green belt policy. i.e. green belt policy still takes account of harms, in comparison with AD1 which accepts no harm.

⁶⁹ See Telford

⁷⁰ Appendix 34: SoS decision 3230827

7.11 ANP policy AD1 introduces a settlement boundary for Adderbury; there is no such settlement boundary established via the LPp1. Para. 29 of the NPPF states that “*Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies*” with footnote 16 adding that “*Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area*”. It is important to consider the justification to ANP policy AD1 in this context.

7.12 Para. 5.8 of the ANP states:

This policy is intended to distinguish between the ‘built up limits’ of the village and its surrounding countryside in order to manage development proposals accordingly. The Local Plan does not define the term ‘built up limits’ and so, rather than leave this as ambiguous, the policy defines a Settlement Boundary and this is shown on the Policies Map. This will provide clarity for those proposing development schemes

7.13 The term ‘built up limits’ arises from CLP Saved Policy H18, which as stated above, is out of date and does not apply to Category A villages in the more recently adopted LPp1. The term also arises in LPp1 policy PV1, which allows small scale residential development within ‘built up limits’. LPp1 policy PV2 then allows for residential development beyond the ‘built up limits’, rendering CLP saved policy H18 irrelevant to proposals for Category A development, as confirmed in the decision on the Sibford Ferris appeal (3229631). This results in ANP policy AD1 attracting reduced weight.

7.14 Para. 5.10 of the ANP states that “*the policy is consistent with LP1 Policies Villages 1 and 2, although it makes no provision for housing site allocations over and above the current committed housing schemes on the edge of the village*”. The reasoning for this is provided in para. 5.11:

The scale of those recently completed housing schemes, and of the schemes that will be built out in the next couple of years or so, is such that the District Council does not consider it desirable or necessary for any additional major contribution from Adderbury to meeting the needs of LP1 Policy Villages 2 in the plan period by way of new greenfield development on the edge of the village. The schemes have already begun to change the character of the village but it will take a number of years for their full, cumulative effects on character and local services and infrastructure to be felt. A decade of house building activity confined to small infill or redevelopment within the Boundary is therefore considered reasonable in these specific circumstances

- 7.15 It is evident that AD1 was produced in conjunction with CDC on the basis of a misapplication of LPP1 policy PV2. The NP was Made in July 2018, over a year before the Ambrosden appeal decision (3228169) and indeed, the other five appeals that followed suit.
- 7.16 Had CDC, the Neighbourhood Plan Steering Group or the ANP Examiner properly understood the application of PV2 as defined in recent appeal decisions, it is considered that ANP policy AD1 would have been deemed inappropriate. The appeal decisions have confirmed that the 750 figure is not a ceiling. Therefore, attempting to impose a limit on development in circumstances where there is no conflict with PV2, and where greenfield development would be permitted having regard to the criteria of that policy, on the basis that Adderbury has “taken its share” (based on a figure that is not compliant with the NPPF (2019) is not in compliance with the proper interpretation of the parent policy, LPP1 policy PV2, or the NPPF. The policy should have been reviewed in light of the appeal decisions. This results in ANP policy AD1 attracting reduced weight.
- 7.17 Furthermore, the Examiners Report⁷¹ justifies ANP policy AD1 stating:
- together sites East of Deene Close, north of Milton Road, and off Banbury Road will accommodate, within the Neighbourhood Plan area, a total of 122 dwellings of which 61 were completed by 2017. The contribution arising from these sites amounts to a significant boost to the supply of housing. Whilst no total figure can be assumed there is undoubtedly potential for a significant number of additional dwellings to be provided on infill plots or through the redevelopment of sites within the proposed settlement boundary. The Neighbourhood Plan places no cap or limit on the number of homes that can be provided within the settlement boundary. (para. 84)*
- 7.18 The ANP was not supported by robust evidence demonstrating there to be undoubted potential for a significant number of additional dwellings within the Adderbury settlement boundary. Neither the Housing and Economic Land Availability Assessment 2018 nor the Brownfield Land Register identify any suitable sites within the built up limits of Adderbury⁷².

The Appellant has also considered the potential for development within the settlement boundary and found limited opportunities exist. Sites identified included those within residential curtilages and areas with policy constraints. Only 10 sites were identified but the majority were within existing gardens and/or had constraints, such as

⁷¹ Appendix 35: ANP Examiners Report

⁷² Appendix 36: Brownfield land register

Conservation Area and were not of a scale likely to yield affordable housing⁷³. This further reduces the weight to be applied to ANP policy AD1.

7.19 It is of note that the National Planning Practice Guidance (NPPG) states that “*where a policy has been in force for a period of time, other material considerations may be given greater weight in planning decisions as the evidence base for the plan policy becomes less robust*” (Para. ID 41-084-20190509). The ANP was Made in July 2018 and is more than 2 years old⁷⁴. Appeal decisions have since demonstrated that non-strategic policy AD1 should receive reduced weight because it was based on a misinterpretation/misapplication of strategic policy PV2 of the LPP1⁷⁵, as has the evidence on capacity within the settlement boundary.

7.20 The Appellant acknowledges that the proposals do not comply with ANP policy AD1. The conflict does not render the proposals contrary to the development plan as a whole. The proposals comply with the parent policy that AD1 was supposed to implement at the Neighbourhood level. However, even if the Inspector deems otherwise, for the above reasons, the policy is out of date and should receive limited weight in the planning balance.

⁷³ Appendix 37: Potential sites within Adderbury

⁷⁴ Para. 14 of the NPPF affords Neighbourhood Plans greater protection until the NP is more than 2 years old

⁷⁵ See para. 30 of NPPF

8 Case for the Appellant: Locational Sustainability

8.1 CDC does not dispute that Adderbury is one of the most sustainable Category A villages. As stated in Section 6 of this PSoC, the village:

- benefits from a range of services, ranked joint 4th among Category A Villages⁷⁶;
- is some 6.1km from Banbury, ranked 7th in terms of proximity to Banbury/Bicester amongst Category A villages⁷⁷;
- benefits from the S4 Gold service running through the village linking it with Banbury to the north and Oxford to the south; and,
- is within ready cycling distance of Banbury and employment⁷⁸.

8.2 However, unlike the Local Highway Authority which does not object to the proposals, CDC contends that the appeal site is not locationally sustainable. RfR 1 states that “*the site itself is in an unsustainable location on the edge of the village, distant from local services and facilities and would result in a development where future occupiers would be highly reliant on the private car for day to day needs*”.

8.3 The Committee Report does not address this matter in detail but does state:

The provision of new links would be important in encouraging the use of sustainable modes of transport. The site is relatively distant from the core of the village where the facilities and services are provided. The LHA has not raised any such concern of this nature but Officers agree with the Inspector for 06/00712/OUT that the site is poorly located and would therefore lead to an increase in car borne commuting even with the proposed transport improvements to increase pedestrian/ cycle accessibility. This would compromise the principles of sustainable development. (para. 9.78)

8.4 CDC therefore refused the application on the basis of conflict with LPp1 policies ESD1 and SLE4. In the context of this appeal, it falls to consider whether the proposals facilitate the use of sustainable modes of transport to make the fullest use possible of public transport, walking and cycling. It is the Appellant’s case that the appeal site is locationally sustainable particularly in the context of the accessibility benefits that will arise from the proposed development: provision of footway along Berry Hill Road; improvements to PROW network; links to existing PROW network; improvement to bus

⁷⁶ See Appendix 31: Table showing services/facilities in Category A villages

⁷⁷ See Appendix 32: Table showing distance to Banbury/Bicester from Category A villages

⁷⁸ See Accessibility Statement, Appendix 38

stops at junction of Berry Hill Road and Horn Hill Road; provision of bus stops along Oxford Road; and, provision of a pedestrian refuge on Oxford Road.

- 8.5 An Accessibility Statement (AS) is appended to this PSoC⁷⁹. It identifies the services and facilities that are on offer in Adderbury. These are numerous and varied and are set out on Plan 3 of the AS. The AS considers, in detail, the accessibility of the appeal site by non-car modes, including walking, cycling and public transport.
- 8.6 Table 2.7 of the AS demonstrates the significant number of services/facilities that are within acceptable walking distances when considered against relevant guidance. These include the local nursery, primary school, library, store, post office, play area and employment area. The AS also sets out the various walking route options to access these services/facilities.
- 8.7 Table 2.8 demonstrates the significant number of services/facilities that are within acceptable cycling distance of the site. In addition to those services that are referred to in Table 2.7, the local secondary school, supermarket, doctor's surgery, pharmacy and dentist are all within acceptable cycling distances, as well as a number of additional employment areas including Banbury business park which is identified for further growth by CDC.
- 8.8 Table 2.9 of the AS demonstrates that there are existing bus stops at Horn Hill Road which are only some 480m from the site and will be improved via a contribution from the Appellant. The new bus stops proposed by the Appellant will be closer again. Section 2.7 confirms that the S4 service provides an appropriate option for commuting trips to and from Banbury and Oxford which are likely to be the main areas for employment for future occupiers of the proposed development and also offer a range of leisure services. It is also worth noting that CDC must consider accessibility to Banbury to be good as it is requesting a contribution towards the expansion/improvement of Spiceball Leisure Centre in Banbury.
- 8.9 Section 2.8 of the AS confirms that the appeal site benefits from good connections with rail too. It would only take approximately 28 minutes to get to Banbury station by foot and bus. The station then provides regular and frequent services to numerous destinations including Oxford, Birmingham, London and Manchester.
- 8.10 The AS is able to conclude as follows:

⁷⁹ Appendix 38: Accessibility Statement

- *The Appeal Site has good accessibility on foot and by cycle and the proposals will provide a substantial level of additional links and contributions to improve the accessibility of the proposals on foot and by cycle.*
- *The Appeal Site is within a short walk of a number of local services and day to day amenities such as shops, schools and other 'day to day' facilities.*
- *The Appeal Site meets with the walking distance criteria set out in the various guidance documents.*
- *The Appeal Site will also be accessible by public transport and the provision of two new bus stops on Oxford Road will enable residents to access the bus services which operate in the vicinity of the site and serve areas including Banbury Town Centre and Oxford City Centre.*
- *The Appeal Site provides potential for travel by rail, with the nearest bus services traveling into Banbury Town Centre, just a short walk from Banbury train station.*
- *The Appeal Site accords with the general principles of the pertinent local and national planning policies specifically referred to in the first reason for refusal.*
- *The Appeal proposals will also improve the general accessibility of Adderbury as a village with the improvements proposed which can be enjoyed by all residents, current and future.*

8.11 The AS demonstrates that the site is locationally sustainable. Additionally, it is important that the site is assessed in the correct context.

8.12 Firstly, it is of note that CDC refer to the Inspector's decision for appeal 2032232. This decision was issued on 22/03/2007 at a time when the policy and guidance context will have differed significantly from that set out in the current development plan, national policy and guidance. Policies at that time were more restrictive than the LPP1 which seeks to achieve development at Category A villages and the more nuanced approach in NPPF currently. Furthermore, as set out above, the appeal proposals incorporate the aforementioned accessibility benefits to enhance the locational sustainability of the site. Limited weight should therefore be given to the Inspector's decision in this regard.

8.13 The Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. NPPF states the following at para. 103:

Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and

rural areas, and this should be taken into account in both plan-making and decision-making.

8.14 The locational sustainability of the site should be viewed in the context of it being located within the rural area. Furthermore, it should be considered in the context of LPp1 policy PV2 seeking the provision of housing at Category A villages and 977 dwellings having been identified as contributing towards the PV2 figure (according to the 2020 AMR). It is also relevant to consider the locational sustainability of the site in the context of the sites that will contribute to the PV2 figure (post 2014).

8.15 For example, there are two sites located in western Adderbury, north and south of Milton Road. The site to the south of Milton Road was refused by CDC but not on locational sustainability grounds and it was subsequently allowed at appeal⁸⁰. The Inspector addressed locational sustainability briefly:

It is said that it is about 1km from the centre of the village by existing footpaths. The village of Adderbury contains a number of facilities including a shop, a post office, churches, a public house, recreation and sports grounds and primary and secondary schools are in nearby settlements. In this sense it was generally agreed that the village is a sustainable one where new development could be accommodated. (para. 14)

8.16 The centre of the site to the south of Milton Road is some 370m from the junction between Milton Road/Horn Hill Road/Berry Hill Road; the centre of the developable area of the appeal site is some 460m from the junction⁸¹. From the junction, journeys to services/facilities in the centre of the village would be the same distance and as demonstrated in the AS, within acceptable walking distances. The difference in getting to the junction is only some 90m which is not significant and the routes are of similar quality in terms of surface and gradient, particularly as the appeal proposals incorporate a footway along Berry Hill Road. If the sites north and south of Milton Road were deemed locationally sustainable, so too should the appeal site. It is also relevant that the appeal site would be closer to some services/facilities than the Milton Road sites. For example, it would be a shorter walk to the Adderbury Day Nursery and employment at Twyford Mill Estate, east of Oxford Road⁸².

8.17 The appended AS includes reference to the proposed recreational facility north of Milton Road. An application (no. 19/02796/F) for the erection of sports and community pavilion, outdoor pitches and a MUGA was approved by Members at Committee on

⁸⁰ Appendix 39: Appeal decision – land south of Milton Road, Adderbury

⁸¹ Appendix 40: Plan showing distances to junction

⁸² See Accessibility Statement at Appendix 38

04/06/2020. This followed an approval for the change of use of the site to sport/recreation and community use (application 18/00220/F). The site was identified for such a use in the Neighbourhood Plan to serve the local community. CDC did not raise concern with its location in the Reports on applications 18/00220/F or 19/02796/F, nor did it raise such a concern during the production of the ANP. Indeed, the Committee Report for application 18/00220/F93F83 stated the following:

The site is within a sustainable location in transport terms. It can be appropriately accessed and there is sufficient space to provide onsite transport infrastructure including parking and connections can be provided to the rest of the village to encourage the use of sustainable modes of transport to access the site'

8.18 CDC evidently deems it feasible for existing Adderbury residents to make use of the facility via sustainable modes of travel but not for future occupiers of the appeal development to be able to access other local services/facilities via sustainable modes of travel.

8.19 It is therefore the Appellant's case that the appeal proposals comply with LPp1 policies ESD1 and SLE4:

- As stated in the Committee Report, the Local Highway Authority does not object;
- The policy and guidance has changed significantly since the Inspector's 2007 decision on appeal 2032232;
- Locational sustainability is to be considered in the context of the NPPF and LPp1 policy PV2;
- The locational sustainability of the site does not differ significantly from the sites north and south of Milton Road; and,
- The appended Accessibility Statement confirms that the location of the site can encourage sustainable modes of travel.

⁸³ Appendix 41: Committee Report application 18/00220/F

9 Case for the Appellant: Reason for Refusal 2

- 9.1 The Landscape Statement of Case addresses the impact on the character and appearance of the locality, focussing on RfR 2.

LPp1 policy ESD13

- 9.2 The LSoC confirms that the proposals accord with LPp1 policy ESD13. See section 5, 'Policy'.

LPp1 policy ESD15

- 9.3 The LSoC confirms that the proposals accord with LPp1 policy ESD13. See section 5, 'Policy'.

LPp1 policy PV2

- 9.4 The LSoC confirms that the proposals accord with LPp1 policy PV2. See section 5, 'Policy'.

CLP policy C8

- 9.5 Policy C8 states that sporadic development in the open countryside including development in the vicinity of a motorway or major road junctions will generally be resisted. The reasoned justification does not define 'sporadic'. As stated in the LSoC, the proposals do not represent sporadic development nor is the site, in character terms, in the open countryside.

- 9.6 It is also of note that, as with CLP policy H18 (see section 4 of this PSoC), policy C8 was adopted nearly 24 years ago in November 1996. It too is of significant age and is not consistent with the NPPF. The policy seeks to protect the open countryside for its own sake, rather than recognise the intrinsic character and appearance of the countryside and apply a cost/benefit consideration to whether development in the countryside should be permitted.

- 9.7 The LPp1 requires significant development in the rural areas and at Category A villages via policy PV2 in order to significantly boost housing. The development plan strategy in the more recently adopted plan does not prohibit development outside settlement limits and is in fact dependent upon it, thereby rendering policy C8 out of date. LPp1 policy PV2 takes a cost/benefit approach to the determination, in accordance with the

NPPF, by weighing a number of matters in the balance in determining whether or not greenfield development is acceptable.

9.8 As stated previously, if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan⁸⁴. In the circumstances of this appeal, the conflict, if it is deemed that the proposals represent sporadic development, between CLP policy C8 and LPp1 policy PV2 must be resolved in favour of PV2.

9.9 The Appellant anticipates that the Statement of Common Ground can confirm that the proposals do not conflict with CLP policy C8. For the avoidance of doubt, it is the Appellant's case that there is no conflict with this policy for the reasons set out above.

CLP policy C27

9.10 The LSoC confirms that the proposals accord with LP policy C27. See Section 5, 'Policy'.

CLP policy C28

9.11 Policy C28 relates to layout, design and external appearance which are to be considered at Reserved Matters stage.

9.12 As with CLP policy C8, the Appellant anticipates that the SoCG can confirm that the proposals do not conflict with CLP policy C28.

CLP policy C33

9.13 Policy C33 seeks to retain undeveloped gaps of land which are important in preserving the character of a loose-knit settlement structure or in maintaining the proper setting for a listed building or in preserving a view or feature of recognised amenity or historical value. CDC has not alleged that Adderbury has a loose-knit settlement structure and has acknowledged that the proposals would enhance and create views of St Marys Church. It is assumed that C33 was included in RfR 2 in error.

⁸⁴ S38(5) Planning and Compulsory Purchase Act 2004

9.14 Again, the Appellant anticipates that the SoCG can confirm that the proposals do not conflict with CLP policy C33. For the avoidance of doubt, it is the Appellant's case that there is no conflict with this policy for the reasons set out above.

LSoC Conclusions

9.15 The LSoC demonstrates that the proposals comply with relevant development plan policies and concludes that:

- the Appeal Site is suitable for the development proposed, which has evolved through an iterative design process to take account of landscape and visual parameters from the outset;
- there are no significant adverse effects on landscape or visual receptors, and indeed benefits have been identified;
- No landscape or visual designations would be adversely affected; and,
- The proposals respond to the site and its setting

10 Case for the Appellant: Benefits of Appeal Proposals

10.1 The proposed development would provide the following, social, economic and environmental benefits:

Social benefits

- A. Contribution to market housing in context of requirement to boost supply;
- B. Contribution to housing provision in context of LPP1 plan period requirement;
- C. Provide much needed small and moderately sized homes;
- D. Contribute to affordable housing to meet an acknowledged shortfall and local need;
- E. Provision of elderly housing;
- F. Have the potential to provide high quality public open space, accessible to existing residents and managed in perpetuity, contributing to an acknowledged shortfall; and,
- G. New and improved publicly accessible views of St Mary's Church.

Economic benefits

- H. Provide employment opportunities for the construction industry and benefit the wider construction industry supply chain; and,
- I. Result in spending in local shops and businesses.

Environmental benefits

- J. Enhance biodiversity at the site;
- K. Provide locationally sustainable development and enhance sustainability of Adderbury.

10.2 The benefits are assessed in turn below.

Social Benefits

A: Contribution to market housing in context of requirement to boost supply

10.3 The AMR 2020 indicates the need to boost the housing supply. It states that CDC can demonstrate “a 4.8 year supply for the current period 2020-2025 and a 4.7 year supply for the next five year period (2021-2026) commencing on 1 April 2021” (para. 5.58, AMR 2020). This calculation for 2021-2026 “will be applied in decision making from 1 April 2021” (para. 5.57, AMR 2020).

10.4 The Report of the Oxfordshire Growth Board Director⁸⁵ suggested that the supply for 2020 – 2025 was likely to fall due to COVID-19. It states that the councils “can expect housing delivery trajectories, both Deal related and more generally to be impacted” (para. 11) because of the slowdown caused by COVID-19.

Prior to the COVID crisis, a picture was emerging in Oxfordshire of a housing market delivery trajectory that was slipping due to issues such as local plan delays and the beginnings of weakening developer confidence in certain areas of the Oxfordshire housing market. Within that overall picture however those sites that were supported by the Housing and Growth Deal through infrastructure investment were generally maintaining their delivery trajectory, partly because the infrastructure investment supported developer confidence and because these sites are the ones with the most robust demand profile and could withstand market movements more robustly.

Nationally, it is estimated that around 75% of housing sites closed due to the COVID crisis.¹ In Oxfordshire, all the major sites halted production because of COVID-19 and are now returning to work (May 2020). However, there will be on-site working practice restrictions in place that are likely to mean full productivity will not be possible whilst staff and contractors adapt to this new working environment. Some of the smaller development sites in Oxfordshire did not close, but capacity was limited as contractors were isolating or ill.

There is also an issue of supply chains drying up and putting workers onto the Furlough Scheme, affecting the ability to develop.² However, there is evidence that these firms are also returning to work. In April for example, a major brickmaker Mickelmersh announced they would be returning to work.

Costs of construction will also be an issue affected by COVID-19. The market was already experiencing an increase in labour costs due to the effects of Brexit and this may well be compounded by the crisis. Coupled with the point made above that developers will not be able to run sites at full

⁸⁵ See Appendix 16

capacity due to the need for physical distancing, this will therefore impact upon the efficiency of sites and therefore costs.

Because of the slowdown, councils can expect housing delivery trajectories, both Deal related and more generally to be impacted. (para. 7 – 11)

The 2020 AMR calculations have made an allowance for the impact of the pandemic and the subsequent economic conditions:

| | | Five Year Period 2020-25 (current period) | Five Year Period 2021-26 (from 1 April 2021) |
|---|---|---|--|
| a | Plan Requirement (2011-2031) | 22840 | 22840 |
| b | Annual Requirement (a / 20) | 1142 | 1142 |
| c | Requirement to date (b x years) | 10278 | 11420 |
| d | Completions | 8614 | 9547 |
| e | Shortfall at 31/3/20 (c - d) | 1664 | 1873 |
| f | Base Requirement over next 5 years (b x 5) | 5710 | 5710 |
| g | Base Requirement over next 5 years plus shortfall (f + e) | 7374 | 7583 |
| h | 5 Year Requirement and shortfall plus 5% (g + 5%) | 7743 | 7962 |
| i | Revised Annual Requirement over next 5 years (h / 5) | 1548.5 | 1592.4 |
| j | Annual requirement temporarily adjusted with a 40% reduction for year 1 (620) and 20% for year 2 (319) (change in circumstances-Pandemic/economic conditions) | 6804 | 7643 |
| k | Revised Annual Requirement over next 5 years (j / 5) | 1360.7 | 1528.6 |
| l | Deliverable Supply over next 5 Years | 6578 | 7134 |
| m | Total years supply over next 5 years (l / k) | 4.8 | 4.7 |
| n | 'Surplus' (j - l) | 226 | 509 |

** projected completions of 933 for 2020/21 added to roll forward to 2021-2026*

Table 17 of 2020 AMR – Calculations of housing land supply from deliverable sites

10.5 The annual requirement has been temporarily adjusted with a 40% reduction for year 1 (620) and a 20% reduction for year 2 (319). Para. 5.59 – 5.70 of the 2020 AMR attempts to justify the significant reduction. CDC states that the requirement should be reduced and that this will be made-up later in the plan period (Liverpool method).

10.6 However, para. 73 of the NPPF states:

Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old

10.7 Furthermore, the PPG states:

The level of deficit or shortfall will need to be calculated from the base date of the adopted plan and should be added to the plan requirements for the next 5 year period (the Sedgfield approach), then the appropriate buffer should be applied. If a strategic policy-making authority wishes to deal with past under delivery over a longer period, then a case may be made as part of the plan-making and examination process rather than on a case by case basis on appeal. (Paragraph: 031 Reference ID: 68-031-20190722)

10.8 CDC cannot circumvent the plan-led system, unilaterally reduce the annual requirement and apply the Liverpool method.

10.9 If the supply was calculated on the basis of the annual requirement set out in row i) of the above table, it would only be 4.5 years for 2021 – 2026 (a shortfall of 828 dwellings).

10.10 It is acknowledged that the WMS states that for the purposes of decision-taking under para. 11(d), footnote 7 of the NPPF will apply where Oxfordshire authorities cannot demonstrate a three-year supply of deliverable housing sites.

10.11 Of course, the WMS does not prevent significant weight being afforded to the provision of housing in the balance. It simply indicates that where the tilted balance would ordinarily be applied as a result of a lack of a five-year supply of housing land, this will not be the case if the Authority can demonstrate a 3 year-supply. However, it remains the case that the NPPF requires the Oxfordshire LPAs to demonstrate a five-year supply and to seek to secure a significant boost to housing delivery.

10.12 The 2019 AMR⁸⁶ stated that there was a 4.6 year supply for 2019 – 2024 and a 4.4 year supply for 2020 – 2025. The 2020 AMR demonstrates that CDC had a 4.2 year supply for 2020 – 2025 and that it has a 4.5 year supply for 2021 - 2026 (when the unilateral reduction to the requirement is not applied). There has been a serious and significant shortage from 2019/20.

10.13 The LPp1 PR will not boost the supply as it relates to Oxford's unmet needs. The Oxfordshire Plan 2050 will not be adopted until May/June 2023 , with COVID-19 having caused a significant delay. The LPp2 has been abandoned and work on the LPp1

⁸⁶ Appendix 29: 2019 AMR

Review⁸⁷ has commenced but it can be reasonably anticipated that there will be some slippage, meaning it is unlikely it will be adopted by July 2023, as stated in the LDS

10.14 The delay in delivering a plan-led system must be considered in the context of CDC progressing the CLPR on the basis of existing housing requirements, as confirmed by CDC in the Regulation 10A Review of LP policies 2020. It must also be considered in the context of a growing population, as highlighted in the CDC Housing Strategy⁸⁸:

The population is growing, it increased by 0.7% in the last year, this is above the UK growth rate and the rate of population growth in Oxfordshire as a whole. International migration does contribute to the increase in the population locally, however a key driver of population growth is in-migration from Oxford probably related to acute housing affordability issues in the City. Cherwell is expected to continue to grow with the population forecast to be 203,900 in district by 2031 (page 7, Housing Strategy 2019 -2024)

10.15 The HS also states that “Cherwell is a high growth area and the demand for housing is unlikely to subside in the foreseeable future” (page 14).

10.16 It is evident that the plan-led system is failing to provide the “*much needed housing*” (para. 9.114, Committee Report for application 19/02341/F) and it will not significantly boost housing for some time. The Appellant proposes a condition requiring an application for reserved matters approval to be submitted within 12 months of the outline permission and has a strong track record in delivering housing quickly following outline permission⁸⁹.

10.17 Despite the pandemic, there remains pent up demand for new homes particularly in locations like Adderbury. The Appellant has found that many housebuilders are eager to secure smaller sites and that demand for smaller sites is rising. This was recently confirmed by the sale of the Appellant’s site off Oxford Road, Bodicote. Twelve housebuilders bid for the site and it was bought by GreenSquare Homes, who have confirmed an interest in the appeal site⁹⁰.

10.18 The weight to be afforded to the provision of (up to) 40 dwellings is significant.

⁸⁷ CDC intends to carry forward the current LPP1 housing requirement with the LPP1 Review presently using the 2014 Oxfordshire SHMA.

⁸⁸ Appendix 42: Housing Strategy

⁸⁹ Appendix 43: HSL track record

⁹⁰ Appendix 57: Letter of interest from GreenSquare

B: Contribution to housing provision in context of LPP1 requirement

- 10.19 LPP1 policy BSC4 requires the delivery of at least 22,840 dwellings during the plan period. The 2018 AMR stated that CDC could have delivered 22,930 dwellings. The Housing Delivery Monitor (HDM) appended to the 2019 AMR stated that CDC would only deliver 22,220 dwellings. Some 710 dwellings had fallen out of the identified supply and CDC faced a shortfall of 620 dwellings in the context of the requirement to significantly boost housing.
- 10.20 The 2020 AMR states that CDC will deliver 23122, some 282 more than the minimum figure set by policy BSC4. If the 2020 AMR figures are correct, CDC only has a 1.23% buffer.
- 10.21 A detailed review of the HDM has not been undertaken by the Appellant. However, it should be noted that the 10% non-implementation rate applied to the Category A sites in Table 40 of the AMR has not been applied in the HDM. If it were, the plan period supply would reduce by 34 to 23,088. This would result in CDC having a 1.09% buffer.
- 10.22 It would be reasonable to assume that not all of the sites listed in the HDM appended to the 2020 AMR will deliver housing as planned. The Council allow for a 10% non-implementation rate for Category A development. A buffer of only 1.09% district wide is not sufficient. This is particularly the case when the LPA has acknowledged the delivery difficulties arising from the pandemic with regard the five year supply. Increased flexibility is required.
- 10.23 A potential failure to achieve the LPP1 strategy by not providing the level of housing required during the plan-period is a material consideration of weight. The provision of (up to) 40 dwellings, whilst modest in scale, therefore makes a valuable contribution to the overall provision of the LPP1 minimum housing delivery target and does so in a sustainable location. It should be afforded significant weight.

C: Provision of small and moderately sized homes

10.24 The Appellant has confirmed a willingness to provide a housing mix that responds positively to a need for more smaller homes. It is demonstrable that this should be given significant weight in the planning balance.

The need for more smaller homes

10.25 There is an identified need for more moderately sized homes in Cherwell, as highlighted in the SHMA (2014) and carried forward into LPP1 policy BSC4. The policy states:

New residential development will be expected to provide a mix of homes to meet current and expected future requirements in the interests of meeting housing need and creating socially mixed and inclusive communities.

The mix of housing will be negotiated having regard to the Council’s most up-to-date evidence on housing need and available evidence from developers on local market conditions.

10.26 The LPP1 also states that one of the key community issues facing the villages and rural areas is the lack of smaller homes generally (para. C.241).

10.27 During the application process, the Appellant asked the LPA for the most up to date evidence on housing need and was referred to SHMA Table 67, which is provided in the preamble to policy BSC4:

| | 1-bed | 2-bed | 3-bed | 4-bed |
|----------------------|--------------|--------------|--------------|--------------|
| Market | 5% | 25% | 45% | 25% |
| Affordable | 25-30% | 30-35% | 30-35% | 5-10% |
| All Dwellings | 15% | 30% | 40% | 15% |

10.28 Para. B.123 of the LPP1 states that “the SHMA does advise, however, that at individual local authority level, there is a greater need for 3-bed properties in Cherwell and that the overall mix identified is focused more towards smaller properties than the existing mix of homes in Oxfordshire”.

10.29 The decision on appeal 3228169 points to the “locally widening gap in the ratio of house prices to earnings” (para. 84) and states the following:

Within the district the lower quartile house price is more than eleven times lower quartile annual earnings. This is higher than for England as a whole

(7.29) and greater than the South East region (10.51). The affordability ratio has increased more rapidly in the district than in Oxfordshire over the CLPP1 plan period and it is apparent that market housing is increasingly unaffordable for many. (para. 85)

10.30 The LPp1 states that “house prices are more expensive in Kidlington and the rural areas compared to Banbury and Biester, meaning that it is less likely that those born in a village will be able to purchase a house there” (para. C.241).

10.31 The Office for National Statistics (ONS) records that the median house price in Cherwell as £303,995. The median gross annual workplace-based earnings in Cherwell were £30,200. This creates an affordability ratio for Cherwell of 10.07. The affordability ratio in Cherwell, Oxfordshire and the South East is significantly worse than it is nationally (8.02). In Adderbury, the affordability ratio is even worse, at 18.97.

| | Adderbury | Cherwell | Oxfordshire | South East | England |
|------------------------------|------------------------|----------|-------------|------------|----------|
| Av. House price (ONS) | £573,038 ⁹¹ | 303,995 | £349,995 | £325,000 | £246,000 |
| Av. Earnings (ONS) | 30,200 | 30,200 | 33,587 | 32,120 | 30,667 |
| Affordability ratio | 18.97 | 10.07 | 10.42 | 10.12 | 8.02 |

Table 9: Affordability

10.32 The CDC Housing Strategy 2019-2024 unsurprisingly states that “home ownership is out of reach for households on low and average incomes” (page 8).

10.33 In preparing the LPp1, CDC identified a need to provide a housing mix that would secure moderately sized homes which would be more affordable to those on average incomes. If the cost of housing remains high, younger families are unable to enter the housing market or a higher percentage of their income if spent on mortgage or rental payments and household bills leaving little disposable income to spend locally. The Inspector’s comments on appeal 3228169, the ONS data and the Housing Strategy

⁹¹ Land Registry. Using a Postcode sector of ‘OX17 3’ representing the local area of Adderbury; average overall house prices in Q4 2020.

suggest that this remains a significant issue for Cherwell, and perhaps one that is worsening.

LPP1 Policy BSC4 Housing Mix

10.34 Unfortunately, CDC failed in its duty to monitor LPP1 BSC4 during 2018/19 and 2019/20, as confirmed in the 2019 AMR and 2020 AMR. The 2020 AMR states “in regard to monitoring of Policy BSC 4 Housing Mix, data on the number of completed dwellings per number of bedrooms is not available for 2019/20” (para. 5.81).

10.35 CDC has only monitored policy BSC4 in 2016/17 and 2017/18. This resulted in the following housing mix provision during those monitoring years:

| Housing mix | | | | | |
|--|------------------|-------|-------|-------|-------|
| 2016/17 1411 (gross) completions | | 1-bed | 2-bed | 3-bed | 4-bed |
| | No. of dwellings | 145 | 365 | 408 | 458 |
| | Percentage | 10% | 26% | 29% | 33% |
| 2017/18 1102 (gross) completions | No. of dwellings | 146 | 281 | 274 | 370 |
| | Percentage | 13% | 26% | 25% | 34% |

Table 10: Housing Mix 2016/17 – 2017/18⁹²

| | 1-bed | 2-bed | 3-bed | 4-bed |
|---------------|--------|--------|--------|-------|
| Market | 5% | 25% | 45% | 25% |
| Affordable | 25-30% | 30-35% | 30-35% | 5-10% |
| All Dwellings | 15% | 30% | 40% | 15% |

Table extracted from policy BSC4

10.36 While a lack of monitoring means that it is not entirely possible to know if CDC is succeeding in providing the much needed moderately sized homes (predominantly 3-bedroomed) in response to the SHMA recommendations and indeed, the affordability ratio, the data from 2016/17 – 2017/18 suggests that CDC is failing. There has been a significant under-provision of 3-bedroomed dwellings and a significant over-provision of 4-bedroomed dwellings.

⁹² For 2017/18 there were 35 units with unknown bedroom number and 31 unknown for 2016/17

Housing Mix in Category A Villages

10.37 The Appellant has also been able to examine the housing mix provision in Adderbury and the Category A villages using the sites listed in Tables 39 and 40 of the AMR 2020 i.e. those sites identified as contributing to the PV2 development.

10.38 The tables at Appendix 44 of this PSoC⁹³ provide the housing mix breakdown of the sites which have been completed or are under construction (Table 39 of AMR) and the sites which have planning permission but have not yet started (Table 40 of AMR). It is evident that CDC has failed to provide a housing mix that complies with LPp1 BSC4 in the Category A villages and in Adderbury.

| | | Housing mix | | | |
|---------------------|------------------|-------------|-------|-------|-------|
| | | 1-bed | 2-bed | 3-bed | 4-bed |
| Category A villages | No. of dwellings | 55 | 200 | 138 | 223 |
| | percentage | 9% | 32% | 22% | 36% |
| Adderbury | No. of dwellings | 6 | 27 | 24 | 66 |
| | percentage | 5% | 22% | 20% | 54% |

Table 11: Housing mix assessment of sites listed in Table 39 of AMR 2019

| | 1-bed | 2-bed | 3-bed | 4-bed |
|---------------|--------|--------|--------|-------|
| Market | 5% | 25% | 45% | 25% |
| Affordable | 25-30% | 30-35% | 30-35% | 5-10% |
| All Dwellings | 15% | 30% | 40% | 15% |

Table extracted from policy BSC4

10.39 Across the Category A villages, there has been an under provision of 1-bed units; a slight over-provision of 2-bed units; a significant under-provision of 3-bed units; and, a significant over-provision of 4-bed units.

10.40 In Adderbury, the housing mix is even further removed from that set out in policy BSC4. There has been a significant under-provision of 1-bed units, an under-provision of 2-

⁹³ Appendix 44: Housing Mix tables

bed units; a significant under-provision of 3-bed units; and, a significant over-provision of 4-bed units.

10.41 The sites listed in Table 40 of the AMR comprise of those with full permission or reserved matters approval where the housing mix has been approved (146 dwellings); sites with outline consent where housing mix has not been secured by condition/s106 Agreement (140 dwellings)⁹⁴; and, sites that don't yet have permission of any sort (38 dwellings). Table 10 below sets out the housing mix of the sites where the housing mix has been approved.

| Housing mix | | | | | |
|---------------------|------------------|-------|-------|-------|-------|
| Category A villages | | 1-bed | 2-bed | 3-bed | 4-bed |
| | No. of dwellings | 19 | 39 | 46 | 42 |
| | Percentage | 13% | 27% | 32% | 29% |

Table 12: Housing mix of committed Category A sites where housing mix approved

| | 1-bed | 2-bed | 3-bed | 4-bed |
|---------------|--------|--------|--------|-------|
| Market | 5% | 25% | 45% | 25% |
| Affordable | 25-30% | 30-35% | 30-35% | 5-10% |
| All Dwellings | 15% | 30% | 40% | 15% |

Table extracted from policy BSC4

10.42 This demonstrates that, should these sites come forward, there will be a slight under-provision of 1-bed units, a slight under-provision of 2-bed units, an under-provision of 3-bed units; and, a significant over-provision of 4-bed units.

Housing stock

10.43 The data set out in table 9 above, when viewed alongside the below data on existing housing stock at 2011, does go some way to explain the extremely high affordability ratio in Adderbury and suggests that CDC has not succeeded in creating a socially

⁹⁴ It should be noted that housing mix is not a reserved matter and as such, cannot be controlled by CDC at reserved matters stage

mixed and inclusive community in Adderbury nor in providing new dwellings which responds to specific local needs.

| Type of property | Number of dwellings/% of total in Adderbury | Number of dwellings in district (%) |
|----------------------|---|-------------------------------------|
| Detached | 526 (44%) | 17,850 (30%) |
| Semi-detached | 407 (34%) | 20,800 (35%) |
| Terraced | 175 (15%) | 13,661 (23%) |
| Flat | 62 (5%) | 5,060 (9%) |
| Caravan | 6 (0.5%) | 177 (0.3%) |
| Total | 1,201 | 59,018 |

Table 13: housing stock in Adderbury Parish at the 2011 Census

10.44 It has been demonstrated that CDC has not secured the housing mix it requires in the District, in Category A villages or in Adderbury. The qualitative housing completions and commitments are deficient in this regard. As a result of this failure, it is necessary for CDC to secure additional housing to rebalance the existing and future housing stock

Proposed Housing Mix

10.45 The appeal proposals are for up to 40 dwellings. The description of development does not propose a specific mix of housing but the Appellant proposed the following mix during the application process:

Market housing

- 6 x 4-bedroomed homes;
- 18 x 3-bedroomed homes; and,
- 2 x 2-bedroomed homes.

Affordable housing

- 4 x 1-bedroomed units;
- 6 x 2-bedroomed units; and,
- 4 x 3-bedroomed units.

Total

- 6 x 4-bedroomed homes;
- 22 x 3-bedroomed homes;
- 8 x 2-bedroomed homes; and
- 4 x 1-bedroomed homes.

10.46 Such a housing mix would secure smaller and moderately sized homes which would be more affordable. Unlike the majority of Category A and Adderbury development, it would respond positively to Lp1 policy BSC4. Importantly, there would be a significant over-provision of 3-bedroomed homes and no over-provision of 4-bedroomed homes.

| | 1-bed | 2-bed | 3-bed | 4-bed |
|------------------|-------|-------|-------|-------|
| No. of dwellings | 4 | 8 | 22 | 6 |
| Percentage | 10% | 20% | 55% | 15% |

Table 14: Proposed housing mix

| | 1-bed | 2-bed | 3-bed | 4-bed |
|---------------|--------|--------|--------|-------|
| Market | 5% | 25% | 45% | 25% |
| Affordable | 25-30% | 30-35% | 30-35% | 5-10% |
| All Dwellings | 15% | 30% | 40% | 15% |

Table extracted from policy BSC4

10.47 The proposed mix can be secured by condition or s106 Agreement. Alternatively, a condition can be imposed requiring the housing mix to be agreed at reserved matters stage. It is anticipated this can be agreed in the SoCG.

Conclusion

10.48 CDC has identified a requirement for smaller homes in the District as a whole and in the rural area. To date, CDC has failed to respond to this need, there is a worsening affordability ratio in Cherwell and a significant affordability ratio in Adderbury.

10.49 The Appellant has shown there to be very limited scope for further residential development within the Adderbury settlement boundary. ANP policy AD1 would prevent further residential development beyond the settlement boundary. LPp1 PV3 would enable rural exception sites where affordable housing comprises at least 75% of housing provision. It is not the Appellant’s case that the appeal proposals comply with LPp1 policy PV3. However, the Appellant does contend that the proposed housing mix responds to a need identified in policy BSC4 and this social benefit carries significant weight in support of the proposals.

D: Contribution to affordable housing to meet an acknowledged shortfall

10.50 The Inspector who considered the Weston on the Green appeal stated that the provision of affordable housing “*may result in the improvement of living conditions for those, especially children, who currently reside in unsatisfactory housing and consequently I attach substantial weight to these benefits*” (para. 37)⁹⁵.

10.51 It is the Appellant’s case that substantial weight must also be afforded to the provision of affordable housing in the determination of this appeal, particularly given the Appellant can provide social rented units and there has been no delivery of social rented units in Cherwell for 4 – 5 years.

Affordable housing need

10.52 It is demonstrable that there is a district wide and Adderbury-specific need for affordable housing.

The ‘State of the District’s Housing’ (2018)⁹⁶ (SDH) and discussions with the Strategic Housing Officer (SHO) confirm that the 407 annual need continues to apply. The 2020 AMR confirms that 2,627 affordable homes have been provided between 2011/12 and 2019/20 against a need of 3,663 (407/annum).

| | Net affordable delivery/% of total net dwellings | Affordable need (SHMA) | Accumulated Shortfall |
|----------------|---|-------------------------------|------------------------------|
| 2011/12 | 204 (57.3%) | 407 | -203 |
| 2012/13 | 113 (33.2%) | 407 | -497 |
| 2013/14 | 140 (34.1%) | 407 | -764 |
| 2014/15 | 191 (20.2%) | 407 | -980 |
| 2015/16 | 322 (22.6%) | 407 | -1065 |
| 2016/17 | 278 (25.2%) | 407 | -1194 |
| 2017/18 | 426 (30.7%) | 407 | -1175 |
| 2018/19 | 507 (34.0%) | 407 | -1075 |
| 2019/20 | 446 (38.5%) | 407 | -1036 |

⁹⁵ See Appendix 45

⁹⁶ Appendix 45: SDH

| | | | |
|---------------|---------------------|-------------|--------------|
| Totals | 2627 (25.5%) | 3663 | -1036 |
|---------------|---------------------|-------------|--------------|

Table 15: Affordable housing delivery against need

10.53 The SDH also confirmed that, as at April 2018, there were 1,044 active housing register applications; and that Adderbury is one of the villages which are most requested by applicants. The Strategic Housing Officer (SHO) recently confirmed to the Appellant that:

- the number of people on the housing register has increased from that reported in the ‘State of the District’s Housing’ (2018) from 1,044 to 1,335 people;
- there are 12 people with a local connection to Adderbury; and,
- there is a social housing need of 1-bed (4), 2-beds (3), 3-beds (3) and 4-bed (2) in Adderbury⁹⁷.

10.54 The housing tenure in Adderbury Parish at the 2011 census is shown in Table 16 below, demonstrating that there was a much lower proportion of affordable housing in Adderbury than Cherwell district as a whole.

| Tenure of property | Adderbury | Cherwell District |
|---------------------------|------------------|--------------------------|
| Owned | 81% | 69.3% |
| Shared ownership | 0.6% | 0.8% |
| Social rent | 6.5% | 12.1% |
| Private rent | 10.8% | 16.2% |

Table 16: housing tenure in Adderbury and Cherwell at 2011

Affordable housing delivery

10.55 The Housing Strategy 2019 – 2024 states the following:

Cherwell has a strong track record of housing delivery and has exceeded new build targets. But the market on its own does not deliver the volume and range of affordable products that our communities need. (page 8)

New build housing has been concentrated in the main towns of Banbury and Bicester and there is a need to increase delivery of affordable housing in rural areas of the district (page 8)

⁹⁷ Appendix 46: Email from SHO

10.56 The LPP1 states that the key community issues facing the village and rural area include a lack of social rented housing (para. C.241). The AMR 2020 states “*there continues to be no delivery of social rented units*” (para. 5.79). The CDC Strategic Housing Officer (SHO) has confirmed that there has been no delivery of social rented units in Cherwell for 4-5 years. Through discussions with the SHO, the reasoning for this is that housebuilders have opted to deliver only affordable rent properties (70%-80% of market rent) as opposed to social rent (50% of market rent). This is also partly a failure of the LPA to negotiate an element of affordable properties for social rent given that there is a significant need, but there is no policy obligation to deliver social rent. The appellant is seeking to secure social rent alongside shared ownership through a S106 to provide certainty in the context that there is an identified local need in Adderbury for these properties. The SHO welcomes this approach, which goes beyond what is typically expected, and therefore is a benefit to the LPA.

10.57 The Report of the Oxfordshire Growth Board Director (see Appendix 16) also states that affordable housing delivery will be impacted by COVID-19:

Council partners will be aware of the government advice to councils to consider allowing SME developers to delay S106 commitments in a bid to support them through the crisis. For affordable housing this could take the form of either rephrasing or perhaps pressure to reduce the obligations, perhaps by remodelling or grant funding from government. This government advice has the potential to materially impact both the Deal and councils own affordable housing delivery trajectories as S106 accounted for 49% of all affordable housing delivered in 2018/19. (para. 14)

Looking at the impact of the COVID crisis on the OAHF moving forward, feedback from RPs on the Oxfordshire affordable housing market is that they are typically building a 6-9-month delay into their initial revisions of development business plans (as of April 2020) but sense these could be optimistic assessments. RPs also expect pressure for contracts to be renegotiated to reflect expected increased costs, force majeure claims and a perceived inability to accept compensation clauses for delay. (para. 20)

Proposed affordable housing mix

10.58 The Appellant is in discussions with the SHO about the following mix of affordable housing:

- 4 x 1-bedroomed units (social rent);
- 4 x 2-bedroomed units (social rent);
- 2 x 2-bedroomed units (shared ownership);
- 2 x 3-bedroomed units (social rent); and,
- 2 x 3-bedroomed units (shared ownership).

- 10.59 The equivalent percentage split can be secured by s106 or condition should the appeal be allowed. The proposals would secure much needed (district-wide and Adderbury-specific) social rent affordable housing as well as shared ownership housing.
- 10.60 The Appellant has received two letters of support from Registered Providers⁹⁸ which recognise the continued demand for affordable housing across the district and confirm a keen interest in working with the Appellant to deliver the site.
- 10.61 It is also of note that the Appellant has demonstrated that there are limited opportunities for residential development within the Adderbury settlement boundary and there are no sites capable of accommodating more than 10 dwellings, meaning very little chance of any affordable housing being provided within the settlement boundary.
- 10.62 The following extract from the CDC Housing Strategy also shows the added benefit of providing the (up to) 14 affordable homes at the appeal site:

The development of each additional affordable home attracts an enhancement of £350 per annum (over the period which the NHB is payable). Local authorities are not obliged to use the funding for housing purposes but we have set the enhanced payments (£350 per property per annum) aside to fund new affordable homes or services (page. 16)

Conclusion

- 10.63 The Council has a serious and significant shortfall of affordable housing and a locally widening gap in the ratio of house prices to earnings. As a result, the proposed 35% affordable housing provision with a proportion of social rent at the specific needs in Adderbury is a substantial social benefit.

⁹⁸ Appendix 47: Letters of Support from RPs

E: Provision of elderly housing

10.64 As stated in the Introduction to this PSoC, the application scheme did not propose housing for the elderly but the proposals do now incorporate 2No. 2-bedroomed dwellings built to Lifetime Homes standard. This responds positively to the critical need to provide housing for older people (see NPPG Ref ID: 63-001-20190626) and to an acknowledged need recently highlighted by CDC in approving an application for elderly housing in Kidlington.

Elderly Housing Need

10.65 An application (no. 19/02341/F) for 30 apartments for the over 60s in another Category A village, Kidlington, was recently approved by CDC (subject to a s106 Agreement). Significant weight was afforded to the provision of elderly housing. The Committee Report stated:

The Council's Housing Strategy 2019-2024 notes that the life expectancy of people in Cherwell is higher than the national average and that the District is expected to see a substantial increase in the older person population. The age group that will see the greatest increase is people over 85, with an increase of 142%, resulting in a significant increase in the demand for accommodation that is suited to an older population and the need for associated care and support services. Oxfordshire as a whole is expected to see a substantial increase in the population of older people with the total number of people aged 55 and over expected to increase by 49% over 20 years.

The 2014 Oxfordshire SHMAA suggests that in Cherwell the 55+ population will increase by 58% - the highest of the Oxfordshire districts. Whilst the SHMAA suggests that one of the implications of this demographic change is likely to be a growing need for specialist older persons housing, such as sheltered or extra care provision, it is not specific about the types of specialist housing needed. It also recognises that there may be an option to substitute some of this specialist provision with a mix of one and two bedroomed housing aimed to attract 'early retired' older people which could be designated as age specific or not. Such housing could be part of the general mix of one and two bedroomed homes but built to Lifetime Homes standards in order to attract retired older people looking to 'down size' but perhaps not wanting to live in specialist retirement housing. (para. 9.19 – 9.20)

10.66 The Housing Strategy seeks to “broaden the housing choices for older people including co-housing, shared ownership and smaller homes for open market sale” (page 15). It states that this would be in line with the Older People's Strategy 'Living Longer, Living Better' (Oxfordshire Health and Wellbeing Board).

10.67 The Government has confirmed that the need to provide elderly housing nationally is critical and it is evident that this is reflected in Cherwell.

Elderly Housing provision

10.68 The addition of 2No. 2-bedroomed units (5% of housing) built to Lifetime Homes standards further improves the proposed housing mix. It fosters the creation of mixed and inclusive communities in line with LPP1 policy BSC4 and will help to deliver a wide choice of high quality homes, as required by LPP1 policy BSC1. The proposed elderly suitable units would appeal to empty nester owner which in turn, would have the added benefit of releasing larger family homes from the existing stock to the market.

Conclusion

10.69 The provision of elderly suitable units as part of the overall housing mix is a social benefit that should be afforded weight in the decision making process.

F: Provision of green infrastructure, managed in perpetuity

Public Open Space deficiency

10.70 LPp1 policy BSC10 supports the provision of sufficient quantity and quality of, and convenient access to open space, sport and recreation provision. This includes addressing existing deficiencies in provision through qualitative enhancement of existing provision, improving access to existing facilities or securing new provision. Policy ESD17 also seeks to maintain and enhance the district's green infrastructure network. The LPp1 states that one of the key community issues facing the villages and rural areas is deficiencies in open space provision (para. C.241).

10.71 The Council's most up to date evidence base highlights a public open space shortfall. 'Green Space Strategy' (2008) states that there is a shortfall of both natural/semi-natural green space and amenity green space in Adderbury, as well as a deficiency in children's play across the Rural North. The CDC 'Open Space Update (OSU (2011)) states:

- There is a shortfall of natural/semi-natural green space in the Rural North and the Action Plan is to negotiate public access agreements to privately owned natural/semi-natural provision in Adderbury (and other settlements) and to improve the quality of existing sites, especially access.
- There is a shortfall of amenity green space in the Rural North and the Action Plan is to develop 4.1ha of space with priority provision in Adderbury (and other settlements) and to improve the quality of existing space, especially access.
- There is a shortfall of children and young persons provision in the Rural North and the Action Plan is to provide a combination of new equipped play areas and additional play opportunities using other forms of green space and to improve the quality of existing play areas.

10.72 LP Policy Villages 4 identifies a shortfall in public open space (POS) in Adderbury. NP policy AD2 seeks to enhance the integrity and green infrastructure (GI) value of the GI network in the village.

Proposed Public Open Space

10.73 The illustrative masterplan/landscape strategy and parameters plan⁹⁹ demonstrates that significant, attractive on-site POS can be provided. The Committee Report confirms that approximately 0.26ha of open space would be required for the proposed development. The on-site POS could total some 2.53ha in extent (2.27ha more than

⁹⁹ Appendix 48: Landscape Strategy (updated since decision on application (and not yet seen by LPA) to respond to POS Officer request to avoid play area being beyond attenuation pond and to provide added illustrative detail on landscaping proposals)

would be required by the LPP1 and 63% of the appeal site) which would comprise of semi-natural green space, amenity green space and an equipped play area. It will also provide seating, facing northwards to create a space with views of the Church spire. During the application process, CDC confirmed that the composition of the proposed POS was appropriate.

10.74 The masterplan also shows that the POS can be accessed directly from the adjoining public rights of way and Berry Hill Road (via the new footway), making it easily accessible for existing Adderbury residents. The proposed POS is within easy walking distance of a large proportion of the local community.

10.75 Furthermore, the new footway along Berry Hill Road responds to the existing opportunity identified in the NP (Policies Map Inset A) to enhance the GI Network by connecting the PROW to the east of the site to the network that runs from the Berry Hill Road/Horn Hill Road junction. The Parish Council does not have an alternative means of funding this project; it requires development to come forward. Whilst it is necessary for mitigation purposes, the proposed Berry Hill Road footway also provides a GI benefit of weight.

Compliance with ANP policy AD2

10.76 It is of note that CDC acknowledges that the proposals comply with ANP policy AD2, which requires that *“development proposals on land that lies within or immediately adjoins the defined GI network must demonstrate how they maintain or enhance its integrity and green infrastructure value, by way of their landscape schemes, layouts, access and or through equivalent alternative provision nearby”*.

10.77 The provision of the footway along Berry Hill Road enhances the GI network allowing the local community to walk along the route (see para. 5.14 of ANP). The masterplan and landscape strategy have been designed to enhance the network (see para. 5.15 of the ANP) and this can of course be secured at RM stage. As stated in the LSoC, the proposals would enhance the village’s GI.

Conclusion

10.78 The NPPF confirms that *“access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities”* (para. 96). Indeed, this has been emphasised in recent times due to the pandemic. The on-site POS provision, which would be managed in perpetuity, and the enhancements to the GI Network are social benefits to be weighed heavily in favour of the proposals.

G: Improved views of St Mary's Church

10.79 As stated in the Heritage Statement, *“The proposal site does not make a contribution to the significance of the listed church, as the site has no historic or visual relationship with the asset. There are views of the church spire from within the proposal site, but these are not clearly visible from the south along Berry Hill Road, as the substantial boundary distorts the view”*. Historic England confirmed that an appropriate scheme could be brought forward at RM stage and CDC agrees; there is no heritage-related reason for refusal.

10.80 The HS continues to state that *“the views of the listed church from the south will be improved, and the provision of public open space with a play area, will provide access to views of the church which are not currently accessible to members of the public”*. Historic England provided comments during the application process (prior to the submission of the visualisations) and stated that *“allowing public access to proposed green space in the north of the site would enable new, clear views of the church, which would allow for a better appreciation of this building within the landscape”*. HE also stated *“this proposal’s indicative layout show adjustments which could result in improved views of the church from Berry Hill Road and that views from within the site could be enhanced through increased public accessibility”*.

10.81 The submitted Wider Context Plan, Visualisations and updated DAS demonstrate that views of the Church from Berry Hill Road will be improved.

- A footway will be introduced along Berry Hill Road;
- The site entrance will be opened up with views of the Church extending along the eastern side of the site; and,
- a pedestrian link to Berry Hill Road will be provided in the south western corner of the site and views towards the Church will be framed by development, as encouraged in the Council’s Design Guide SPD (figure 4.10).

10.82 This is a social benefit to be weighed in the planning balance.

Economic Benefits

10.83 The COVID-19 pandemic has impacted significantly on the economy. At the time of writing this PSoC, the true extent is unknown and this may of course be the case at the time that a decision is made on the appeal proposals¹⁰⁰. However, the pandemic will undoubtedly have a significant impact. The economic benefits that arise from the appeal proposals are certainly of more importance now than they would have been at the time the application was refused.

10.84 The Appellant is willing to accept a condition requiring an application for Reserved Matters approval to be submitted within 12 months of the appeal being allowed to secure swift economic benefits.

10.85 It is the appellant's case that the economic benefits should be given significant weight.

¹⁰⁰ It may be necessary for both the Appellant and CDC to provide the Inspector with an up-to-date stance on the economic benefits and anticipated housing delivery rate in advance of the Hearing.

H: Employment opportunities for construction industry and benefits to supply chain

- 10.86 The site is deliverable; the applicants intend to either build the development (via sister company Hollins Homes), or partner with a housebuilder. It is anticipated that the development could be built out in 1.5 years¹⁰¹ from approval of last reserved matter and so the proposals would provide for 1.5 years of economic benefits for the construction industry.
- 10.87 Appendix 49 provides an Economic Impact Assessment¹⁰² of the appeal proposals, setting out the economic benefits that would arise from the proposed development.
- 10.88 The EIA states that the proposals would result in 62 FTE construction jobs per annum over the construction phase and an additional 94 FTE jobs per annum would be supported by the proposed development in sectors across the UK economy.

¹⁰¹ Based on a build out rate of 35 dwellings per annum and HSL track record (see appendix 43)

¹⁰² Appendix 49: Economic Impact Assessment

I: Spending in Local Shops and Businesses

10.89 The permanent economic benefits would accrue to the local shops and businesses in Adderbury and the surrounding area, which is of added importance given Adderbury's role as a service centre. It has been demonstrated that the site is within easy walking and cycling distance of the services/facilities in and around Adderbury and is accessible to the wider area by public transport. The addition of up to 40 dwellings would help to maintain and possibly enhance local services and facilities, through the additional spending power of the new residents, in accordance with the NPPF (para. 78).

10.90 The EIA highlights the following operational and expenditure benefits:

- £220,000 first occupation expenditure;
- £372,000 resident expenditure; and,
- 4 supported jobs from increased expenditure in the local area.

Environmental Benefits

J: Enhance biodiversity

10.91 The Ecological submissions confirm that measures to enhance biodiversity can be implemented. The Biodiversity Impact Assessment Calculator¹⁰³ confirms that a 24.32% biodiversity net gain could be achieved along with a 19.69% gain in hedgerow units. The Appellant's ecological consultant confirms that this is an excellent result which goes far beyond the 10% CDC requirement.

10.92 This environmental benefit can be secured by condition and should be given significant weight in the decision making process.

¹⁰³ Appendix 50: Biodiversity Impact Assessment (updated to reflect Landscape Strategy)

K: Enhance sustainability of Adderbury

10.93 It has been demonstrated that Adderbury is one of the most sustainable Category A villages and that the appeal site is locationally sustainable. It is also demonstrable that the appeal proposals will enhance the sustainability of Adderbury.

Delivery of Recreational facility

- A contribution to the Milton Rd recreational facility which itself would enhance the sustainability of Adderbury through the provision of POS and recreational facilities in a sustainable location.

Public Transport

- A financial contribution would be secured for the improvement of the bus stops at the Horn Hill Road/Berry Hill Road junction which should help encourage use of the bus service.
- A contribution will be secured to pump prime the bus services along the A4260.
- Bus stops will be provided near to the junction between the A4260 and Berry Hill Road to provide Adderbury residents, particularly those in west Adderbury, with convenient access to the A4260 bus services, including the S4 Gold service.

GI Network and access to services/facilities

- A financial contribution would be secured to improve the adjoining PROWs, which would benefit future occupiers of the development but also, existing Adderbury residents who could make better use of the PROWs year-round, providing a more attractive GI network and an alternative route to services/facilities from west Adderbury.
- A pedestrian refuge would be provided at the junction between the A4260 and Berry Hill Road, improving pedestrian routes from the village to the PROW network to the south and to the Twyford Mill Estate.
- The proposals will result in the provision of a footway along the length of Berry Hill Road, enhancing pedestrian routes to Horn Hill Road, the GI Network, the A4260, the Adderbury Day Nursery and employment at the Twyford Mill Estate. The footway has been identified as a benefit by OCC, is an identified opportunity in the NP and is compliant with ANP policy AD2.
- It is also of note that the Parish Council has identified a speeding issue along Berry Hill Road and is in the process of progressing a traffic calming scheme involving chicanes along Milton Road and Berry Hill Road. As at 24/06/2020, it was hoped

that the scheme would be implemented “*over the coming months*”. The footway will further improve highway safety¹⁰⁴.

10.94 The environmental benefit of enhancing the sustainability of Adderbury in this regard weighs significantly in favour of the application proposals.

¹⁰⁴ Appendix 51: APC Traffic Calming Update 24/06/2020

11 Case for the Appellant: Summary and Conclusion

Compliance with development plan as a whole

- 11.1 The Appellant has demonstrated that the appeal proposals comply with the development plan as a whole.
- 11.2 The Reasons for Refusal allege that the proposals do not comply with the policies listed in Table 17 below. However, the Appellant has demonstrated compliance with all relevant policies other than CLP policy H18 and ANP policy AD1.

| Policy reference | Policy heading | Compliance |
|---|--|-------------------|
| Reason for Refusal 1 | | |
| <i>Local Plan Part 1</i> | | |
| ESD1 | Mitigating and adapting to climate change | Yes |
| | | Section 8 of PSoC |
| BSC1 | District wide housing distribution | Yes |
| | | Section 5 of PSoC |
| SLE4 | Improved transport and connections | Yes |
| | | Section 8 of PSoC |
| Policy Villages 2 | Distributing growth across the rural areas | Yes |
| | | Section 6 of PSoC |
| <i>Cherwell Local Plan Saved Policies</i> | | |
| H18 | New dwellings in the countryside | No |
| | | Section 4 of PSoC |
| Reason for Refusal 2 | | |
| <i>Local Plan Part 1</i> | | |

| | | |
|---|--|--|
| ESD13 | Local landscape protection and enhancement | Yes |
| | | Section 9 of PSoC and Section 5 of LSoC |
| ESD15 | The character of the built and historic environment | Yes |
| | | Section 9 of PSoC Section 5 of LSoC |
| Policy Villages 2 | Distributing growth across the rural areas | Yes |
| | | Sections 6 and 9 of PSoC and Section 5 of LSoC |
| <i>Cherwell Local Plan Saved Policies</i> | | |
| C8 | Sporadic development in the open countryside | Yes |
| | | Section 9 of PSoC and Section 5 of LSoC |
| C27 | Development in villages to respect historic settlement pattern | Yes |
| | | Section 5 of LSoC |
| C28 | Layout, design and external appearance of new development | Yes |
| | | Section 9 of PSoC |
| C33 | Protection of important gaps of undeveloped land | Yes |
| | | Section 9 of PSoC |
| <i>Adderbury Neighbourhood Plan</i> | | |
| AD1 | Adderbury settlement boundary | No |
| | | Section 7 of PSoC |

Table 17: Compliance with policies listed in reasons for refusal

- 11.3 The Appellant acknowledges non-compliance with CLP policy H18. However, the policy is out of date, and also conflicts with PV2, which post dates it. Where there is a conflict between H18 and PV2, the conflict is resolved in favour of the later policy (PV2). Given that there is no conflict with PV2, the technical conflict with H18 is not therefore a reason for finding that the proposal conflicts with the development plan as a whole.
- 11.4 The Appellant acknowledges non-compliance with ANP policy AD1. The strategic parent policy is policy LPp1 PV2. Policy AD1 seeks to restrict development outside settlement boundaries on the basis of a housing figure that is now out of date, because it was not prepared in accordance with the provisions of the 2019 NPPF, nor was not examined in accordance with NPPF either. Furthermore, subsequent appeal decisions have very clearly indicated that there is no spatial distribution implied by the parent policy, PV2, which was the justification for the policy of restriction in AD1. The purpose of the neighbourhood planning process is not to impose strategic policies of restriction or restrict development that would otherwise be permitted by the strategic policy. Therefore, where there is in fact compliance with the parent strategic policy PV2, as is the case for the appeal proposals, non-compliance with policy AD1 is not a reason for finding that the proposals conflict with the development plan as a whole.
- 11.5 Furthermore, the appeal proposals comply with all of the other relevant development policies listed at Appendix 52¹⁰⁵. The LPA does not allege otherwise.
- 11.6 As a result, the proposals comply with the development plan as a whole and should be allowed. CDC has not demonstrated that there are any material considerations that outweigh compliance with the development plan.

Tilted Balance

- 11.7 Even if the Inspector concludes that there is a conflict with the development plan as a whole, this is a case where the tilted balance is engaged.
- 11.8 Para. 11d of the NPPF states that permission should be granted where the “*policies which are most important for determining the application are out-of-date*”. The basket of policies most important to the determination of the appeal is dominated by LPp1 policy PV2 and ANP policy AD1. These are the two development plan policies that guide where development will be acceptable in principle. Indeed, CDC has stated that policy AD1 is the key policy in respect to considering the principle of development. AD1

¹⁰⁵ Appendix 52: Table showing compliant policies

is out of date for the reasons set out in section 7 of this PSoC. As a result, the tilted balance is engaged.

11.9 In accordance with para. 11d of the NPPF, the appeal should be allowed unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

11.10 Para. 14 of the NPPF states the following:

In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:

- a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;*
- b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;*
- c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and*
- d) the local planning authority's housing delivery was at least 45% of that required over the previous three years.*

11.11 The ANP became more than 2 years old in July 2020 and it does not contain policies and allocations to meet its identified housing requirement. As such, the conflict with the ANP must not be afforded such weight that it is “*likely to significantly and demonstrably outweigh the benefits*”.

11.12 The Appellant has demonstrated that the conflict with ANP policy AD1 is of limited weight given the policy is out of date and should be afforded reduced weight in the decision making process. Additionally, the LSoC demonstrates that:

- the Appeal Site is suitable for the development proposed, which has evolved through an iterative design process to take account of landscape and visual parameters from the outset;
- here are no significant adverse effects on landscape or visual receptors, and indeed benefits have been identified;
- No landscape or visual designations would be adversely affected; and,
- The proposals respond to the site and its setting

11.13 These LSoC conclusions reduce the weight to be given to the loss of land beyond the built up limit.

11.14 These considerations are to be weighed against the following benefits:

Social benefits

- A. Contribution to market housing in context of requirement to boost supply;
- B. Contribution to housing provision in context of LPP1 plan period requirement;
- C. Provide much needed small and moderately sized homes;
- D. Contribute to affordable housing to meet an acknowledged shortfall and local need;
- E. Provision of elderly housing;
- F. Have the potential to provide high quality public open space, accessible to existing residents and managed in perpetuity, contributing to an acknowledged shortfall; and,
- G. New and improved publicly accessible views of St Mary's Church.

Economic benefits

- H. Provide employment opportunities for the construction industry and benefit the wider construction industry supply chain; and,
- I. Result in spending in local shops and businesses.

Environmental benefits

- J. Enhance biodiversity at the site; and,
- K. Provide locationally sustainable development and enhance sustainability of Adderbury.

11.15 it is the Appellant's case that the adverse impacts cannot be deemed to significantly and demonstrably outweigh these numerous benefits, which are of significant weight and include the provision of market housing in the absence of a 5-year supply as well as affordable housing to meet an acknowledged shortfall.

11.16 In addition, when assessed against the NPPF as a whole and the three dimensions of sustainable development (economic, social, and environmental), it is evident from the above assessment of the benefits and adverse impacts that the appeal proposal contributes positively to each of the dimensions of sustainability and that it represents sustainable development within the overall meaning of the NPPF.

Straight Balance

11.17 Alternatively, the Appellant has demonstrated that the benefits, when considered alongside compliance with development plan policies, are of such weight that they would justify the appeal being allowed should the Inspector consider that the tilted balance is not engaged and that the proposals do not comply with the development plan as a whole. The only conflict with the development plan is with ANP policy AD1 and CLP policy H18, both of which are out date for the reasons set out above. In any event, the benefits are substantial and significant and clearly outweigh any limited and technical conflict with the development plan.

Conclusion

11.18 The Appellant has demonstrated that there are three routes available to the Inspector to allow the appeal. The appeal should be allowed.