

North West Bicester Alliance (NWBA)

CLOSING STATEMENT for the Firethorn Appeal

R. Fellows, 14/06/2023

A. INTRODUCTION

1. In the Opening Statement, the NWBA stated our reasons for requesting to be a Rule 6 party in this planning inquiry: because we submit that the proposed development of 530 homes, as it currently stands, would have a significant adverse effect on the future of the NW Bicester Ecotown, with ramifications far beyond it, and a severe impact on the surrounding area caused by traffic congestion.
2. We have continued to work faithfully, constructively and diligently, throughout this Inquiry, as we have done since the start of the Firethorn application process.
3. The purpose of our involvement has been to highlight the critical issues which have remained unanswered from the beginning of the planning process to the end and remain unanswered by the Appellant's own evidence in this appeal.
4. We submit that these issues remain crucial to the success of the proposed development and the whole Ecotown vision, upon which the NW Bicester local plan was based.
5. The failings of the present application remain, and the critical elements which remain unaddressed either properly or at all are:
 - a) The proposed designs for Highways and Access;
 - b) Degradation of Ecotown requirements and principles; and
 - c) Future Impacts.

B. HIGHWAYS AND ACCESS

6. For the most significant topic of Highways and Access, we have focused on 2 aspects of the Appellant's designs for modifications that arise from the plans to add 207 new homes onto the end of the pre-existing road Charlotte Avenue.

B1 TRAFFIC IMPACT ASSESSMENT:

7. Regarding the first of these aspects: we have presented and highlighted several errors occurring in both application and appeal drawings, given in our evidence but not rebutted by the Appellant. It is submitted that this appeal can draw conclusions regarding the severe impacts caused by traffic congestion and pollution, which would be created by the proposed plans as they remain in this appeal, and most critically, the increased risk to the safety of cyclists and pedestrians, especially pupils travelling to Gagle Brook Primary School.
8. We submitted on several occasions up to and including the 9th of March planning committee meeting that there were design errors with the proposed modifications to the Phase 1 bridge, i.e. that this was flawed. We included these in our evidence. The Appellant's witness, Mr Kirby, did not rebut the ETPG evidence, nor did he rebut this part of Mr Mason's evidence, but left it until the Inquiry itself to discuss them.

9. We submit that these errors have been proven to remain in the design. For the Phase 1 bridge, Mr Kirby has now conceded that the design's 3.0 metres measurement should be 3.5 metres, and that the proposed reduction to the 2.0 metres minimum, which would render the scheme unviable, was a decision for OCC Highways (however, the latter have never acknowledged the bridge design issues, despite it being raised with them several times prior to this Inquiry).
10. It is submitted that this exposes a very important *theme* which runs throughout this planning application and appeal. Throughout the cross-examinations on the 14th of June, Mr Kirby relied *repeatedly* on the suggestion that '*OCC Highways must have considered [this particular aspect/issue] and concluded it is fine, otherwise they would not have removed their Objections.*' Just because OCC Highways have removed their objections, as the evidence has shown, unfortunately does not equate to them having actually considered the particular problem highlighted, let alone considered the impact of some of the more significant errors.
11. My opening statement noted that part of my current work focusses on *computational epistemology*, which is the modelling of knowledge provenance, and data accuracy. Knowledge in humans means errors. Benjamin Franklin said: "*To err is human, to persist devilish, to repent divine.*"
12. The Appellant has continued to rely on the removal of objections by OCC Highways, despite many points simply being *missed* by OCC Highways. Much of our evidence has been to show that, like any human, errors were made in OCC's appraisal of the proposed highways and access designs; but more concerningly, they have failed to properly acknowledge those errors, let alone rectify them before or during this Appeal.
13. A few examples of these are:
 - a) In their first Objection, in July 2021 [CD5.1], OCC Highways asked Mr Kirby to respond to all of the points raised in the initial objections submitted by both ETPG and BBUG [CD5.16 and CD5.21, respectively].
 - b) However, most were never answered, and others answered inadequately (such that we are still asking for a response to the objections during the course of this Inquiry, two years later). This wholly incomplete response has still not been resolved, and was then forgotten by OCC Highways.
 - c) OCC Highways also objected to the arbitrary assignment of pedestrians to one side of the road or another, when assessing the proposed modifications to the Phase 1 bridge, shown in TN 004 [CD2.3.7], Figure 4-3 on page 16. Mr Turner noted in his evidence: that in OCC Highways' second Objection [CD5.2], on page 5, they noted that "*no proposals had been brought forward*" to resolve this objection – implying that this was still expected. However, there has been no subsequent mention of it.
 - d) OCC Highways accepted the design proposal for the narrow section, but did not change their position after CDC noted it would require tree removal, and continued to refuse to change their position despite it being pointed out that this stance would contravene their own Tree Policy for Oxfordshire [CD8.3.14, Policy 11].
 - e) OCC Highways missed the design/measurements errors for the Phase 1 bridge; they missed the requirement that LTN 1/20 should be complied with; they missed that the bridge was noted as a key constraint by Mr Kirby; and they also missed that the

bridge is only part of the much longer length of Charlotte Avenue requiring compliance, as noted by Mr Turner.

f) OCC Highways have, according to Mr Kirby's assumption, determined that at a 2016 baseline transport model, predicting the future traffic levels, could have been validated for that area of the model's traffic predictions - for a scheme which had not yet had a single home occupied. We submit that this is impossible. It could be *verified* that the updated model remained accurate for other parts of Bicester; but it could not be *validated* for Elmsbrook, which is where the Appellant's use of the BTM as the only prediction method relies on the model accuracy to justify an NPPF-compliant design.

g) Mr Kirby stated during cross-examination that OCC Highways told him to use the BTM *only*. We have seen nothing in evidence to confirm this. In any event, this ignores OCC Highways' *own policies*, given in the Oxfordshire Local Transport and Connectivity Plan – including all the text surrounding policies 45 and 46 – which confirms that models need validation against real survey data.

14. We submit that Mr Kirby's assumptions regarding OCC's responses follow through into the evidence submitted to this inquiry.

15. Mr Kirby admitted that he and Mr Moss never discussed the remainder of Charlotte Avenue – indeed, it appears from Mr Kirby's response in cross-examination that both he and Mr Moss had not read 'Reason for Referral 2' correctly, where it clearly applies to all of Charlotte Avenue, as was stated on the 9th of March 2023 at the planning committee meeting. (NB: Mr Kirby also acknowledged, under cross-examination, that the bridge is indeed near to Gagle Brook Primary School, so the second sentence of 'Reason for Referral 2' would not exclude this if it were interpreted as refining the scope set by the first sentence.)

2. *The access arrangements to the site would be unsatisfactory as there would be an inability to provide for suitable pedestrian and cycle facilities along Charlotte Avenue. Any localised proposals to the road have not been proven to be possible, and are likely to raise safety concerns relating to users of the highway within proximity to Gagle Brook School, and would result in the loss of street trees and would impact on the character of the existing Eco Town. The proposal would not meet the requirements of LTN1/20 and would conflict with Oxfordshire County Council's 'Local Transport and Connectivity Plan' Policies 1, 2b, 8, 9, 11, 35, 45 and 46b, Oxfordshire County Council's 'Tree Policy for Oxfordshire' Policies 11, 18, 19 and 20, Policies SLE4 and Bicester 1 of the Cherwell Local Plan Part 1 2011-2031 and the North West Bicester SPD 2016.*

16. Mr Kirby admitted that the proposed Phase 1 bridge design (given in TN004) would make it less safe for cyclists and pedestrians – with no proposed direct mitigations, only a contribution to future upgrades. He acknowledged that the proposed design would not be LTN1/20 compliant: not suitable, not coherent, not direct, not attractive to cyclists or pedestrians. He further stated that any solution he had/could think of would be too expensive to be feasible.

17. However, Mr Kirby then stated that he is confident that OCC Highways had judged the contribution amount correctly (for an LTN1/20 compliant scheme which he cannot think of,

and which we have no evidence OCC Highways have any design for) – and he spoke of a potential “wider scheme” by OCC Highways which would be needed to bring the whole of Charlotte Avenue up to LTN1/20 standards.

18. There is simply no evidence provided for the existence of any such a scheme or what, if it existed, it may consist of.
19. In direct contradiction to Mr Kirby’s statements, in her address to you last week, regarding calculations for the s.106 contributions: Ms White of OCC Highways stated that the Appellant had provided the schemes for modifications to both the narrow section of Charlotte Avenue and the Phase 1 bridge, and that it was the *Appellant* who had proposed the costs for them: and she had assessed the costs proposed, and calculated a more detailed version to confirm they were accurate *for those schemes proposed at the time*.
20. This was given further confirmation in writing, in the OCC Highways written submission regarding this, sent just before 5pm on the final day of the Inquiry hearings (Wednesday 14th of June 2023). (NB: At time of writing, this document, titled “Local Roads Contribution - Additional information 14.6.2023” has not yet been added to the Inquiry Documents folder, and no IQ reference number has been confirmed.)
21. We submit that OCC Highways clearly do not have a higher scheme to make everything LTN1/20 compliant in this area, as Mr Kirby suggests they were contributing to, and which they have been comparing against, to enable the length of Charlotte Avenue to be modified to support the extra 207 homes and meet national and local policy requirements (i.e. including NPPF paragraphs 110 and 112). We also submit that OCC Highways have not had chance to review things considering Mr Kirby’s admissions that the scheme does not meet these policies, nor to speak to the Inquiry regarding this.
22. Mr Kirby claims there is no onus on him to demonstrate a viable solution; however, he confirmed under cross-examination that this would be true for the narrow section north of the school; furthermore, he has spent significant time trying to address this latter issue; but not the Phase 1 bridge issue. We submit that neither OCC Highways nor Mr Moss have properly considered the significant issues with this bridge which are so fundamentally fatal to the viability of the entire proposed plan.
23. Mr Kirby’s set of assumptions and decisions do not seem consistent or viable. He stated in evidence: “*I must have confidence in OCC Highways...*” regarding the imagined LTN1/20-compliant solution for Charlotte Avenue, but then admitted that he did not know how it was possible to achieve it. Without evidence to confirm these assumptions, the Appellant’s case has not demonstrated mitigation of the safety and traffic impact issues, as we submit it is required to do.
24. Mr Turner suggested that OCC Highways’ decision regarding how to spend the money has to come *after* this Appeal decision, with no proof in evidence of a possible solution. Furthermore, in his evidence given on Tuesday 13th of June 2023, Mr Mason noted that OCC Highways might not be *able* to spend the money from the S106 contribution in the future – for example, if an affordable scheme, including this £100,000 contribution the Appellant has proposed, turns out to be impossible. We are deeply concerned that, with such a low funding level, it will inevitably prove to be impossible.

25. The facts are simple for all of these points; and thus the highways and access design submitted to the Planning Committee *was indeed* unsustainable, a position which has been aggravated by the fact that neither the Appellant nor OCC Highways had/has previously acknowledged that these issues exist, let alone worked collaboratively to explore how to mitigate the problems.
26. The evidence of Mr Mason [CD16.3] and the Gagle Brook School statement [IQ3] have shown that the Appellant's arguments are completely flawed regarding the future school demographic in terms of pupil / residence locations. Mr Kirby's position remains that the school would not need significant roadside parking on Charlotte Avenue in future, due to it being mostly one-way traffic (as argued by Mr Mason in his evidence), because the proportion of trips by car would not reduce just to 20-25%, as the school hopes, but to an unsubstantiated significantly lower proportion.
27. Mr Kirby acknowledged that he/his colleagues had never asked the school about their demographic in terms of pupil / residence locations, as regular travel plans provide (and have been used by ETPG for modelling the trend vs time, e.g. as shown in CD16.23, pages 1-2 and 5-7, etc.), nor had they asked about the NEST facility and its future growth.
28. We have shown in our evidence, including the School's own statement regarding this point [IQ3], that reducing the assumed transport mode to a figure significantly below '20% by car' is "wholly unrealistic." Mr Mason noted in his evidence in chief that there is no incentive in the Travel Plan to achieve below 20% as the long-term goal.
29. This appeal has been able to witness the current situation at Gagle Brook Primary School, during a morning peak hour, and thus observe the impact that Charlotte Avenue traffic currently experiences between 8.15am and 8.45am – i.e. within the time period where the queue to the B4100-A4095 ring road junction extends *beyond* Charlotte Avenue.
30. We would submit that the following is also relevant: that the school is only just over 50% capacity, and that the Appellant's stated case targets to be able to potentially achieve the transport mode shift required would require 6 buses per hour at this peak time of day.
31. We submit that the period for which Charlotte Avenue will comprise of one-way flow with several passing points will be a significant proportion of this peak hour. All of the Appellant's simulations – including the single set of results remaining relevant to the draft planning condition 35 [IQ26] transport mode target, with 50% trips by car – assume two-way flow for the *entire* length of Charlotte Avenue.
32. There is also the question of the negative flow numbers, which Mr Mason's evidence suggests show that the 2031 simulation results are underestimates - and we cannot know by how much, but they are potentially substantial underestimates. Mr Kirby has acknowledged that these were *not discussed with* OCC Highways. As we pointed these out prior to the Inquiry, they could have been addressed by Mr Kirby at any time: in evidence, or in his rebuttal to Mr Mason. Yet Mr Kirby chose to wait until his Evidence in Chief on the final morning of the Inquiry, when he submitted that they are an anomaly of subtracting the future Firethorn development, in order to give us the "2016 Baseline" i.e. only including the Exemplar Phase traffic.

33. As a data modelling engineer, sitting on the National Data Strategy, this explanation makes no sense to me. The 2016 baseline shows flows to Elmsbrook Phase 1 homes which had not yet been built and occupied. (This in itself shows that the modelling is producing anomalous results, using erroneous numbers of homes which have been completed, occupied and thus generating traffic, and this is *offset* in time with respect to the rest of Bicester: this implies a serious error, as noted along with other issues in our first Objection [CD5.16].)
34. Removing the future traffic levels from the proposed 530 homes to get back to the 2016 baseline, it would be necessary to somehow take the model in a reverse-time direction. This is not the way future prediction models work: they are built from surveys in the base year and then growth and future development are added, and predictions work stepwise forwards in time.
35. We therefore conclude that there is no reason to change the conclusions of Mr Mason, regarding this anomaly. We submit that the anomaly noted for the Braeburn Avenue trips vs homes proportionality discrepancy, also dismissed in cross-examination by Mr Kirby as a product of the BTM, is another example, and note that there are also further examples, pointed out in our first Objection of June 2021 [CD5.16]. In conclusion, we submit that all of these demonstrate that the reliability and robustness of the model results presented by the Appellant cannot be trusted to be able to form coherent evidence of the future impact of these plans.
36. The Appellant has therefore not produced a single simulation result which can be claimed to robustly and reliably assess the impact of these plans. The Appellant cannot therefore realistically claim with any degree of confidence that the Degree of Saturation values at the B4100-Charlotte Avenue junction would be within the acceptable limits, because they have simply not taken all these different factors (proposed bridge design errors, one-way flow, BTM anomalies) into account and *demonstrated* this.
37. We have shown how extrapolation from survey and monitoring data can and should act *in combination* with simulations, to validate the model and confirm its accuracy, as intended by the surrounding explanation and wording of Oxfordshire's Local Transport and Connectivity Plan, Policies 45 and 46 – this was the purpose of the ETPG work reported in ES1-6 and 9-10, CDs16.19-24 and 27-28.
38. We submit also, regarding the wider impacts: *if* the Appellant is wrong about the severity of the B4100 junction with Charlotte Avenue, as appears on the evidence to be likely, then there is also no proof regarding wider impacts, e.g. upon the A4095 junction. This is because the actual compounding effects on the wider road network have *not been demonstrated* or properly considered.
39. These assessments would require repeating, with a predictive model validated for the Elmsbrook part of the BTM, in order to be confident of robust and reliable results. This is my professional opinion, based on more than two decades of experience studying the approach to modelling analysing many different types of data, including studying traffic and junction modelling during my MEng at the Cambridge University.
40. In cross-examination, Mr Kirby acknowledged that the distance from the proposed signalisation design “stopping point” to exit Charlotte Avenue onto the B4100 is around 44 metres from the first junction on Charlotte Avenue – the crossroads with Morello Close and Chantenay Close. Mr Kirby agreed that, using 5.75 metres per vehicle in the queue, it would

therefore only need a queue length of 8 vehicles before this junction becomes obstructed. Mr Kirby had noted in his evidence in chief that this is the metric used by OCC Highways for the A4095-Bucknell Road junction case as a definition of “severe impact.”

41. In evidence ES-4 (CD16.22), the results of the ETPG March 2023 traffic survey, it is stated that, for Charlotte Avenue: “Queue length to leave P1->B4100 up to 6 at several points, incl. 8.13 and 8.26.” Based on the evidence of Mr Mason [CD16.3], and the modelling and observations of ETPG [CDs16.19-28], we submit there is significant evidence that this queue length will *soon* increase well beyond 8 cars for significant proportions of the morning peak hour, and that the long-term future queue lengths would be higher than this.
42. In conclusion, therefore, the Appellant cannot demonstrate that the highways impact would be “*less than severe*”. Mr Mason, based on his significant experience as a highways assessment engineer, has stated that it in fact indicates the contrary. We would submit that at best it is merely cognitively biased guesswork – and if that were acceptable as proof to meet NPPF Paragraph 111, then no applicant would ever need to bother with any form traffic simulations or modelling.
43. This concludes our analysis of reason for referral 3, which we submit remains well founded.

B2 SAFETY AND POLLUTION:

44. We have presented out assessment of the submissions regarding the safety and pollution aspects relating to the Appellant’s choice of access design, and the proposed highways modifications, with particular regard to safety of cyclists and pedestrians.
45. For the 8-9am peak hour, this affects all pupils arriving by foot, bicycles and scooters to Gagle Brook Primary School, and all cyclists leaving Elmsbrook to commute elsewhere, or coming from elsewhere to work at the Eco Business Centre.
46. Mr Turner and Mr Mason both provided evidence regarding the applicability of LTN1/20, the wording of which is in direct contrast to what Mr Kirby had stated in his evidence (regarding new schemes, CD14.11, paragraph 5.10 on page 9) and rebuttal (regarding “guidance” vs policy, CD14.13, paragraph 5.5 on page 7). By adding 207 homes to Charlotte Avenue, it has been confirmed that the Appellant is *required* to make it LTN1/20 compliant. Yet there is no submitted design achieving this.
47. Due to the significant increase in traffic levels which the proposed additional 207 homes would create – and the fact that there are other viable solutions (NB: discussed further below) – we submit that our following submission remains accurate: that the addition of these extra proposed homes is not mitigated by the proposed changes to Charlotte Avenue, and that overall, the health and safety risk to cyclists, pedestrians, wheelchair users, all of which include young school pupils, will be significantly increased by the proposed scheme. This goes against NPPF paragraphs 106 (d), and 110 (b), (c) and (d).
48. Furthermore, because this by definition is a road traffic scheme to increase capacity for cars, it is going completely against the hierarchy of NPPF paragraph 112 (a), and Oxfordshire’s Local Transport and Connectivity Plan, policy 1 [shown below], i.e. that pedestrians and cyclists must be prioritised over cars. As Mr Turner noted, it also goes against NPPF paragraph 112 (c) regarding minimising scope for conflict between cars, cyclists, pedestrians.

Policy 1 – We will develop, assess and prioritise transport schemes, development proposals and policies according to the following transport user hierarchy:

- Walking and wheeling (including running, mobility aids, wheelchairs and mobility scooters)
- Cycling and riding (bicycles, non-standard cycles, e-bikes, cargo bikes, e-scooters and horse riding)
- Public transport (bus, scheduled coach, rail and taxis)
- Motorcycles
- Shared vehicles (car clubs and carpooling)
- Other motorised modes (cars, vans and lorries)

49. In consideration of the second aspect we have focussed on, regarding the further errors in the application and appeal drawings in our evidence which were not raised in rebuttal by the Appellant: these concern an alternative access solution which the Appellant could use instead - which would very likely remove all of the Highways and Access issues.

50. This is a third B4100 junction on the northern edge of the Eastern Parcel. This could either be:

- a) Access E as a permanent solution (Mr Kirby had claimed in summer 2021 that a third access was 'not allowed' by OCC, but this was stated to be incorrect by OCC Highways in September 2021 – see evidence CD16.29, Appendix 2; Mr Kirby has since claimed that it was 'not feasible' – yet has confirmed that this was never proposed to OCC Highways, and CD14.11 Appendix B, email on Page 51, confirms this and indicates that such solutions have never been explored with or appraised by OCC Highways); or
- b) The Home Farm access, modified to include a junction to connect the existing drive to access Home Farm and its surrounding buildings. (Mr Kirby stated at the 9th of May 2023 planning committee meeting that this option had been excluded due to 'character impact' on one or more of the listed buildings. However, there is no evidence provided to the Inquiry to support this statement. We submit that a slight junction modification would count as much less significant an impact when compared to the Appellant's proposed housing locations throughout the Eastern Parcel.)

51. In our evidence, we have shown that the visibility splay and land ownership arguments made by the Appellant regarding Access E are both incorrect, because the drainage ditch starts much further back than indicated by the Appellant; and that visibility splays of more than 120 metres in both directions are possible from Access E, meaning that it could become a permanent access for the Eastern Parcel. Drawings 075/76/77 RevA (in CD10.1), from the 30th of March 2023, are not correct. (We note also that the splays sit entirely within the 2001 approved Home Farm access visibility splays of 210 metres, northwest. All this is detailed in CD16.6, evidence ET-2.)

52. If the drainage ditch were also an issue for the possible ghost island junction (drawing 075 RevA), then a simple solution, which could be undertaken at the same time as highway modifications, would be to *remove the ditch* and install a modern roadside drainage solution which would not then cause an objection from OCC Highways: we submit that this would be a much cheaper solution compared to the costs for the necessary modifications to Charlotte Avenue.

53. Access E is therefore an entirely viable and feasible alternative to putting 207 homes' worth of traffic along Charlotte Avenue.
54. Mr Mason's evidence (CD16.3) discusses the suitability of the Home Farm solution: his preferred option, and we submit also potentially the best option for both the Appellant and Home Farm, in terms of convenience with respect to the Eastern Parcel layout design and improved access, respectively.
55. In our cross-examination, Mr Kirby agreed regarding the harmful effects of traffic congestion and journey delays on pollution, and the impact on emergency vehicle access, which would be worse using an access solution with greater distances between the external main road to the development (the B4100) and any house on the development. (See also ET-4, CD16.8.)
56. Since this is supposed to be an Ecotown and adhere to Ecotown planning principles, it is unthinkable that an unproven and very probably unviable solution (i.e. using Charlotte Avenue, as proposed by the Appellant) could be chosen over an alternative viable solution (a third B4100 access, as we have suggested). The latter solution would dramatically reduce the risks to pedestrians and cyclists, and reduce the amount of extra pollution created, and be compliant with the relevant policies to which the Appellant's proposals remain non-compliant.
57. There is also policy guidance which stipulates this. The OCC Highways stated reason for not insisting on exploration of other options by the Appellant has to date been: that they can only assess what the Appellant proposes, and nothing else. (Please see evidence regarding this in CD16.29, Appendix 2, and CD14.11, Appendix B, as per above.)
58. At the planning committee on the 9th of March 2023, we discussed Oxfordshire's Local Transport and Connectivity Plan, Policy 36, specifically clause (a), and we would like to draw your attention to it again here, Madam Inspector, as explaining why OCC Highways were mistaken in their response: because this policy also infers an onus on *them* to inform developers of this clause, if a road capacity scheme is proposed such as for Charlotte Avenue. Unfortunately, they did not do so, and the Appellant did not comply with it either. These are therefore failures by both OCC Highways and the Appellant.

Why is this policy needed?

Ensuring that Oxfordshire's transport network remains reliable and effective is key to supporting the local economy and everyday journeys. Some road capacity enhancements may be required to enable this. In accordance with our transport user hierarchy, road capacity schemes will only be considered after all other options, including opportunities for traffic reduction, have been explored.

Policy 36 – We will:

- a. Only consider road capacity schemes after all other options have been explored.

59. We submit that this policy cannot and should not have been simply ignored, and that it compliments the logic of other policies regarding pollution reduction and indeed residential development design to minimise the distance and journey times to and from the main roads

outside of this proposed development; optimising the latter in turn reduces pollution and safety risks. Mr Kirby confirmed this in his cross-examination.

60. We submit that the concerns regarding the impact on safety for children are not dispelled by the Appellant's plans. In particular significant weight should be given to the evidence of the Head of School, Principal and Chair of Governors for Gagle Brook Primary School. The following quotes, from our evidence ET-9, speak to this absolutely:
61. *"Every morning, before and after school, we feel like we need to be out there on the roads, monitoring it – but we need to be inside the school, for the children."*
62. *"How is the significant increase in traffic coming passed the school supposed to encourage people, especially our children, to cycle or walk to school? – it will "feel" less safe, and parents fearing for their children's safety will feel like they have to drive – the opposite to what we want to encourage."*
63. *"How are emergency vehicles going to reach us quickly, and without more chaos and risks? - when the traffic from so many cars is flowing both ways on Charlotte Avenue, not just the school/business centre, but also people leaving by cars to go to work, school, etc. (The proposed application increases traffic from beyond the school by 5 times!!!)"*
64. *"We are hugely concerned about the risks of accidents and causing issues for residents that it distracts us from the events themselves: we should be able to have such events for the children and families in school, and shouldn't have to worry: we know this is exactly the same worry for the Eco Business Centre."*
65. *"Is it really going to take for something horrific to happen, before someone actually does something? Local councillors, planning and highways have all told us they understand how serious the problem is – for the past 4 years – yet nothing is being done – and the new development proposals will make things MUCH worse – rather than helping to solve things."*
66. *"Keeping our Pupils (and their families) safe is THE MAIN THING. These are young people's lives, in a brand new, growing community."*
67. We note that Ms Leary confirmed, during our cross-examination of her, that the Appellant has not "worked with" Gagle Brook Primary School, regarding critical concerns and health and safety issues with respect to highways and access; in fact, these have simply been ignored. There has been no further contact between the Appellant and the School. This goes against NPPF Policy 95 regarding the need to "work with" the school, and NPPF policy 104 regarding ignoring critical issues (related in particular to the impacts on child safety).
68. In conclusion, the safety aspects regarding all non-vehicle users have not been considered properly or addressed by the Appellant in line with national and local policy requirements. 'Reason for Refusal 2' therefore remains well founded.

B3 HIGHWAYS AND ACCESS CONCLUSIONS:

69. In summary, we submit that from our original list of 6 NPPF policies being contravened by the proposed highways and access designs, only 1 of them has been dealt with by the Appellant's case – and this thanks to the LPA's consultant Mr Moss for pointing out that a solution for the narrow section to the north of Gagle Brook School is possible. The remaining list i.e. policies 104, 106 (d), 110 (b), (c) and (d), 111 and 112 (a) and (c) have simply not been addressed adequately or at all by the Appellant either during the planning process or during this Appeal, nor has it been addressed by the evidence of Mr Moss.
70. We also note that the evidence of Mr Moss, upon which the LPA withdrew their opposition regarding reasons for refusal nos. 2 and 3, ignored several critical parts of the proposed designs, plus never sought to address the evidence of Mr Mason and ETPG.
71. We submit that, from our original list of 11 other national and 12 local policies, only 2 and 3 of these respectively have been removed, again thanks to Mr Moss for saving the trees, and the permeability issue being resolved by A2's Deed of Easement, pointed out by Mr Fell. However, the other 9 national and 9 local policies have not been adequately addressed.
72. In our Opening Statement, we submitted: that there is a much better access option, and a set of national and local policies dictate that this should be used instead; that we would conclude that Reasons for Refusal numbers 2 and 3 are well founded; and that for these reasons alone, it would be necessary for this Appeal to be refused.
73. The conclusions of Mr Mason and the NWBA, that Reasons for Refusal numbers 2 and 3 are indeed well founded, and have not been changed at all following this week's Highways and Access sessions, because the problems we have highlighted have not been solved.
74. The impact severity and safety NPPF policies weigh very significantly: we would submit that they should cause a refusal, either outright or on balance, due to the high weighting for NPPF policies, especially those relating to traffic impact severity and safety.
75. Oxfordshire's Local Transport and Connectivity Plan Policy 36 (a) directs that there is a need to consider and compare alternative options. We submit that a third B4100 junction would provide a significant reduction in the number of NPPF (and other national and local policy) paragraphs contravened – by increasing safety and reducing congestion and pollution issues. We urge that you consider the evidence and experience of Mr Mason with respect to this, Madam Inspector. This is why we have continued to submit that the access designs must be changed, to this much better solution.

C. DEGRADATION OF ECOTOWN REQUIREMENTS

76. Regarding degradation of Ecotown requirement and principles; we start by noting that our Opening Statement was written *before* we had written confirmation of the 11th hour promise by the Appellant to build to Zero Carbon (as defined in the Policy Bicester 1 footnote on page 140 of the CDC Local Plan 2011-31, CD4.1), confirmed by the hybrid S106 and planning conditions.

i The definition of zero carbon in eco-towns is that over a year the net carbon dioxide emissions from all energy use within the buildings on the eco-town development as a whole are zero or below.

C1 ZERO CARBON AND VIABILITY:

77. Firstly, in relation to the Viability and Zero Carbon requirements and building costs. We submit that, due to the way the Appellant has responded on these issues, they should be considered together.

78. With respect to Viability, we submit that the Appellant has never properly answered some of our critical points regarding areas of disagreement. The answer of “*we used the standard method*” should more correctly be stated as “*we used the standard method for a non-Ecotown development.*”

79. We were unable, late in the day, to introduce an expert witness on viability (or a few other topics), because we did not know we might need to until the day before the Inquiry started - which in itself speaks volumes about how the Appellant has approached the planning process, and has failed to provide proper thought-through plans which have been properly and widely consulted upon, rather than introducing new untested proposals as late as the Appeal hearings.

80. However, we submit that if the “standard method” included aspects such as 40% green space guaranteed, all the eco features that go towards lower bills etc, then the Appellant’s experts would simply have stated this – either in their evidence, in any rebuttal of M. Toutain’s evidence, or verbally on Tuesday the 6th of June 2023, when these specific points were discussed. They did not do so, instead, simply repeating that standard practice (*for a non-ecotown development*) had been used. We submit that since the above Ecotown features were not included, then the sales total would be much higher. The Ecotown is “pioneering”: to be realistic regarding prices, we submit that simple pragmatism should be applied.

81. Turning next to Zero Carbon requirements, we are very grateful to Mr Webster and colleagues at CDC for their work in persuading the Appellant to change their stated position from just 3 weeks earlier. We note that prior to this 11th hour progress, the Appellant’s proposal involved 31% of total CO2 per annum *planned as carbon offsetting*. (NB: this figure comes from the one single carbon balance provided in evidence. Prior to the Appeal evidence, we had no idea at all how much offsetting might be proposed.)

82. Even if Policy ESD2 were to be taken as more important than the Policy Bicester 1 Ecotown-specific wording regarding the definition of Zero Carbon, the Appellant's earlier proposals would in any event have provided a solution to a lower standard than as set by the Exemplar scheme: this contravenes the wording of the NWBSPD (which as part of Policy Bicester 1, is accorded the highest importance weighting, in the views of both the LPA and NWBA).
83. We note the Appellant's agreement to make the wording of the hybrid conditions for Zero Carbon equivalent to that for the Exemplar scheme, such that this is very clearly enforceable by the LPA. (We note that the UK is behind on our climate change milestones to remain on course for this, as reported by the Climate Change Committee, in 2022; and that the Ecotown is an essential part of establishing the scalable solutions that can be adopted by the UK construction industry to *do more*.)
84. However: unfortunately, when consideration is given to the Zero Carbon strategy in combination with the Viability analysis, there is one key concern which remains unanswered by the Appellant.
85. The Appellant's Outline Energy Statement effectively states: 'we don't know what technologies we're going to use, here's a list of them as they are in 2021'. The Appellant's evidence and witness responses basically said: 'we have to do the rest at Detailed Design, because the technologies change so fast'.
86. We made the point, during the roundtable, regarding the time elapsed since the Energy Statement analysis was done – and that it has not been updated in the 2 years since. There are new technologies it doesn't mention or consider; and if the Detailed Design is to be done now, ready for an early 2024 start to the build, there's not a lot to 'build on' here. The Appellant has confirmed they already have a sale agreed to another developer; that developer's sustainability consultants would then need to 'start from scratch' - due to the lack of up-to-date assessment in the strategy (rendering it almost pointless, in fact).
87. But most crucially: if the new developer is starting from scratch; and the Appellant has admitted they don't know what technology would be used...this begs the question: how have they arrived at a cost estimate for the "eco" aspects of the build costs? And how can this appeal be sure they are reasonable estimates, since...the people that wrote them admit they don't know what they're putting in? This has a substantial impact on the Viability assessment, and the Appellant's consultants have not provided any evidence regarding this.
88. The only source of knowledge which remains for the appeal here is the evidence of Mr Sheldon of BioRegional [CD15.7], submitted by the LPA on the 9th of May 2023. Madam Inspector, this is the evidence we would urge that you read carefully, when considering whether the "case for the accuracy of the build costs" is actually closed – or still open, regarding the "eco" aspects.
89. In the latter part of his evidence, Mr Sheldon states that the costs to bring the new standard for new homes builds up to Ecotown standards are 34% extra for the Appellant's build costs, but that other calculations for this (e.g. the Etude study) found this to be *much* lower – implying that the Appellant is overestimating the build costs by a substantial proportion. Even allowing for pessimism or contingency here, we submit that this difference would be more than the building costs savings required to reach the Viability threshold for 30% Affordable Housing, achieving the Appellant's required GDV without the need for any viability review mechanism.

C2 WATER RECYCLING/REDUCTION:

90. We acknowledge the Appellant's inclusion of Rainwater Harvesting, which provides some vital water recycling and thus reduction, needed particularly because Bicester is an area of serious water stress, and it is a requirement of the SPD conditions for water usage that is separate from carbon efficiency. We hope that no future "value engineering" at Detailed Design would remove this, and would recommend that the condition regarding water reduction should make this mandatory – either in the specific wording, or by the reduced water usage levels target being low such as to mandate the need to use some form of water recycling.
91. We submit that there is unfortunately still the potential for this to occur, however. This is because the wording of the draft planning condition regarding water usage targets (at time of writing, this is document IQ26, Condition 34) uses the wider Cherwell District target of 110l/p/d, NOT the Ecotown standard – of 80l/p/d, as is stated in clause 4.235 of the NWBSPD.
92. We continue to disagree with the Appellant that this somehow can't be applied to their development phase, for 3 reasons:
93. Firstly, the clause wording point the Mr Simons made regarding the WCS document is irrelevant: the target is still set as 80l/p/d by the SPD, and this is a relevant development plan component.
94. Secondly, this clause is part of the Ecotown Masterplan – there is no logical reason it would apply to one phase and not to all others. (It is an additional 'stretching target', specific to the Ecotown as opposed to all Cherwell District developments, as befitting the Ecotown's goals and purpose.)
95. Thirdly, this lower target was used and achieved by the Exemplar phase design stages – and as the SPD also states that subsequent phases have to 'meet this or better it' with respect to the Masterplan and Exemplar targets, then this applies to all future ecotown phases.
96. We therefore ask that the Inspector would consider the impact of this condition not meeting the development plan; and the future impact of not changing the target specified here to 80l/p/d.

C3 OTHER PLANNING AND POLICY ISSUES:

97. During the cross-examination of the Appellant's witness on Planning and Policy issues, Ms Leary, it was confirmed from the Appellant that, between the first round of consultations – which it is submitted amounted to little more than a PR campaign while lockdown restrictions were in place – in early 2021, up until the very late stages of this appeal, the Appellant has made no attempts to respond to or work with all community organisations and groups: i.e. not just Gagle Brook Primary School, as discussed earlier, but also the Elmsbrook Community Organisation, Eco Business Centre, ETPG and BBUG.
98. The Appellant has systematically failed to work with the local community regarding any of the issues – and simply 'doubled down' on their position, via more documents. This goes against NPPF paragraph 132, and as noted earlier, it goes against several other NPPF and local policies regarding the school and the traffic impact issues.

99. Residents specifically objected regarding the building height designs for the proposed new homes located opposite existing homes near the end of Charlotte Avenue on Phase 2. The new homes are proposed to be in excess of the maximum 12 metres height which the Exemplar Phase kept to. Under questioning, Ms Leary identified that the Spine Road is in fact not part of the Strategic Route through the Ecotown – as her proof of evidence had actually stated.
100. Mr Simons, in his re-examination, highlighted the word “Generally...” at the start of the clause in question, namely the NW Bicester SPD [CD4.5], paragraph 5.12. We submit however that careful reading of this clause indicates that the “Generally” in the first sentence connects to the “alternatives allowed” listed in the second sentence: it does not create any wider scope than this. The second sentence limits anything higher than 12 metres to *“the local centres and along the strategic route through the site”* – neither of which apply to the area of the site which the Appellant has marked out as up to 14 metres height.
101. While this is a relatively small point, it is one example of many smaller points, listed in our evidence XL2 [CD16.14], where the Appellant is ignoring other elements of the NWBSPD. It highlights that the Appellant has refused to adhere to many parts of the NWBSPD, and shows that the opposition to these plans and the errors within them goes beyond simply being about the issues of highways safety and zero carbon considerations.
102. Finally, there remains the question of the fairness and suitability of the S106 bus provision in terms of funding. We have no issue with the methodology applied by OCC Highways to calculate this – namely by designing a future route also including Hawkwell Village, and then scaling “per home” in the totality, accordingly. However, our concern is two-fold here.
103. Firstly, due to the strategic road link funding being reallocated, it is highly uncertain whether the Hawkwell Village development can be started until this road link is completed; thus there is significant uncertainty regarding this wider route existing soon. There is therefore a significant risk: that the Appellant’s development is built soon, but Hawkwell Village is not; the bus contribution from the draft s.106 (as currently proposed in document IQ23) would be very small compared to the Hawkwell Village contribution – 3,100 homes for the latter, vs 530 for the former.
104. In that scenario, the new bus route becomes the E1 route again, also catering for the Appellant’s proposed 530 homes – but the funding would only last a very short time (scaling based on the contribution relative to the Exemplar phase, this might be perhaps 2 years at most), and then the ‘OCC pot’ runs out again. This is a significant concern to residents for whom the new hourly service with limited morning/evening extent means they cannot make use of it for work, shopping, etc.
105. Secondly, there remains the question of fairness, per phase. What if the phase after Hawkwell Village then needs to support the entire proposed southern bus loop for the Ecotown, and ends up paying much more again, even 2.5 times higher, as the Exemplar phase developer has?

C4 HERITAGE AND ARCHAEOLOGY:

106. We heard from Rev'd Peter Wright, on Day 1 of this Inquiry. We're very pleased to see that the promised archaeological excavation planning condition and the S106 contribution for the crossing to St. Laurence's Church are included (though we submit that the evidence of Mr Young, in CD9.5, indicates that this may require much more substantial excavation works than the Appellant's consultant has concluded, based on past works. The planning condition reference is IQ26, condition 23).
107. However, we noted during discussions that the crossing does not provide a permanent solution without the previously promised car park. The Church would not be asking for such a car park if it was not necessary towards their future survival – and this is a Church which has seen significant growth in numbers in recent years; and thus the requirement to have a car park for events on days other than Sundays – the only day they are allowed to use the Home Farm 'pebble' car park and access drive for parking – such as for funerals on week days. The continued growth of such events and the congregation is what will enable the church to continue to thrive in the future. Yet, the Appellant has ignored the previous promises, and would not even consider it when we raised it.
108. We also remain concerned that the amount of green buffer has been eroded: from 2014's masterplan, to the 2016 SPD masterplan layout update, to the 75-home proposal of 2018, to the 138-home proposal of present. A larger buffer zone would support biodiversity and maintain wildlife corridors within the general area, and also specifically help to support the conservation efforts by the church, as mentioned by Rev'd Wright in his speech.

C5 MASTERPLAN CREEP:

109. This kind of gradual erosion of a Masterplan feature is part of a future impact issue discussed in our evidence ET-5 [CD16.9]; and more examples occurred during the Inquiry.
110. While Ms Leary mentions 'Masterplan creep' in a list in her Proof of Evidence, she does not then address it; and there has been no rebuttal at all of it – we suspect because it does apply specifically to the critical points in this Appeal – but it would have serious consequences for the future, were this appeal to be allowed. Examples of 'masterplan creep' occurring during the evidence hearings included:
111. Mr Simons highlighted the NWBSPD (CD4.5), paragraph 4.105, re the Masterplan layout being designed to maximise containment – a critical part of the policies aiming to reduce car use. But, the current proposed development would seek to modify this layout. So, by the emphasis Mr Simons used, it seeks to modify a critical part of the policies aiming to reduce car use – which all parties agree is very important.
112. Other examples are included within the approach the Appellant has used, for example: reducing the level of combined option analysis within the Zero Carbon strategy; and increasing the water usage target from 80 to 110 litres per person per day. Each individual example is a further weakening of the specifications, not just the intentions, of the NW Bicester Ecotown Masterplan. We submit that there is a reason Masterplanning exists; and that if this current Masterplan were to be changed, this should be conducted separately by CDC, with reviews, consultations and due process, rather than eroded by incremental precedents as part of individual new development phases.

C6 CONSTRUCTION FEASIBILITY:

113. Mr Kirby confirmed that the temporary TRO would only last 18 months, including all pre-works, advanced infrastructure, drainage etc. The Appellant proposes to build 138 homes in 18 months, this is several times the build out rate of Elmsbrook over its >9 years to date, more than half of which predates any of the construction industry slow-down and materials issues which continue in 2023 (and will unfortunately do so for the foreseeable future). We submit that the likelihood of the 138 homes being finished within the TRO timescale are negligible. Mr Kirby has noted that a permanent TRO would be risky. We conclude therefore that a permanent access is the solution.
114. Mr Kirby also confirmed that his assumption that Lemongrass Road and Tarragon Terrace (the Elmsbrook Phase 4 roads which are proposed to connect to ~260 homes via Access D) are planned to be adopted is not supported by evidence: indeed, there is no diagram in any Section 38 agreement or Condition 60 sign-off that shows any roads in Phase 4 were planned for adoption. This implies that, along with Accesses A and B using Charlotte Avenue, Access D is also not a viable solution, based on all the evidence submitted to this inquiry.

C7 ECOTOWN DEGRADATION SUMMARY:

115. In conclusion, there has been much progress, late in the day, regarding some significant areas of the proposals which looked to degrade the ecotown requirements and principles.
116. Originally, regarding energy supply, viability and affordable housing, we had noted NPPF paragraphs 157, 58 and 63 respectively, as potentially being contravened.
117. We submit our concerns regarding the lack of information re the energy supply solution going forwards to Detailed Design: they would basically be starting from scratch. Therefore, compliance with the local plan wording, in particular as noted by Mr Sheldon's evidence, re demonstrating a Zero Carbon strategy – not just promising one and listing some technologies – is critical; we submit that there is a significant failure by the Appellant to address NWBSPD (CD4.5) clauses such as 4.24, 4.64, ET7.1, and NPPF paragraph 157.
118. Meanwhile, Viability and Affordable Housing go 'hand in hand': the review mechanism design is clearly a good one, if it is needed. It would set a new precedent within Cherwell District, and would go against the wishes of the CDC Planning Committee, and of the Housing Portfolio Committee also. It would be a fair precedent, analysed per development, for each that uses a Viability assessment in their application process. But the act of setting this precedent now risks a future overall loss of Affordable Housing, rather than an overall gain, and this precedent would (if this Appeal were to be allowed) be set in a scenario where the need for it has not, we submit, been adequately proven.
119. We also submit that, since this an Ecotown development, measurement of the accounting metrics for profit / viability would in fact be very subjective and difficult to perform in practice, due to the difficulties inherent in accurately measuring the energy performance for completed homes. We therefore remain concerned about the impact this could have for the council in the future.

D. FUTURE IMPACTS AND OVERALL CONCLUSIONS:

120. This risk to the LPA's affordable housing supply is just one Future Impact.

D1 NET ZERO 2050:

121. We acknowledge that the Appellant has now promised, and enshrined in clauses, to meet the Policy Bicester 1 Zero Carbon definition - without planning to resort to vast amounts of offsetting. This saves the need for a long discourse regarding how offsetting doesn't really work; about why NW Bicester must keep pushing in the direction of Net Zero 2050, rather than slightly away from it – that if the Appeal were allowed without this position change so enshrined, then we would have *little or no hope at all* of meeting our legal obligations under the Climate Change Act 2008, and internationally, connecting back to Article 4 of the Paris Agreement.

D2 LOCAL IMPACTS:

122. Coming to more localised effects, we note that some of the public speakers, on the morning of Tuesday the 13th of June 2023, described a wide range of ways in which the Appellant's proposed Highways and Access strategy alone would have significant future impacts beyond the immediately obvious.

123. Ms Grear's speech yesterday highlighted the sheer number of outdoor activities which the current Elmsbrook community engages in – and we would want our neighbouring future phases of homes to be part of this too – including Forest School sessions for all, walkaround carol concerts, picnics, children playing in the parks, and the Community Fridge: all these would be impacted by traffic increases, because people won't feel as safe.

124. This was echoed by Ms Nolan, who noted that removing the safe crossing points and reducing pavement sizes affects pedestrians and the safety of children going to the park to play – but they also act as a speed deterrent on a road that runs downhill straight to a tight bend in front of the school.

125. Mr Troop noted in his speech yesterday: that Charlotte Avenue would become a non-compliant "clot" in the Bicester cycling network, preventing many from feeling safe coming in through the main entrance to this first part of the ecotown. He noted that in fact, as a Primary Route, Charlotte Avenue should have a segregated cycle lane: this decision was enshrined in the February 2016 NWBSPD [CD4.5], which thus post-dates the Exemplar Phase consent, unfortunately. But it implies that any capacity modification to Charlotte Avenue should seek to include this; yet no solution has yet been proposed to do so.

126. Mr Torrent spoke on behalf of wheelchair and pram users, noting already the significant issues with school parking at roadsides, by dropped kerbs, and the increased traffic again affecting safety – as Ms Bennett also noted, regarding learner cyclists especially children: to feel safe to cycle to school.

127. We also had many other points raised: by the Cherwell District bikeability Director, who stated: "I never thought I'd be asking: How can cyclists be safe *within* Elmsbrook?" – by an NHS nurse who conducts her home visits by bicycle, noting that she needs to be able to

access all estates safely; noting that if people feel less confident in cycling along Charlotte Avenue, where the increased traffic level from the proposed development would exacerbate this, people will default to travelling by car – the exact opposite of what we want to and need to encourage.

128. Finally, other speakers noted the success and community feel of the “active travel lifestyle” – we have regular fun runs, a running club, a cycling club, outdoor gyms, etc. Ms Hickman noted that Active Travel is encouraged when a person “doesn’t have to *think* about conflicts” (i.e. has no need for a thought process such as ‘I want to exercise and go by bike, but am I going to be safe?! - maybe I should go by car...’, etc). She also noted that there is an obesity epidemic, which can be reduced by enabling Active Travel, but the proposed development would make the Active choice “impossible.”

D3 THE ‘REASONS FOR REFUSAL’ FROM THE 9TH OF MARCH 2023:

129. In his opening statement, Mr Simons stated in point 9, regarding the Planning Committee’s reasons for refusal, that:

130. *“...the intervening months have shown that was a bad decision taken for bad reasons. As the evidence to support the Appellant’s case at this inquiry has been produced, the Council’s resistance has fallen away.”*

131. We submit that this is a false narrative. For all the Highways and Access reasons we have discussed, and connected back to many outstanding NPPF and other national and local policy contraventions, it is clear, as Mr Mason stated, that reasons for refusal numbers 2 and 3 were and remain well founded. They were therefore good decisions, taken for very good reasons.

132. Regarding Zero Carbon: we note that the Appellant did not change their position, or documentation, between spring 2021 and the start of the Appeal process. From the proof of evidence of Mr Riggall, we still had confirmation of their plan to avoid meeting the Masterplan minimum standard, now with a stated figure of 31% CO2 per annum to be offset. Yet their position changed at the last minute, via a planning condition worded as for the Exemplar Phase, to plan for 0% and use offsetting (quite correctly) only as a last resort.

133. So the Council’s resistance did not “fall away” due to the Appellant’s evidence being produced, as Mr Simons stated. We submit that the Appellant, realising that building Zero Carbon homes on an Ecotown (as per its own definition) is a good idea – and helpful to avoid rejection on these grounds, moved *their* position. This is a good thing. But again, the committee’s decision to include this as a reason for refusal was a good one, taken for very good reasons: if the Appellant had not shifted their position, and the Appeal were allowed, we would no longer have an Ecotown. (Thankfully, we still would.)

134. The Viability and Section 106 negotiations were both left as capable of being addressed, in the planning office’s minutes; our views on these have been shared.

D4 CONCLUSIONS:

135. In summation, however, our conclusion is that the proposed development under Appeal, as it currently stands, is not in accordance with the development plan, because it contravenes too many national and local policies, especially regarding highway and access – and therefore it also contravenes NPPF paragraph 2.
136. We note that the Appellant has accepted the council’s position regarding the 5.4 year Housing Land Supply, leaving their evidence for further consideration. We remain in accord with the Council’s position on this matter.
137. Keeping with this position, coming to the planning balance, NPPF paragraph 11: we note that footnote 8 of 11(d) does not apply. We have already noted that too many policies are contravened, and so proposals are not in accord with the development plan, so 11 (c) does not apply either. Regarding the rest of paragraph 11, including 11 (d), there are, we submit, clear reasons for refusing the development proposed – these are the adverse impacts it would cause, contravening NPPF paragraphs 104, 106, 110, 111 and 112.
138. We submit that the most significant of these involve creating additional pollution, increasing risk to life and limb due to emergency vehicle delays and traffic congestion and the safety of cyclists and pedestrians, especially young children. At the very least, ignoring these would significantly and demonstrably outweigh the benefits, i.e. of building a few hundred homes, in Bicester – the fastest growing town in Europe.
139. We know more homes are needed; and we reaffirm here our desire for the Ecotown to grow, as part of this requirement. However, we submit that it must be done in proper accordance with policies, and without the currently unmitigated risks of degradations to the Ecotown which we have noted.
140. We conclude this section by considering other clauses which speak directly to whether this proposed development should be approved or refused.
141. LTN 1/20 [CD8.2.8], paragraph 14.3.12 states:
“Developments that do not adequately make provision for cycling in their transport proposals should not be approved. This may include some off-site improvements along existing highways that serve the development.”
142. We have already concluded that adequate provision, under LTN 1/20, has indeed not been provided by the Appellant’s submitted designs. Thus the proposed development “should not be approved.”
143. NWBSPD [CD4.5], paragraph ET20.2 from original PPS1, states:
“There should be a presumption in favour of the original; that is the first permitted masterplan. Any subsequent planning applications that would materially alter and negatively impact on the integrity of the original masterplan should be refused consent.”
144. We submit that the road capacity scheme for Charlotte Avenue *would* materially alter *and* negatively impact on the integrity of the original masterplan. Thus the proposed development “should be refused consent.”

D5 FINAL THOUGHTS:

145. We finish by repeating a few brief quotes from the school statement [ET-9, IQ3], to provide a succinct reminder emphasising the highly critical aspect of safety:

“Every morning, before and after school, we feel like we need to be out there on the roads...”

“How are emergency vehicles going to reach us quickly, and without more chaos and risks?...”

“Is it really going to take for something horrific to happen, before someone actually does something?”

The head of school has said to me personally: we are so fearful every single school day.

Similarly, residents have spoken regarding their own fears of the impacts of increased traffic levels in critical parts of the existing Exemplar Phase.

146. These fears can be taken away, in fact all of the issues and policy contraventions could be removed, by a redesign using the proposed alternative solution, of a permanent Access E or sharing of the Home Farm access. But this requires amending the application, and refusal of this Appeal on the grounds that it is not included by the Appellant at this time.
147. Madam Inspector, for all the above reasons, national and local policy-wise, and for safety aspects in particular, we ask that you consider our arguments, and refuse this Appeal.

Thank you.