
Appellant's Statement of Case

OS Parcel 1570 Adjoining And West Of Chilgrove Drive And Adjoining
And North Of, Camp Road, Heyford Park.

Appeal by Richborough Estates, Lone Star Land Ltd, K and S Holford, A and S
Dean, NP Giles, A L C Broadberry against the refusal of application reference
21/04289/OUT by Cherwell District Council for:

“Outline planning application for the erection of up to 230 dwellings, creation of
new vehicular access from Camp Road and all associated works with all matters
reserved apart from access”

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Appendix 1 – Notification of Intention to Appeal

1. Introduction

- 1.1. This Statement of Case has been prepared on behalf of Richborough Estates, Lone Star Land Ltd, K and S Holford, A and S Dean, NP Giles, A L C Broadberry (hereinafter 'the Appellant') in respect of land at OS Parcel 1570 Adjoining And West of Chilgrove Drive and Adjoining And North of Camp Road, Heyford Park ("the Appeal Site").
- 1.2. This Statement is submitted in support of an appeal, under Section 78 of the Town and Country Planning Act 1990, against CDC's ('CDC') refusal of outline planning permission under application reference: 21/04289/OUT.
- 1.3. The outline planning application was originally submitted on the 24th December 2021. Further details on the application are provided in Section 3 of this Statement.
- 1.4. The Description of Development was as follows:

"Outline planning application for the erection of up to 230 dwellings, creation of new vehicular access from Camp Road and all associated works with all matters reserved apart from Access."
- 1.5. Following consultation, updated submissions were made to the CDC in order to address consultation responses received. The application was reported to Planning Committee on the 9th March 2023, with an Officer recommendation of approval. Despite this, Planning Committee resolved to refuse planning permission and the Decision Notice was issued on the 31st March 2023.
- 1.6. The Decision Notice outlined the following two Reasons for Refusal (RfR):

"1. The site is located on greenfield land outside the Policy Village 5 allocation, therefore within an area of open countryside separate from the built-up area of Heyford Park. As a result, the development would have a poor and incongruous relationship with the form and character of Heyford Park, by reason of the site's general openness. The site's relationship to the RAF Upper Heyford Conservation Area and the views into and out of the Conservation Area would cause harm to the setting of designated heritage assets. Such environmental harm is considered to be less than substantial, but the harm caused is not outweighed by the public social and economic benefits. In addition, the Council is able to demonstrate a 5.4-year housing land supply, and therefore the housing strategies in the Local Plan are up to date. It is considered that the development of this site would conflict with the adopted policies in the Local Plan to which substantial weight should be attached. The principle of this development is therefore unacceptable, as contrary to Policies PSD1, ESD1, ESD13, ESD15, and Policy Villages 5 of the Cherwell Local Plan 2011-2031, Policy PD4 of the Mid Cherwell Neighbourhood Plan, Saved Policies C8, C30, C33 and H18 of the Cherwell Local Plan 1996 and Government Guidance in the National Planning Policy Framework.

2. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, the CDC is not satisfied that the proposed development provides for appropriate infrastructure contributions or transport mitigation required as a result of the development and necessary to ensure modal shift to sustainable transport modes and

make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and workers and contrary to policy INF 1 of the Cherwell Local Plan 2015, CDC's Planning Obligations SPD 2018 and Government guidance within the National Planning Policy Framework."

- 1.7. Savills submitted email 'Notification of the Intention to Submit an Appeal' to both CDC and The Planning Inspectorate on 27th June 2023. A copy of this notification is contained at **Appendix 1**.
- 1.8. The Appeal submission has been prepared following the guidance within The Planning Inspectorate Procedural Guide Planning Appeals – England, updated June 2023 and pursuant to The Town and Country Planning (Inquiries Procedure) (England) Rules 2000.
- 1.9. The Appellant has requested this planning appeal progresses by way of the Inquiry procedure for the reasons identified in Section 9 of this Statement, where a written justification is provided for the choice of procedure.
- 1.10. A draft Statement of Common Ground ("SoCG") has been prepared and accompanies this submission. This will be subject to ongoing engagement with CDC in coming weeks. The Appellant therefore reserves the right to submit further evidence in response to matters raised by CDC and comments of other statutory consultees or third parties. Additions to the Appellant's case may be necessary as part of Proofs of Evidence.
- 1.11. The Appellant will seek to agree a list of Core Documents with the CDC discussions on common ground. Agreement will also be sought with CDC in respect of draft conditions.
- 1.12. The Appellant intends to prepare and submit a legal agreement and/or unilateral undertaking covering planning obligations under section 106 of the Town and Country Planning Act 1990. The Appellant intends to continue its dialogue with the CDC and other relevant stakeholders in the run up to the Inquiry on this matter.

2. The Appeal Site and Surrounding Area

- 2.1. It is the intention of the Appellant to seek to reach common ground with CDC in respect of a description of the character and setting of the Appeal Site and the surrounding area.

Appeal Site

- 2.2. The Appeal Site is identified by the Location Plan which was submitted as part of the outline planning application (drawing reference: L01). In total, the Appeal Site extends to 11.68ha of vacant land on the eastern edge of Heyford Park, in Upper Heyford.
- 2.3. The Appeal Site is surrounded on three sides by the boundary of Policy Villages 5 (Former RAF Upper Heyford) Site Allocation in the CDC Local Plan; and largely surrounded by the hybrid outline planning permission for Heyford Park (reference: 18/00825/HYBRID). The Policy Villages 5 allocation identifies the location as having potential for future development, specifically allocating 520ha of land for up to 1,600 dwellings, 120,000sqm of employment land, amongst other land uses, infrastructure and open spaces.
- 2.4. Furthermore, the Appeal Site is identified as a part of a wider preferred residential site allocation in a draft of the Cherwell Local Plan 2040 (Regulation 18), which was reported within the January 2023 Executive Report. Paragraph 809 of the draft Cherwell Local Plan 2040 (Regulation 18) explains that the overarching strategy for the area as follows:

“809. The overarching strategy for the Heyford Area recognises its potential for additional development in the longer-term to help achieve and improve its sustainability. This will include helping to improve the range of employment, community facilities and infrastructure and further enhance the sustainable transport and connectivity credentials of the area. It is recognised that any such development must be linked to the successful implementation of the approved masterplan (2022) and to the delivery of further transport investment to avoid unacceptable impacts on the highway network and to maximise the opportunity to use sustainable modes of travel.”

- 2.5. The Appeal Site is located to the north of Camp Road, and to the west of Chilgrove Drive, and is irregularly shaped, comprising two separate fields divided by a hedgerow combined with a metal wire and post fence. On the boundaries of Camp Road and Chilgrove Drive are a mixture of trees and hedgerows.
- 2.6. A watercourse is present on the Appeal Site, known as Leys Farm Ditch. This feature runs from north to south in the western section on the Appeal Site. A series of small ponds are also present in the north-western part of the Appeal Site.
- 2.7. To the north, east and west, the Appeal Site is surrounded by sites either with extant planning permission or permissions pending formal determination as follows:
- To the north and west, the Appeal Site is adjacent to an extant hybrid permission which secured permission in September 2022 (reference: 18/00825/HYBRID).
 - To the west are two outstanding applications which have been resolved to be approved by CDC's Planning Committee, subject to the completion of S106 Agreements (references: 15/01357/F and 21/03523/OUT)

- To the west is a further site which is pending determination (reference: 22/03063/F). This application site covers land under applications references 15/01357/F and 21/03523/OUT listed above.

Constraints and Designations

Flood Risk

- 2.8. The Appeal Site, in its entirety, is situated within Flood Zone 1, and is therefore at lowest risk of fluvial flooding.
- 2.9. Parts of the Appeal Site at low, medium and high risk of surface water flooding, particularly around Leys Farm Ditch.

Heritage Designations

- 2.10. The Appeal Site is not subject to any heritage designations.
- 2.11. However, the Appeal Site is within 1km of four Grade II Listed Buildings, alongside the RAF Upper Heyford Conservation Area and Scheduled Ancient Monument Cold War Structures, associated with the former Upper Heyford Airbase.

Ecology and Landscape

- 2.12. The Appeal Site is not subject to any ecological or landscape designations. The Appeal Site is close to existing known biodiversity on adjoining land.

Public Rights of Way

- 2.13. There are no existing Public Rights of Way (PRoW) which pass through, or immediately adjacent to the Appeal Site.
- 2.14. A PRoW Bridleway (reference: 422/3/10) is situated to the south side of Camp Road, running southwards away from the Appeal Site.

Summary

- 2.15. The Appeal Site adjoins land already allocated for development and is part of land which CDC has identified as a preferred residential site allocation in a draft of the emerging Local Plan 2040.
- 2.16. CDC has identified additional development at Heyford Park, including the Appeal Site, as being a sustainable location to provide approximately 1,235 dwellings, in addition to approximately 2,800 dwellings built and permitted on the existing site allocation.

3. The Application Determination and Relevant Planning History

- 3.1. It is the intention of the Appellant to reach common ground with CDC in respect of the background to the appeal proposal. The below paragraphs provide a brief summary for context at this stage.

The Appeal Site

The Outline Planning Application – 21/04289/OUT

- 3.2. The following section provides a chronology of the outline planning application which is the subject of this appeal. Events are listed in the order of the most recent:

Decision Issued – 31st March 2023

- 3.3. The application was refused at Planning Committee and a formal Decision Notice issued dated 31st March 2023.

- 3.4. The Decision Notice outlined two Reasons for Refusal which are set out in Section 1 of this Statement.

Application Reported to Planning Committee – 9th March 2023

- 3.5. The application was reported to Planning Committee on the 9th March 2023, with an Officer recommendation for approval.

Revised Submissions – dated 19th July 2022

- 3.6. A Technical Note 1 (Highways) was submitted to Oxfordshire County Council and CDC on the 19th July 2022.

Revised Submissions – dated 15th July 2022

- 3.7. Additional information in the form of an Archaeological Evaluation Report and a DAS Addendum, alongside an updated Access and Movement Parameter Plan, Landscape and Open Space Parameter Plan and Illustrative Masterplan (with and without annotations) were submitted on the 15th July 2022.

Revised Submissions – dated 8th July 2022

- 3.8. A response to the LLFA was formally submitted on the 8th July 2022.

3rd Validation Letter – Updated 19th May 2022

- 3.9. A further updated Validation Letter was issued on the 19th May returning the determination date to 13 weeks. The Environmental Statement was not withdrawn.

Secretary of State Screening Direction – 9th May 2022

- 3.10. Despite this, on the 9th May 2022 the Secretary of State issued a Screening Direction confirming that the application was not EIA development.

2nd Validation Letter – Updated 14th April 2022

- 3.11. An updated Validation Letter was received on the 14th April 2022 with the correct 16 week determination date for EIA development.

1st Validation Letter – 4th April 2022

- 3.12. The first Validation Letter was received on the 4th April 2022; this letter was however incorrect stating that the determination period was 13 weeks instead of the required 16 weeks for EIA development.

Amended Application Submission – 1st April 2022

- 3.13. A revised application submission was made on the 1st April 2022. This included an updated Environmental Statement, alongside updated Covering Letter, Planning Statement and was accompanied by a Noise Impact Assessment and Sustainable Drainage Statement.

Receipt of Screening Opinion – 7th January 2022

- 3.14. CDC confirmed that the Council's position was that an EIA was required and an Environmental Statement would be required. CDC confirmed on the 1st March 2022 that the application would be held in abeyance until an Environmental Statement was provided or it was confirmed by the Secretary of State that an Environmental Statement was not required.

Outline Application Submission – 24th December 2021

- 3.15. The outline planning application was originally submitted on the 24th December 2021.

Environmental Impact Assessment Screening Opinion Request – 17th December 2021

A request for an EIA Screening Opinion (reference: 21/04193/SO) for residential comprising up to 230 dwellings on the Appeal Site was submitted to CDC on the 17th December 2021. No response was received prior to submission of the outline application.

Pre-Application Discussions – Prior to Submission

- 3.16. The Appeal Proposals were subject to pre-application discussions with Officers at CDC (reference: 21/01745/PREAPP) and with Heyford Park Parish Council. Further details on this engagement is available in the Statement of Community Involvement which supported the outline application.

Duplicate Application Submission

- 3.17. Following refusal of the outline planning application, a duplicate application has been submitted to CDC on the 2nd June 2023 (reference: 23/01503/OUT). This duplicate submission is of the same description of development, for an outline application of up to 230 dwellings, with the same red line as the appeal proposals.
- 3.18. The duplicate application submission contains the same documents as submitted as part of the refused outline application (either as originally submitted or submitted during determination), and which are submitted as part of this appeal. No additional documents have been submitted as part of this duplicate application, which were not submitted as part of the outline application which is now the subject of this planning appeal.

The Appeal Site – Previous Planning History

- 3.19. Part of the Appeal Site has been the subject of a hybrid application for the erection of a total of 22,000sqm of warehouse and logistics floorspace (reference: 14/02025/HYBRID). The hybrid application was submitted in December 2014, but was subsequently withdrawn in April 2017 as the Applicant found alternative premises within the District. This is not considered relevant to this planning appeal.

Relevant Nearby Planning History

Airbase

- 3.20. Military use of the former RAF Upper Heyford ceased in 1994. Since 1998 the site has accommodated a number of employment uses in existing buildings on the flying field and in the technical area, first under temporary planning permissions and latterly under a permanent permission granted on appeal and by subsequent applications.
- 3.21. There are three key planning applications involving the comprehensive redevelopment of the former RAF Upper Heyford airbase. These are set out below:

1. Outline planning application 08/00716/OUT was for the formation of a new settlement of 1,075 dwellings, together with associated works and facilities, including employment uses, community uses, a school, playing fields and other physical and social infrastructure, across the entire airbase. The scheme was allowed at appeal (APP/C3105/A/08/2080594) dated 11 January 2010 and is subject to an S106 Unilateral Undertaking. It is referenced in various planning documents on CDC's website as the Lead Appeal. It established the principle of employment use in a considerable number of the buildings and structures on the former flying field, in association with a management plan and the demolition of existing structures and redevelopment of new housing and associated infrastructure along Camp Road and to the south.

- 3.22. Following the purchase of the site by the Dorchester Group in late 2010, a revised scheme was submitted to CDC:

2. Outline planning application 10/01642/OUT proposed a new settlement of 1,075 dwellings including the retention and change of use of 267 existing military dwellings to residential Class C3 and the change of use of other specified buildings, together with associated works and facilities, including employment uses, a school, playing fields and

other physical and social infrastructure. The application was approved on 22 December 2011, and was also subject to a further S106 Agreement.

To the north and east of the Appeal Site

3.23. Following the adoption of policy allocating additional land, a third significant application followed in 2018 which established commercial development on land bordering the north of the Appeal Site:

3. Hybrid application 18/00825/HYBRID was submitted by Dorchester Living and registered on 10th May 2018. In November 2020 Planning Committee resolved to grant planning permission subject to a list of conditions and the completion of a s106 Agreement. These were subsequently agreed and a decision was issued on 9th September 2022. The proposals included up to 1,175 dwellings, 60 close care dwellings, retail space, a medical centre, employment buildings, a new school, community buildings, open space, and associated infrastructure works, including upgrading Chilgrove Drive and the junction with Camp Road.

3.24. It should be noted that as part of this hybrid application, permission was secured for the realignment of Chilgrove Drive, to the east of the Appeal Site, in order to provide a permanent access to the flying field commercial area to the north of the Appeal Site. The existing Chilgrove Drive is proposed as a footpath/bridleway.

To the west of the Appeal Site

3.25. There are currently three outstanding residential applications on the land to the west of the Appeal Site:

1. Full planning application 15/01357/F for 89 dwellings submitted by Pye Homes. It has resolution to approve, subject to completion of an S106.

2. Outline planning application 21/03523/OUT for 31 dwellings submitted by Pye Homes. It has resolution to approve, subject to the completion of a S106. It lies to the north of above referenced application 15/01357/F.

3. It is understood that both of the above applications are superseded by more recent application 22/03063/F submitted for the same site. The application is by David Wilson Homes for 126 dwellings with access from Camp Road, provision of public open space and associated infrastructure. The application is currently being considered. A target decision date is recorded as 5th January 2023.

3.26. Accordingly, the above applications demonstrating how many applications for residential development benefit either from planning permission, or resolutions to grant planning permission, at Heyford Park.

Summary

3.27. The Appeal Site has been the subject to pre-application and application engagement for over two years. This culminated in a positive recommendation to grant planning permission by the planning officers of CDC to Planning Committee in March 2023.

3.28. Despite the positive recommendation the Planning Committee resolved to refuse planning permission. The reasons for refusal were not confirmed by the Planning Committee because the reasons had to be devised following the committee meeting. The printed summary of the decisions taken at the planning committee state that the reasons are to be set out in the minutes.

3.29. Following the planning committee meeting held on 9 March 2023, the reasons for the refusal were provided in the decision notice dated 31 March 2023.

4. Appeal Proposals

- 4.1. It is the intention of the Appellant to seek to reach common ground with CDC in respect of a description of the Appeal Proposals.
- 4.2. The Appeal Proposal comprises residential development of up to 230 dwellings, creation of new vehicular access from Camp Road and all associated works with all matters reserved, except for access. Therefore, details of appearance, layout, landscaping and scale were reserved for future consideration. No detailed designs were provided.
- 4.3. The following Parameter Plans were submitted as part of the outline application:
- **Land Use Parameter Plan** – demonstrating the residential development parcels, green spaces and existing watercourses;
 - **Access and Movement Parameter Plan** – providing an overview of the point of access and the internal road hierarchy;
 - **Building Heights Parameter Plan** – demonstrating building heights of between 2, 2.5 and 3 storey's across the Appeal Site;
 - **Density Parameter Plan** – proposing areas of up to 40dph and 45dph; and
 - **Landscape and Open Space Parameter Plan** – including areas of green space, SuDS features, proposed vegetation, footpaths and cycle routes, and tree lined streets.
- 4.4. In addition to this, an Illustrative Masterplan was also submitted as part of the outline planning application. This indicatively demonstrated how up to 230 dwellings could be accommodated, based on a mix of 1-4+ bedroom properties, including 35% affordable dwellings. This Illustrative Masterplan also set out the proposed access arrangements, footway and cycle links, and new open spaces including a Local Area of Play (LAP) and Locally Equipped Area of Play (LEAP).
- 4.5. During determination of the outline application, a revised Access and Movement Parameter Plan, Landscape and Open Space Parameter Plan, Illustrative Masterplan and Illustrative Masterplan (without annotations) were submitted to CDC. All of the revised plans were submitted as Rev A in July 2022.

Access Arrangements

- 4.6. As part of the outline planning application, details of access were submitted for determination. The site access is proposed to be a T-junction with Camp Road (as shown on access drawing reference: T19562.001 Rev A in the Transport Assessment). The Access and Movement Parameter Plan (drawing reference: P02) also sets out the site's access, street hierarchies and routes through the site.
- 4.7. Visibility at the proposed junction can be delivered in accordance with the speed limit of 30mph, with 2.4m x 59m splays in both directions.
- 4.8. Footway provision is proposed on the western side of the access, totalling 2m in width. On the eastern side of the access, a shared footway and cycleway is proposed at 3m in width.

Core Documents

- 4.9. Supporting documents have been submitted as part of the planning appeal. A Core Document List has been prepared and included within the Statement of Common Ground. That list is intended as a 'live' document that will be updated as the appeal progresses.

5. Development Plan Policy and Material Considerations

5.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that Development proposals be determined in accordance with the Development Plan unless material considerations indicate otherwise. The adopted statutory Development Plan comprises the following relevant documents:

- Cherwell Local Plan 2011 – 2031 (Part 1) (adopted 20th July 2025);
- Cherwell Local Plan 1996 Saved Policies (adopted November 1996); and
- Mid Cherwell Neighbourhood Plan (made May 2019).

5.2. Material considerations also include national policy, which is primarily expressed through the National Planning Policy Framework and National Planning Practice Guidance, as well as additional guidance produced by CDC in the form of Supplementary Planning Documents (SPDs). These are set out below.

The Development Plan

5.3. It is the intention of the Appellant to seek to reach common ground with CDC in respect of the specific development plan policies relevant to the determination of the application. Nevertheless, the Officer's Report relating to the determination of the application along with the formal Decision Notice identify the following key policies of relevance.

Table 1: Relevant Policies Contained in the Adopted Development Plan

	Cherwell Local Plan	Saved Policies	Neighbourhood Plan
Principle of Development	<ul style="list-style-type: none"> • Policy PSD 1 (Presumption in Favour of Sustainable Development) • Policy BSC 1 (District Wide Housing Distribution) • Policy Villages 2 • Policy Villages 5 	<ul style="list-style-type: none"> • Policy H18 (New Dwellings in the Countryside) 	<ul style="list-style-type: none"> • Policy PD3 (Development Adjacent to Heyford Park)
Design	<ul style="list-style-type: none"> • Policy BSC 2 (The Effective and Efficient Use of Land) 	<ul style="list-style-type: none"> • Policy C8 (Sporadic Development in the Open Countryside) • Policy C28 (Layout, Design and External Appearance of New Development) • Policy C30 (Design Control) 	<ul style="list-style-type: none"> • Policy PD5 (Building and Site Design)
Housing Mix	<ul style="list-style-type: none"> • Policy BSC 3 (Affordable Housing) • Policy BSC 4 (Housing Mix) 		<ul style="list-style-type: none"> • Policy PH1 (Open Market Housing Schemes)

	Cherwell Local Plan	Saved Policies	Neighbourhood Plan
			<ul style="list-style-type: none"> • Policy PH3 (Adaptable Housing) • Policy PH4 (Extra-care Housing)
Open Space	<ul style="list-style-type: none"> • Policy BSC 10 (Open Space, Outdoor Sport and Recreation Provision) • Policy BSC 11 (Local Standards of Provision – Outdoor Recreation) • Policy BSC 12 (Indoor Sport, Outdoor Sport and Recreation Provision) 		
Sustainability	<ul style="list-style-type: none"> • Policy ESD1 (Mitigating and Adapting to Climate Change) • Policy ESD 2 (Energy Hierarchy and Allowable Solutions) • Policy ESD 3 (Sustainable Construction) • Policy ESD 4 (Decentralised Energy Systems) • Policy ESD 5 (Renewable Energy) 		
Flood Risk and Drainage	<ul style="list-style-type: none"> • Policy ESD 6 (Sustainable Flood Risk Management) • Policy ESD 7 (Sustainable Drainage Systems) • Policy ESD 8 (Water Resources) 		
Heritage	<ul style="list-style-type: none"> • Policy ESD15 (The Character of the Built and Historic Environment) 		
Ecology	<ul style="list-style-type: none"> • Policy ESD10 (Protection and Enhancement of Biodiversity and the Natural Environment) 		
Highways	<ul style="list-style-type: none"> • Policy SLE4 (Improved Transport Connections) 		<ul style="list-style-type: none"> • Policy PH5 (Parking, Garaging and Waste Storage Provision)

	Cherwell Local Plan	Saved Policies	Neighbourhood Plan
Landscape and Green Infrastructure	<ul style="list-style-type: none"> • Policy ESD13 (Local Landscape Protection and Enhancement) • Policy ESD17 (Green Infrastructure) 	<ul style="list-style-type: none"> • Policy C33 (Protection of Important Gaps for Undeveloped Land) 	<ul style="list-style-type: none"> • Policy PD4 (Protection of Important Views and Vistas) • Policy PD6 (Control of Light Pollution) • Policy PD4 (Protection of Views and Vistas)
Environmental Matters		<ul style="list-style-type: none"> • Policy ENV1 (Development Likely to Cause Detrimental Levels of Pollution) • Saved Policy ENV12 (Development of Contaminated Land) 	
Planning Obligations	<ul style="list-style-type: none"> • Policy INF1 (Infrastructure) 		

5.4. In addition to Table 1, it is noted that Policy Bicester 1 of the Cherwell Local Plan is cited in Paragraph's 9.46 and 9.56. Policy Bicester 1 relates to the North West Bicester Eco-Town. It is considered that this policy was incorrectly referenced in the Committee Report, and is not relevant to this appeal.

5.5. A number of material considerations are relevant to this appeal. The main documents include, but are not limited to, the below:

National Planning Policy Framework (NPPF) (July 2021)

- Chapter 2 – Achieving Sustainable Development (Paragraphs 7-14)
- Chapter 4 – Decision-Making (Paragraphs 47, 55 - 57)
- Chapter 5 – Delivering a Sufficient Supply of Homes (Paragraphs 60-62, 68, 71, 74-77)
- Chapter 6 – Building a Strong Competitive Economy (Paragraph 81)
- Chapter 8 – Promoting Healthy and Safe Communities (Paragraphs 92-93)
- Chapter 9 – Promoting Sustainable Transport (Paragraph 104-105, 110-113)
- Chapter 11 – Making Effective Use of Land (Paragraphs 119 – 120, 124)
- Chapter 12 – Achieving Well-Design Places (Paragraphs 126, 130)
- Chapter 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change (Paragraphs 152, 154, 157, 159 – 167, 169)
- Chapter 15 – Conserving the Natural Environment (Paragraphs 174-188)
- Chapter 16 – Conserving and Enhancing the Historic Environment (Paragraphs 193 – 195, 199 – 202)

Additional Items

- Planning Practice Guidance, online resource

- The Planning (Listed Buildings and Conservation Areas) Act 1990
- RAF Upper Heyford Conservation Appraisal 2006 (UHCA)
- CDC-Developer Contributions SPD - February 2018
- Oxfordshire Local Transport Plan: Connecting Oxfordshire (2015- 2031)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Cherwell Residential Design Guide SPD 2018
- Housing Economic Land Availability Assessment (HELAA) 2018
- Draft Local Plan 2040 (Regulation 18) Consultation

5.6. The above list is not exhaustive and the Appellant will seek to reach agreement with CDC as to key material considerations and a Core Documents List.

6. The Appellant's Case – Why Planning Permission Should be Granted

6.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that Development proposals be determined in accordance with the Development Plan unless material considerations indicate otherwise.

6.2. Through evidence, the Appellant will set out why planning permission should be granted on the basis that:

- The proposals accord with the Development Plan, when read as a whole;
- The proposal accords with a material consideration in the form of the National Planning Policy Framework (NPPF);
- CDC is unable to demonstrate a sufficient housing land supply which engages the tilted balance in decision making;
- With regards to Paragraph 11 of the NPPF, there is no justification for this be disengaged;
- The impacts alleged by CDC will not significantly and demonstrably outweigh the benefits of the proposal. The Appellant will identify numerous benefits of the proposal and that there are no significant impacts; and
- The overall planning balance weighs in favour of granting planning permission.

6.3. Planning permission should be granted subject to planning conditions and planning obligations.

6.4. The Appellant contests CDC's two reasons for refusal of planning permission on the following grounds.

Reason for Refusal 1 (RfR1):

“1. The site is located on greenfield land outside the Policy Village 5 allocation, therefore within an area of open countryside separate from the built-up area of Heyford Park. As a result, the development would have a poor and incongruous relationship with the form and character of Heyford Park, by reason of the site's general openness. The site's relationship to the RAF Upper Heyford Conservation Area and the views into and out of the Conservation Area would cause harm to the setting of designated heritage assets. Such environmental harm is considered to be less than substantial, but the harm caused is not outweighed by the public social and economic benefits. In addition, the Council is able to demonstrate a 5.4-year housing land supply, and therefore the housing strategies in the Local Plan are up to date. It is considered that the development of this site would conflict with the adopted policies in the Local Plan to which substantial weight should be attached. The principle of this development is therefore unacceptable, as contrary to Policies PSD1, ESD1, ESD13, ESD15, and Policy Villages 5 of the Cherwell Local Plan 2011-2031, Policy PD4 of the Mid Cherwell Neighbourhood Plan, Saved Policies C8, C30, C33 and H18 of the Cherwell Local Plan 1996 and Government Guidance in the National Planning Policy Framework.”

6.5. CDC's RfR 1 has a number of components which are considered in turn below.

Site's Location in Open Countryside outside of Policy Villages 5 Allocation

6.6. The Appellant will demonstrate that whilst the site is in the countryside in planning policy terms due to being outside of the Villages 5 allocation for Heyford Park, in accordance with Policy PSD 1 and Paragraph 11 of the NPPF, key housing policies relating to the principle of development in this case, such as Policies ESD 1, BSC 1 and Policy Villages 1 of the Cherwell Local Plan and saved Policies C8 and H18 are considered to be out of date, due to CDC's inability to demonstrate a five year housing land supply. It will be explained that there are no reasons to disengage the tilted balance, when considering Footnote 9 to Paragraph 11(d) of the NPPF.

6.7. Policy PSD 1 reflects the presumption in favour of sustainable development contained within Paragraph 11 of the NPPF. Consequently, the Appellant will demonstrate that whilst key policies relating to the provision of housing are considered to be out of date, it is possible to still ensure compliance with the adopted Development Plan when read as a whole, due to the provisions set out in Policy PSD 1 in such circumstances that policies are out of date.

6.8. The Appellant will demonstrate that as the key policies are out of date, planning permission should be granted as there are no material considerations which indicate that planning permission should not be granted, and that the benefits of granting planning permission significantly and demonstrably outweigh any adverse impacts in line with both Policy PSD1 and Paragraph 11 of the NPPF.

6.9. Notwithstanding the above, the Appellant will also demonstrate that the Appeal Site is located in one of the most sustainable locations in the District, particularly due to its location at Heyford Park, adjacent to the Policy Villages 5 allocation. It will be demonstrated how the emerging Cherwell Draft Local Plan (Regulation 18) indicates that Heyford Park will be classified as a Local Service Centre in the future Local Plan; as one of the most sustainable locations for growth in the District. In particular, it will be explained how the site is proposed as part of a wider allocation for 1,235 dwellings in the Cherwell Draft Local Plan (Site Reference: South and East of Heyford Park, LPR42A).

6.10. As such, it will be explained how development on the appeal site will achieve sustainable development.

Perceived Separation from Built Form of Heyford Park, Resulting in a Poor and Incongruous Relationship with the Form and Character of Heyford Park, by reason the Site's Perceived Openness

6.11. Contrary to CDC's position, the Appellant considers that this site is well related to the built form of Heyford Park. The Appellant will demonstrate that there are three outstanding applications on land to the west, including two applications (references: 15/01357/F and 21/03523/OUT) which have resolutions to approve, subject to the completion of a S106 Agreement, totalling 120 dwellings. Further to this, land to the west of the Appeal Site is also allocated for development in the adopted Development Plan.

6.12. A further application to the west on the same site has been submitted to CDC, and is pending determination (reference: 22/03063/F). This totals 126 dwellings. Positive engagement has been ongoing with the Case Officer for this application, with the intention to soon submit revised information to reach a September

Planning Committee with a positive recommendation of approval. Once approved, Barratt David Wilson Homes are eager to commence works on the site as soon as possible.

- 6.13. Hybrid planning permission was granted for a mixed use development, including up to 1,175 dwellings (reference: 18/00825/HYBRID), on land to the north of the site, including a new realigned Chilgrove Drive to the east of the Appeal Site.
- 6.14. For these reasons, the Appellant will demonstrate that the site is not separated from the built form of Heyford Park, and will in fact result in a logical compliment to Heyford Park, which respects the form and character of the area. Once Chilgrove Drive is re-aligned as part of the wider Hybrid planning permission, the Appeal Site will result in being an infill development. Furthermore, due to these nearby applications, it will be demonstrated that the appeal proposals will not adversely affect the site's openness.
- 6.15. The Appellant will demonstrate that no significant effects were predicted on landscape or views and that the effects of the proposals are limited and localised.
- 6.16. The Appellant will be submitting landscape evidence to demonstrate the acceptability of the appeal proposals from a landscape perspective, in accordance with the requirements of Policies ESD 13, saved Policies C30 and C33, Policy PD4 of the Neighbourhood Plan and the NPPF.

Impacts to Heritage Assets and the Conservation Area

- 6.17. As part of the original outline application, the Appellant submitted a Built Heritage Statement, prepared by RPS. The Built Heritage Statement was produced to meet the requirements of paragraph 194 of the NPPF and provides a proportionate assessment of the significance of the Upper Heyford Conservation Area and the heritage assets within it, which includes a series of non-designated hardened aircraft shelters to the north-east of the site. The assessment follows Historic England guidance set out in *GPA3: The Setting of Heritage Assets* (2nd edition; 2017).
- 6.18. The report demonstrates that the character and appearance of the Conservation Area is principally embodied by the built elements and open and operational spaces within the Conservation Area itself, whereby its historic development and operation can be fully understood. The significance of the hardened aircraft shelters is linked to their role as part of the final phase of development within the airfield, their group value and historic interest.
- 6.19. The topography of the airfield and surrounding landscape is an important contributor to its significance, with the placement on the Upper Heyford Plateau chosen for operational purposes, particularly related to the operation of the main east-west runway. The airfield was sited in a relatively isolated location, however it is functionally divorced from this surrounding land, with fences and planting providing both security and privacy. Views, and particularly public views, into the Conservation Area are consequently limited. The Appeal Site forms an element of historic agricultural land to the immediate south of the Conservation Area. It is reflective of the rural landscape within which the airfield was developed but is of a markedly different character to the airfield, hard landscaping and buildings within it. There is also a limited visual relationship between the Appeal Site and Conservation Area. The Appeal Site therefore makes no contribution to the significance of the Conservation Area
- 6.20. This Built Heritage Statement concluded that the Appeal proposals will result in no harm to the significance of the RAF Upper Heyford Conservation Area or any designated or non-designated heritage assets within

it. This is in contrast to the Council's position that "It is inevitable that development of this site will result in some harm to the heritage assets as a result of changes to their setting".

6.21. The Appellant will present evidence on how a number of works have been approved under the Hybrid planning permission for Heyford Park, which will inevitably change the character of the Conservation Area and its setting.

6.22. The Appellant will provide heritage evidence as part of the Inquiry Evidence to be submitted to demonstrate this position, that there would be no harm to the significance of any designated or non-designated heritage assets or the Conservation Area, in accordance with Policy ESD 15, saved Policy C33 and the NPPF.

Whether any Heritage Harm would be Outweighed by the Public Benefits

6.23. The Appellant's position is explained above, that there would be no harm to the Conservation Area, or any heritage assets (both designated and non-designated) contained within it. Evidence will be submitted as part of the appeal to demonstrate this.

6.24. However, in the event that the Inspector decides that there would be less than substantial harm to the significance of the Conservation Area, the Appellant will demonstrate that the less than substantial harm would be clearly outweighed by the public benefits, in accordance with Paragraph 202 of the NPPF. The public benefits include the boost to the supply of housing, provision of affordable dwellings, economic benefits and biodiversity net gain. In addition, should the Inspector determine that there is harm to the significance of any non-designated heritage assets within the Conservation Area, evidence will be provided to demonstrate that this is outweighed by benefits, in accordance with paragraph 203 of the NPPF.

Whether CDC can demonstrate a Five Year Housing Land Supply (5YHLS)

6.25. The Appellant will demonstrate that the way the CDC measures its housing land supply is not consistent with the Framework and associated Guidance. In its own evidence the Appellant will set out how 5YHLS should be measured in Cherwell and in doing so will explain how the figure the 5YHLS should be measured against should also include some of Oxford's unmet housing need. The Appellant will also identify a list of disputed sites which do not meet the definition of deliverable as set out in the Framework.

6.26. The Appellant will demonstrate that CDC's position reported within the Agenda to CDC's Executive on the 6th February of 5.4 years housing land supply for 2022 – 2027 is out of date, with the housing land supply position being below five years. Evidence will be submitted on this matter.

6.27. Until it published its statement in February 2023, the Council accepted that it could not demonstrate a 5YHLS by a significant margin. The 2021 Authority Monitoring Report (AMR) explained that the 5YHLS at 1st April 2021 was 5,826 dwellings, which against the adopted housing requirement (for Cherwell without including any of Oxford's unmet needs) of 1,142 dwellings per annum, the shortfall against this figure since the base date of the plan period and a 5% buffer equated to 3.8 years. It projected that at 1st April 2022 the deliverable supply would be 5,460 dwellings (3.5 years).

6.28. In February 2023, the Council then produced a new Housing Land Supply Statement, which claims that the deliverable supply at 1st April 2022 in Cherwell (excluding the sites to meet Oxford's unmet needs) is 4,244 dwellings. Whilst this is significantly lower than the claimed supply at 1st April 2021 and the projected supply as set out in the 2021 AMR, the Council claims this equates to 5.4 years. This is because the Council now assesses its 5YHLS against the local housing need figure of 742 dwellings per annum, which

is significantly lower than the plan-led housing requirement of 1,142 dwellings per annum. The Council's figure of 4,244 dwellings is 349 dwellings more than its claimed 5YHLS requirement figure including a 5% buffer.

6.29. In addition, the Council's 5YHLS statement provides a separate calculation for the "Partial Review" which is the requirement to meet Oxford's unmet housing needs. At 1st April 2022, the Council claims to have a deliverable supply of 80 dwellings which equates to just 0.2 years against the stepped requirement as set out in the Cherwell Partial Review (adopted September 2020) plus shortfall and a 5% buffer.

6.30. The extent of disagreement between the parties on this matter is extensive and includes the following:

1. Separate calculations should not be made for Cherwell excluding Oxford's unmet needs and Oxford's unmet needs. Such an approach is contrary to the Framework and associated Guidance:
 - Firstly, Paragraph 74 of the Framework sets out a requirement for "local planning authorities" to identify a five year housing land supply. There is no requirement for anyone other than a local planning authority to demonstrate a five year housing land supply. Therefore, there is no requirement for a separate calculation of Oxford's unmet needs to be made. Clearly Oxford's unmet need is not a local planning authority. Indeed, whilst local planning authorities must update their position on 5YHLS annually, there is no requirement for any other calculation. The Council's approach is clearly inconsistent with Paragraph 74 of the Framework;
 - Secondly, as set out in footnote 8 of the Framework, the tilted balance to the presumption in favour of sustainable development is only triggered for 5YHLS purposes when a "Local Planning Authority" cannot demonstrate a 5YHLS in accordance with paragraph 74 of the Framework, not when a calculation against unmet needs from another area such as that set out in the Partial Review cannot demonstrate a 5YHLS. In other words, by splitting the housing requirement for Cherwell, CDC is avoiding the application of the tilted balance altogether. On the one hand it claims a 5YHLS against the requirement for Cherwell excluding Oxford's unmet needs and on the other hand there is no mechanism to apply the tilted balance if there is a shortfall against Oxford's unmet needs; and
 - Thirdly, the third sentence of Paragraph 74 of the Framework explains that the supply of specific deliverable sites should also include a buffer, and this is increased to 20% where there has been significant under delivery of housing over the previous three years by reference to the Housing Delivery Test (HDT). As the HDT is measured on an administrative area basis, the buffer would only be increased to 20% in administrative areas, not for unmet need from another authority. Indeed, the current position statement for Oxford's unmet needs only includes a 5% buffer, despite there being significant under delivery of housing to meet Oxford's unmet needs. This is because there is simply no mechanism in the Framework to increase the buffer for the Oxford's unmet need calculation or indeed apply the presumption in favour of sustainable development due to a HDT result of less than 75%.

2. The figure the 5YHLS should be measured against. This should be the local housing need for Cherwell plus the requirement for Oxford's unmet needs which is to be met in Cherwell. The reasons for this will be set out in evidence, but in summary:
- Firstly, it would be consistent with the Framework and in particular, Paragraphs 61, 74, 76 and footnote 8;
 - Secondly, it would be consistent with how housing delivery in Cherwell is measured by the Housing Delivery Test. This is against a requirement including the local housing need for Cherwell plus a proportion of Oxford's unmet housing need;
 - Thirdly, it is consistent with the other three authorities which must meet some of Oxford's unmet need (South Oxfordshire, West Oxfordshire and Vale of White Horse). South Oxfordshire and West Oxfordshire both have housing requirements which are less than five years old and include some of Oxford's unmet housing need. Neither authority can demonstrate a 5YHLS. The Vale of White Horse measures its 5YHLS against its local housing need plus the requirement for Oxford's unmet needs and this approach was recently endorsed by an appeal inspector in a recent decision relating to relating to an appeal made by David Wilson Homes against the decision of Vale of White Horse Council's decision to refuse to grant outline planning permission for up to 300 dwellings at land east of Grove, Grove (PINS ref: 3310788);
 - Fourthly, it is consistent with the approach taken in the emerging draft Cherwell local plan, which proposes a single housing requirement (including some of Oxford's unmet housing need); and
 - Finally, the Partial Review itself is a supplement to the adopted Local Plan and explains that additional land beyond that allocated in the Partial Review may be required to ensure the requisite supply is achieved (or alternatively if more than 4,400 homes are approved to meet Oxford's unmet needs, the additional homes will assist in meeting Cherwell's needs.
3. The extent of the deliverable 5YHLS. As above, the Council claims that the 5YHLS at 1st April 2022 is 4,244 dwellings. At the time of writing, the Appellant concludes that this is around 3,650 dwellings. The reasons for the difference will be explained in evidence. However, in summary, CDC has failed to provide clear evidence for the inclusion of three sites without planning permission¹ or 6 sites with outline planning permission². The Appellant respectfully reserves the right to update its position on supply to consider the latest position on sites in the 5YHLS before the public inquiry.

Conflict with the adopted Development Plan as a Whole

¹ South East Bicester and two sites Former RAF Upper Heyford

² Graven Hill, South of Salt Way, North West Bicester Phase 2, Bicester Gateway Business Park, Wendlebury Road, South West Bicester Phase 2 and North of Hanwell Fields

- 6.31. RfR1 explains CDC's position that the development of the Appeal Site would conflict with the adopted Local Plan as a whole. CDC afford this conflict substantial weight. The Appellant envisages that agreement can be reached with CDC in respect of RFR2, concerning the appropriate planning obligations.
- 6.32. The policies cited within the Reasons for Refusal relate to matters of principle of development, design, sustainability, heritage, landscape and planning obligations, including Policies PSD1, ESD1, ESD13, ESD15, and Policy Villages 5 of the Cherwell Local Plan 2011-2031, Policy PD4 of the Mid Cherwell Neighbourhood Plan, Saved Policies C8, C30, C33 and H18 of the Cherwell Local Plan 1996. The Appellant will demonstrate how these policies are out of date, or how the appeal proposals comply, which in turn results in compliance with the adopted Development Plan when read as a whole.
- 6.33. As explained above, as Policy PSD 1 relates to the presumption in favour of sustainable development and circumstances when key policies are out of date, it is possible to still comply with the adopted Development Plan when read as a whole.
- 6.34. The Appellant does not therefore envisage objection by CDC in respect of the following topics:
- Access
 - Affordable housing
 - Agricultural land
 - Air quality
 - Arboriculture
 - Archaeology
 - Contamination
 - Ecology
 - Education
 - Energy / Carbon Reduction
 - Flood Risk and Drainage
 - Highways
 - Housing Mix
 - Noise
 - Recreation
 - Utilities

Reason for Refusal 2 (RfR2):

"2. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, the CDC is not satisfied that the proposed development provides for appropriate infrastructure contributions or transport mitigation required as a result of the development and necessary to ensure modal shift to sustainable transport modes and make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and workers and contrary to policy INF 1 of the Cherwell Local Plan 2015, CDC's Planning Obligations SPD 2018 and Government guidance within the National Planning Policy Framework."

Planning Obligations

- 6.35. Heads of Terms to inform Section 106 drafting have been discussed with CDC and Oxfordshire County Council at the application stage. The Appellant had no objection, in principle, to the contributions detailed by the Officer's Committee Report.
- 6.36. The Appellant considers this RfR is capable of being resolved through discussions on common ground and the preparation of a planning obligation.

Policy Interpretation and Relevant Appeal Decisions

- 6.37. It is our intention to engage with CDC in respect of policy interpretation as part of agreeing the Statement of Common Ground, and to compile a list of relevant Appeal Decisions, including those in Cherwell District.

Overall Planning Balance

- 6.38. The Appellant will explain that the appeal should be determined in accordance with the Development Plan. The Appellant will demonstrate the proposal accords with the Development Plan, when taken as a whole.
- 6.39. The Appellant's position is that due to CDC's inability to demonstrate five years' worth of housing land supply, the presumption in favour of sustainable development contained in Policy PSD1 1 (as reflected in Paragraph 11(d) of the NPPF) is relevant. This policy explains that where policies are out date, such as Policy BSC 1, ESD 1, Villages 1 and saved policies C8 and H18, planning permission should be granted unless material considerations indicate otherwise, taking into account whether the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 6.40. The Appellant will demonstrate that there are no material considerations which justify not granting planning permission. Instead, there are material considerations which further justify the grant of planning permission for residential use. These include:
- The National Planning Policy Framework, taken as a whole.
 - The lack of a five-year housing land supply or plan period supply.
- 6.41. Planning permission should therefore be granted unless any effects outweigh the benefits in doing so. This was the overarching conclusion reached by the Senior Planning Officer at CDC in their Officer's Committee Report. The Appellant will identify a range of benefits arising from residential development, on a locational, social, economic and environmental basis. Similarly, the Appellant will identify potential adverse impacts.
- 6.42. Both beneficial and adverse impacts will be assessed in terms of the weighting they should be afforded. The Appellant will demonstrate that the adverse impacts do not significantly and demonstrably outweigh the benefits and that the proposal should be granted permission, subject to planning conditions and obligations.

7. Third Party Representations

- 7.1. The application itself was subject to very limited public comment, which is very unusual for an unallocated, greenfield site based on experiences elsewhere. The only third party comment received was from Dorchester Living, the Developers of the adjacent RAF Upper Heyford Site, which are set out in Section 6 of the Officer's Committee Report.
- 7.2. However, the comments in summary related to the fact that the site is not allocated; the site is a speculative application; the application site would not have linkages to adjacent development which would poorly relate to the surrounding developments; the site retains an intrinsic agricultural character and function; landscape character; formation of junction and loss of hedgerows; anomalies on the Photosheets in the LVIA casting doubt on the findings; Transport Statement had omissions; site contributes to the character of the Conservation Area; design of new structures needs to draw on character of the Conservation Area; if new housing is required at Heyford Park there are less-sensitive areas.
- 7.3. Consultation responses were also received from Parish and Neighbourhood Forums, as set out in Section 7 of the Officer's Committee Report. In summary:
- Heyford Park Parish Council – Paragraph 7.2 of the Committee Report explains that no objection was received. Requests were made for access to S106 funding for land to be passed to the Parish for play areas or a public park; small plot for a Parish Council Office or community building; traffic calming measures on Camp Road; and a defibrillator in a central place in the proposals.
 - Despite not being mentioned in the Committee Report, an updated Heyford Parish Council comment was uploaded on the 22nd November 2022, ultimately changing the Parish's position to no longer supporting the application as brownfield land should be explored and exploited before the use of greenfield land.
 - Lower Heyford Park Council – Paragraph 7.3 of the Committee Report explains that they objected due to the traffic model being flawed in their opinion, and supported objections of Mid-Cherwell Neighbourhood Plan Forum.
 - Mid Cherwell Neighbourhood Plan Forum – Paragraph 7.4 of the Committee Report explains that they objected due to the principle of the site not being allocated and on greenfield land; loss of greenfield land and biodiversity; loss of local landscape character; and, incorrect traffic assessment.
 - Somerton Parish Council – Paragraph 7.5 of the Committee Report confirmed that they objected due to loss of greenfield site and biodiversity, and incorrect traffic assessment.
- 7.4. The Appellant will seek to address any Rule 6 submissions as may be necessary.

8. Planning Obligations and Conditions

- 8.1. The Appellant intends to submit a draft Section 106 Agreement and/or Unilateral Undertaking in advance with the planning appeal timetable and under the appeal inquiries regulations. Detailed engagement with CDC and Oxfordshire County Council in respect of the content of this document, to build upon discussions held to date, is anticipated.
- 8.2. The Appellant reserves the opportunity to submit evidence in respect of obligations sought in the context of Regulation 122 of the Community Infrastructure Regulations. It is also anticipated that CDC will prepare a CIL Compliance Statement.
- 8.3. At this point in time, it is not anticipated that any significant matters of contention will arise in this respect, owing to the consultation responses and dialogue held between the Applicant and Authorities during the determination of the application. Draft Heads of Terms are anticipated in respect of:
- Affordable Housing
 - Oxfordshire Clinical Commissioning Group
 - Thames Valley Police
 - Public Art
 - Outdoor Sports Contribution
 - Indoor and Outdoor Sports Provision
 - Community Development Fund
 - Training and Employment Plan
 - Landscape
 - Public Transport – Bus Services
 - Travel Plan Monitoring
 - Highway Works
 - Primary and Nursery Education
 - Primary School Land Contribution
 - Secondary Education
 - Libraries
 - Appropriate Legal Costs
 - Appropriate Monitoring Costs
- 8.4. The Appellant also intends to engage with CDC in respect of draft conditions. It is intended that draft conditions are set out within the final Statement of Common Ground and that discussion on these may be required during the Inquiry process.

9. Procedure and Witnesses

9.1. The Appellant has considered the Appeal procedure in accordance with the relevant guidance set out by Procedural Guide: Planning Appeals - England, dated June 2023.

9.2. This Section sets out the assessment of the appropriate procedure, and the justification for the chosen procedure.

Assessment of Appropriate Procedure

Written Representations

9.3. The Appellants have considered the 3 bulleted criteria set out for the written representations procedure. The Appellants consider that this procedure is not the most appropriate for the following reasons:

- The key issues raised cannot be clearly understood from the appeal documents and a site inspection alone;
- The key issues have been subject to detailed engagement between interested parties and are complex. The Planning Inspector will need to test evidence by questioning and will likely need to seek clarification on specific matters.

Hearing

9.4. The Appellant has considered the criteria for determining the appeal via the hearing procedure. The Appellants consider that this procedure is not the most appropriate for the following reasons:

- The key issues have been subject to detailed engagement between interested parties and are complex. The Planning Inspector will need to test the evidence by questioning and will likely need to seek clarification on specific matters;
- Given the refusal by CDC, there is a clear difference in opinion and need for evidence to be tested through formal questioning by an advocate;
- It cannot reasonably be expected that the parties will be able to present their own cases (supported by professional witnesses) without the need for substantial proofs of evidence and reference to technical appendices.

Inquiry

9.5. The Appellant has considered the criteria for determining the appeals by way of an inquiry and considers that this procedure is the most appropriate for the following reasons:

- The nature and extent of evidence to be given will need to be presented by expert witnesses in open Inquiry. There is a need for evidence of all parties to the planning appeal to be tested through formal procedure and cross examination by an advocate. This cannot be achieved through the written representations or hearing procedures;
- The issues are complex, and therefore, the Planning Inspector will need to test evidence by questioning and will likely need to seek clarification on specific matters;

- The Appellant wishes to make legal representations on the Development Plan and Housing Land Supply Position.

9.6. The appeal is made on the grounds of refusal by CDC for two stated reasons stated.

Request of Appeal Procedure: Inquiry

9.7. The Appellant suggests 5 days for an Inquiry based on the key issues considered relevant to determination of the appeal. This timing could potentially be reduced, subject to the CDC's position adopted in respect of Housing Land Supply.

9.8. The matters identified are complex and, subject to maintained objection by CDC, will need to be subject to expert consideration. It is envisaged that the extent of evidence and witnesses to be called will be limited to the reasons for refusal and therefore the matters of heritage, landscape, housing land supply, planning and S106 agreement.

9.9. The Appellant reserves opportunity to present evidence and call upon witnesses, as appropriate, in order to respond to CDC's position which will be set out within its Statement of Case and the potential involvement of any Rule 6 parties.

9.10. It is expected that there will be one or more Rule 6 parties involved in this appeal. As set out within Section 7 of this Statement, there were objections from three nearby Parish Councils and the Mid Cherwell Neighbourhood Plan Forum, all of whom may wish to be actively involved in the appeal. The Appellant has also been informed that Dorchester Living, the developer of the hybrid planning permission for Heyford Park are likely to register as a Rule 6 party. As such, it is likely that any Rule 6 parties will call technical evidence to substantiate their objections.

9.11. The Appellant considers that evidence will likely be required in respect of:

- **Heritage:** around the impacts identified to the Conservation Area and associated heritage assets;
- **Housing Land Supply:** the housing land supply position of CDC;
- **Landscape and Views:** demonstrating the acceptability of the appeal proposals from a landscape and visual perspective; and
- **Planning:** conformity of proposals with the adopted Development Plan and assessment of relevant material considerations.

9.12. In addition to the above, the Appellant respectfully reserves the opportunity to add to evidence and the above items should it become apparent that CDC wishes to contest matters beyond the scope considered within this Statement of Case.

9.13. In conclusion, we consider that in accordance with s319A of The Town and Country Planning Act 1990 and following consideration of the Procedural Guide: Planning appeals – England, the inquiry procedure is suitable for this planning appeal.

10. Conclusion

- 10.1. This Statement of Case has been prepared by Savills (UK) Ltd on behalf of Richborough Estates, Lone Star Land Ltd, K and S Holford, A and S Dean, NP Giles, A L C Broadberry in respect of land at OS Parcel 1570 Adjoining And West of Chilgrove Drive and Adjoining And North of Camp Road, Heyford Park.
- 10.2. This Statement of Case contains all of the details and arguments put forward by the Appellant to make the case for this Section 78 planning appeal, in light of CDC's Reasons for Refusal.
- 10.3. The Appellant reserves the right to evolve the case through engagement on the Statement of Common Ground and through the preparation of Proofs of Evidence.
- 10.4. It is considered that the Proposed Development constitutes sustainable development following assessment against the NPPF and relevant policies of the adopted Development Plan.
- 10.5. Furthermore, it is considered that there is insufficient housing land supply available in the District, which results in the tilted balance being triggered under Paragraph 11 of the NPPF. This provides the conclusion that planning permission in this case should be granted, as there are no adverse impacts which would significantly and demonstrably outweigh the benefits in this case.
- 10.6. In this case, the Appeal Site is situated adjacent to Heyford Park, which is the subject of a strategic site allocation in the Cherwell Local Plan 2011 – 2031.
- 10.7. The Appeal Site has however also been identified as part of a larger area of land which CDC have identified as a preferred residential site allocation in the emerging Local Plan to 2040.
- 10.8. The Proposed Development was recommended for approval at Planning Committee in March 2022, but Members resolved to refuse planning permission and the Reasons for Refusal were published in the Decision Notice just over three weeks after the Planning Committee.
- 10.9. It is on this basis we envisage the production of evidence on the grounds of heritage, housing land supply, landscape and the planning balance.
- 10.10. The Appellant has assessed the appeal under the Procedural Guidance and request that this appeal follows the Inquiry Procedure and that 5 days are factored in for the Inquiry.
- 10.11. Engagement is expected and agreement reached with CDC and Oxfordshire County Council in respect of planning conditions and planning obligations, which will be provided in accordance with the required appeal timetable.
- 10.12. Our request is that planning permission is granted, subject to planning conditions and planning obligations.

Appendices

Appendix 1

Notification of Intention to Appeal

27 June 2023
Letter - Notice of Intent - 27 June 2023



Katherine Daniels BA. (Hons) DipTP MRTPI
Principal Planning Officer
Development Management Division
Environment and Place Directorate
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By email only to: Katherine.Daniels@cherwell-dc.gov.uk

Copy to: Andy.Bateson@cherwell-dc.gov.uk
inquiryappeals@planninginspectorate.gov.uk

Dear Katherine,

Notification of Intention to Submit an Appeal

Planning Application Reference: 21/04289/OUT

OS Parcel 1570 Adjoining And West Of Chilgrove Drive And Adjoining And North Of, Camp Road, Heyford Park

Outline planning application for the erection of up to 230 dwellings, creation of new vehicular access from Camp Road and all associated works with all matters reserved apart from Access

On behalf of Richborough Estates, Lone Star Land Ltd, K and S Holford, A and S Dean, NP Giles, A L C Broadberry

I write to give notice of my client's intention to submit an appeal in respect of the above planning application.

Please find enclosed a completed copy of the template notification of intention to submit an appeal as provided by The Planning Inspectorate. You will see that I have copied this letter and enclosure to The Planning Inspectorate as required under this procedure.

This notice is prepared in the context of Cherwell District Council's refusal of outline planning application 21/04289/OUT on 31 March 2023. The refusal followed Planning Committee on 9 March 2023.

We consider that there is a need for evidence under a planning appeal to be tested through formal questioning by an advocate which is part of the inquiry procedure.

Whilst it is not mandatory for an applicant to progress through to submission of a planning appeal following servicing of this notification, we currently feel there is no other option. However, we would welcome your response to this notification and we will take this into consideration.

Should my client decide to submit the appeal we calculate the 10 days' notice to expire on 12 July 2023.

We note that another planning application has been submitted for the Site under application reference 23/01503/OUT.

Offices and associates throughout the Americas, Europe, Asia Pacific, Africa and the Middle East.

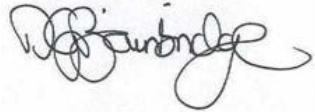
Savills (UK) Limited. Chartered Surveyors. Regulated by RICS.

A subsidiary of Savills plc. Registered in England No. 2605138. Registered office: 33 Margaret Street, London, W1G 0JD



I would be grateful to receive acknowledgement of receipt of this letter and enclosed notification and to receive your considered response to this.

Yours sincerely,

A handwritten signature in black ink, appearing to read "David Bainbridge". The signature is fluid and cursive, with the first name "David" being more prominent than the last name "Bainbridge".

David Bainbridge MRTPI
Planning Director

Copy. Richborough Estates and Lone Star Land Ltd

Encl. Notification of intention to submit an appeal

**TOWN AND COUNTRY PLANNING ACT 1990
APPEAL UNDER SECTION 78**

Notification of intention to submit an appeal

Under the provisions of Recommendation 3 of the Rosewell Review into inquiry appeals, this notification is to give the Local Planning Authority and Planning Inspectorate not less than 10 working days' notice of an intention to submit a planning appeal where the appellant will request the inquiry procedure.

Complete the following:

The appeal will be against: Cherwell District Council

For: Refusal of outline planning application 21/04289/OUT

Appellant(s) name: Richborough Estates, Lone Star Land Ltd, K and S Holford, A and S Dean, NP Giles, A L C Broadberry

Site address: OS Parcel 1570 Adjoining And West Of Chilgrove Drive And Adjoining And North Of, Camp Road, Heyford Park

Description of development: Outline planning application for the erection of up to 230 dwellings, creation of new vehicular access from Camp Road and all associated works with all matters reserved apart from Access

Planning application number: 21/04289/OUT

Likely submission date of appeal: From 12 July 2023

Proposed duration of inquiry in days: 3 days

Next steps:

1. Complete the above fields
2. Save this document
3. Attach to an email and send to the Local Planning Authority and also the Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk)
4. Submit your appeal via the [Appeals Casework Portal](#) not less than 10 working days after sending this notification.

