

## Pre-Inquiry Statement of Case

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

On behalf of Dorchester Living

Date: 21st September 2023 | Pegasus Ref: 23-2074

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## Document Management.

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# 1. Introduction

1.1. This Statement of Case has been prepared on behalf of Dorchester Living (DL). It relates to a Planning Appeal made pursuant to Section 78 of the Town and Country Planning Act 1990, in respect of OS Parcel 1570 Adjoining and West of Chilgrove Drive And Adjoining And North of, Camp Road, Heyford Park (the Appeal Site).

1.2. Richborough Estates, Lone Star Land Ltd, K and S Holford, A and S Dean, NP Giles and A L C Broadberry (the Appellants) lodged an appeal on 27<sup>th</sup> July 2023 following the decision of Cherwell District Council (the Local Planning Authority) to refuse an Outline Planning Application (LPA ref. 21/O4289/OUT) for a proposed development comprising:-

**“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.”**

1.3. By letter dated 24<sup>th</sup> August 2023, DL was granted Rule 6 status and this Pre-Inquiry Statement of Case explains how DL intend to approach this appeal.

1.4. The original planning application was reported to Committee on 9<sup>th</sup> March 2023. Notwithstanding the fact that the site is not allocated for development in the Development Plan for the area, and the LPA claim to have in excess of a five year housing land supply using the Standard Method, Officers recommended that the application should be approved subject to conditions and s.106 planning obligations.

1.5. However, having considered the Officer Report, Members determined that the application should be refused. They identified 2no. reasons for refusal which are set out on the Decision Notice dated 31<sup>st</sup> March 2023. These read as follows:-

**“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 Local Planning Authority 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."**

- 1.6. This Statement of Case identifies the main issues that DL intends to raise in its evidence to the inquiry. DL reserves the right to add to and/or amend their case, as necessary to respond to any change in circumstances, including any additional documents adduced by the Appellants.

## 2. The Appeal Site Location and Description

- 2.1. The appeal site relates to land close to, but not within the Former RAF Upper Heyford base (now known as Heyford Park) which lies to the west of junction 10 of the M40, approximately 5.5km to the north west of Bicester.
- 2.2. Heyford Park is allocated in the adopted Development Plan as a new settlement involving redevelopment of both previously developed land and other greenfield land (Local Plan Policy Villages 5). It is the subject of numerous heritage designations and should be viewed as an appropriate but sensitive location for appropriately located, planned and designed new development.
- 2.3. Planning permission is already in place for mixed use development including amongst other things, almost 2,700 homes along with employment uses, schools, retail and a medical centre. The site is currently being built out by Dorchester Living and development partners and around 850 dwellings have been completed at the time of writing. Each of those consents has been arrived at after lengthy consideration and discussions with relevant officers at Historic England and the Council. Heyford Park should not be viewed as an 'ordinary residential development' which can simply be expanded in an unplanned and uncoordinated manner.
- 2.4. The appeal site is located at the eastern end of Heyford Park. It adjoins Camp Road to the south and Chilgrove Drive to the east. Land to the immediate west does form part of the Policy Villages 5 site allocation (Areas with potential for additional development identified under Policy Villages 5) and this is the subject of an application for a further 126 dwellings which is still pending determination (ref. 22/O3063/F). The former airfield is located to the north.
- 2.5. The appeal site itself is an irregular shaped area of land which extends to approximately 11.7ha. The proposed built development would be concentrated in what are currently two open fields within the northern and south/eastern parts of the site. The western part of the site is also undeveloped and includes a number of trees, ponds and hedgerows. This area is proposed to be used for public open space and drainage. There is no particular logic to the form of the proposed development which appears to reflect no more than the happenstance of land ownership.
- 2.6. There are no landscape, ecology or heritage designations that apply to the appeal site itself. However, as rightly noted in the Appellant's SoC, the 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.
- 2.7. There are no public rights of way within or adjoining the site.

### 3. The Appeal Proposals

- 3.1. The Planning Application that is now the subject of this appeal was submitted to Cherwell District Council on 24<sup>th</sup> December 2023. 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.”**

- 3.2. As per the description of development, the planning application was submitted in outline with all matters of detail reserved for subsequent determination except for access which is to be considered now.

- 3.3. The main components of the appeal proposal can be described as follows:

#### **Amount and Density**

- 3.4. The appeal proposals involve a development of up to 230 dwellings.
- 3.5. The Density Parameter Plan indicates that most of the scheme is to be built out at a density of up to 40dph, with a higher density of up to 45dph at the core of the southern development parcel.

#### **Layout**

- 3.6. An Illustrative Masterplan was submitted as part of the application. This demonstrates how the proposed development could be laid out.

#### **Access**

- 3.7. The appeal scheme only has a single point of access for vehicles and this is located at the southern boundary off Camp Road.
- 3.8. There are some pedestrian and cycle links to Camp Road and Chilgrove Drive to the south and east respectively. There are no links proposed to the north or west, notwithstanding the obvious need to integrate the proposed new homes into the community of Heyford Park.

#### **Building Heights.**

- 3.9. Whilst “scale” is a reserved matter, The Building Heights Parameter plan identifies that the building heights would range from 2 storey, 2.5 storey and 3 storeys depending upon their location within the site.

#### **Landscaping and Open Space**

- 3.10. The Landscape and Open Space plan shows that the majority of the open space and landscaping is provided on the western part of the site. There is some limited green space and landscaping on the northern eastern and southern fringes of the proposed development areas. It is unclear as to the extent to which this will be secured by condition or whether it is intended to be indicative.



### **Drainage**

- 3.11. The proposals will incorporate Sustainable Urban Drainage (SUDs) features within the western part of the site, coincident with the main body of open space.





## 4. Planning history

- 4.1. The Appellants set out the planning history that is of relevance to this appeal at section 3 of its SoC.
- 4.2. The factual position is not a matter that it likely to be in dispute. DL will however explain why it is necessary to understand the planning history of the wider site to be able to consider the cumulative impacts of development in the area, with particular reference to the comprehensive approach taken to development at Heyford Park and the wider infrastructure requirements, and why piecemeal, unplanned development ought to be resisted.

## 5. Planning policy

### **National Guidance**

- 5.1. DL will refer to relevant national policies and guidance set out in the revised National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).

### **The Development Plan**

- 5.2. DL will explain that the Development Plan for the area currently comprises the following:-
- Cherwell Local Plan 2011 – 2031 Part 1 (CLP 2015)
  - Cherwell Local Plan 1996 Saved Policies (CLP 1996)
  - Mid Cherwell Neighbourhood Plan (MCNP 2019)

### **Emerging Development Plan Policies**

- 5.3. DL will also refer to the following emerging Development Plan document and the related evidence base:-
- Cherwell Local Plan 2040

### **Supplementary Planning Guidance**

- 5.4. Where relevant, reference will be made to supplementary planning guidance, documents and advice.

## 6. Proofs of evidence

6.1. DL will prepare written evidence in advance of the Inquiry to set out in full its objections to the appeal proposals.

6.2. It is anticipated that evidence will be presented as follows:-

### **Traffic and Transportation including infrastructure provision/mitigation**

- David Frisby

### **Planning Policy**

- David Hutchison

6.3. DL has presented evidence in relation to areas of heritage and landscape in objection to this scheme, however it is considered disproportionate for it to call evidence in respect of all areas upon which it has concern. Nonetheless those objections and the evidential basis for them remains and has been largely unaddressed by the Appellant at the time of writing.

6.4. DL reserves the right to introduce additional witnesses as necessary to address any other issues that may be raised by the Appellants.

## 7. Case for Dorchester Living (DL)

- 7.1. The reasons for refusal identify the main issues that are in dispute insofar as the principal parties are concerned (ie the Appellant and the LPA). DL will present evidence on some (but not all) of these issues.
- 7.2. DL does not intend to present evidence on housing land supply. DL will leave the LPA to present evidence on this matter. DL will present its evidence on the planning balance considering both scenarios ie if (i) the LPA can demonstrate a 5YRHLS and (ii) if the LPA cannot demonstrate a 5YRHLS.
- 7.3. DL do not intend to present evidence on landscape or heritage matters.

### The Main Issues for DL

- 7.4. DL will present its evidence under the following headings:-
  - **Issue 1**      **The principle of development**
  - **Issue 2**      **Traffic and Transportation**
  - **Issue 3**      **Accessibility and integration of new development**
  - **Issue 4**      **Infrastructure**

### Issue 1 The Principle of Development

- 7.5. The starting point for the determination of any planning application or appeal is the Development Plan. The planning system is “plan led” and requires that applications for planning permission be determined in accordance with the Development Plan, unless other material considerations indicate otherwise.
- 7.6. In this case it will be explained that the appeal site is located in the countryside in planning policy terms. It is not allocated for housing or indeed any other form of development and it is located outside of the Policy Villages 5 allocation. The proposals conflict with the Development Plan when read as a whole, and the starting point is that absent material considerations to the contrary the appeal should be dismissed.
- 7.7. The Appellant in its SoC claims that the proposals accord with the Development Plan when read as a whole, this is disputed and represents an obvious misreading of the Development Plan taken as a whole. That conclusion relies upon compliance with LP Policy PSD1 because it is said to reflect the presumption in favour of sustainable development at NPPF paragraph 11d (the tilted balance as it is commonly referred to). The mere fact that the presumption were to be engaged (even if that garners support within the development plan) does not then necessarily ‘trump’ other areas of obvious conflict with the plan which must be read as a whole. Such a contention is simplistic and obviously wrong.

- 7.8. Whether the tilted balance is engaged or not (by reason of paragraph 11(d) of NPPF) will be a matter for debate at the inquiry. Importantly, the LPA says that it can now demonstrate a five year housing land supply and so there is no agreement on this i.e. it is not a matter of common ground. There is no immediate need to release additional land now for housing in an unplanned manner.
- 7.9. Even if there is a shortfall in the amount of deliverable housing land, it will still be necessary for the Appellants to demonstrate that the adverse impacts of granting planning permission do not significantly and demonstrably outweigh the alleged benefits. That will be a matter for the planning balance, along with the statutory starting point of s.38(6).
- 7.10. Despite the claim of development plan compliance, the Appellants do not identify any policies which positively support the principle of development in this case. There is no analysis of the most important policies themselves and how the proposal performs against them. DL will explain that it is not sufficient for the Appellant to just claim that the most important policies are out of date without explaining what weight is to be afforded to any policy conflicts. Development Plan policies are not to be disregarded or automatically afforded no weight even if they are found to be out of date.
- 7.11. DL will address the most important policies relating to the principle of development including those which set out the spatial strategy for the District. DL will identify that there is serious conflict with a number of these policies and will ascribe the weight to be afforded to those conflicts in the context of the LPA demonstrating a 5YRHLS. DL will also consider the weight to be afforded to these policies in the event that the Inspector concludes that the policies are out of date for reasons relating to housing land supply.
- 7.12. The Appellant relies upon the fact that the appeal site is located adjacent to the LP Policy Villages 5 allocation at the Former RAF Upper Heyford. DL will explain that the proposals do not accord with the policy. The site is not part of the site allocation and it is not needed to meet the housing numbers referred to in the allocation. It is neither properly planned nor properly integrated with the Heyford Park development.
- 7.13. DL will also draw attention to the extensive requirements of the Policy Villages 5 itself and in particular how it requires a comprehensive and integrated approach. Policy Villages 5 is a lengthy and far reaching policy which reflects the care which is to be taken when promoting new development in this location given its acknowledged sensitivities, especially having regard to the provision of infrastructure, integration of links and basic principles of place shaping. This proposal has not been formulated with those principles in mind. The appeal proposals are not part of the site allocation and in any event they would be at odds with this important policy objective which underpins the plan led approach to development in this location. The emerging new settlement of Heyford Park is an obviously inappropriate location to promote a generic urban expansion proposal of the kind proposed.
- 7.14. DL recognise that the emerging Local Plan may indeed identify additional land at RAF Upper Heyford for further development. However, the emerging plan is at a very early stage in the plan making process, and it should be afforded little to no weight in the determination of this appeal,

having regard to National Policy in NPPF paragraph 48. It should certainly not be viewed as a 'green light' for such expansion well in advance of the formulation of policies and evidence to guide any future development. That is not to say that a prematurity argument is being raised in the strictest sense – but rather that this underscores the problems with the promotion of a simple bolt on residential development which is not properly planned or integrated with the existing and emerging new settlement; especially at a point when there is no immediate housing need.

- 7.15. Even if the emerging plan does identify the wider area for further development, it will again no doubt require a comprehensive and coordinated approach which also takes into account infrastructure provision. It will need a clear strategy for supporting uses and new infrastructure as well as wider mitigation which can come forward as part of a coherent plan led development. Allowing piecemeal, ad hoc development now could hinder rather assist in the achievement of the strategy for this part of the District. The Appellant can therefore gain little comfort from this possibility at this stage.

## **Issue 2 Traffic and Transportation**

### **Junction Capacity Assessment**

- 7.16. The Appellant has purported to use trip rates, distribution, and traffic modelling methodologies in line with the wider allocated and consented masterplan at Heyford Park, which demonstrates a consistent approach to the assessment of transportation impacts.
- 7.17. Following scoping discussions with Oxfordshire County Council (OCC) and National Highways (NH) it was agreed that any development proposals forming part of the Heyford Park allocation needed to be considered in the context of the cumulative impact of the full 1,600 residential units and 1,500 jobs development allocation. As such, the following junctions were agreed to be assessed:
- M40 Junction 10 (Padbury junction A43)
  - M40 Junction 10 (Cherwell Services junction A43)
  - M40 Junction 10 (Ardley junction A43/B430)
  - A43/B4100 roundabout
  - A34 Northbound Slip Roads (B430)
  - A34 Southbound Slip Road (B430)
  - B430/Unnamed Road junction
  - B430/B4030 (Middleton Stoney) junction
  - A4095/B430 junction

- A4095/B4030 junction
- B4030/Unnamed Road junction
- Camp Road/Kirklington Road junction
- Camp Road/Somerton Road junction
- B4030/Port Way junction
- B4030/Station Road junction
- A4260/Somerton Road junction
- A4260/B4030 (Hopcrofts Holt) junction
- A4260/Unnamed Road junction
- A4230/Banbury Road/Unnamed Road junction
- A4260/B4027 junction
- A4095/Port Way junction
- A4095/Bletchington Road junction
- A4095/B4027 (Enslow east) junction
- A4095/B4027 (Enslow west) junction
- Camp Road/Chilgrove Drive signal junction
- Site Access/Camp Road priority junction

7.18. However, the Appellant applies a wholly unwarranted sifting approach and discounted detailed assessment of 14 of those junctions based on traffic impacts of below 1.0% in both peak hours. Whilst this may on the surface seem like a reasonable approach, such an approach was removed from best practice a number of years ago because the approach does not consider the sensitivity of the junction or if other applications are to deliver mitigation at these 14 junctions and what impacts the Appellants development may have on them and the timing of their delivery. It treats the proposals as a freestanding single proposal and not the expansion of the ongoing creation of a new settlement – which it plainly is.

7.19. Given the proximity of the site to the development secured under the wider masterplan at Heyford Park the Policy Villages 5 allocation, work undertaken by OCC has identified that the following highway mitigation will be required at:

- A43 / M40 Slip Road improvements (J1)

- Baynards Green Roundabout improvements (J4)
- Unnamed road / B430 signalisation (J7)
- B4030 / Unnamed road revised priority and ghost turn island (J11)
- A4260/B4030 (Hopcrofts Holt) improvements (J17)
- Chillgrove Drive / B430 / Unnamed Road signalisation (J24)
- Ardely Road / B430 signalisation (J25)

7.20. However, the Transport Assessment has not made assessment of junctions (17, 24 & 25), which is an unwarranted failing of the Appellant to demonstrate that the residual impacts of their development proposals will not be severe at these key locations, and the mitigation identified by others will sufficiently accommodate the additional uplift in anticipated traffic volumes.

7.21. Furthermore, if it is demonstrated that the mitigation identified by others (Heyford Park) is sufficient to mitigate the traffic impacts of their development as appropriately timed via the signed S106 triggers, it would be expected that this Appellant would at least be making a proportionate contribution to the delivery of those measures and calculated on a pro-rata basis based on overall housing numbers and their associated vehicular trip generation as part of the wider PV5 allocation. The appeal scheme would need to be held back until such time as the mitigation was in place (through Grampian conditions for example).

7.22. The approach of the Transport Assessment has been to essentially ignore that the development is an expansion of a very much larger development and has taken a salami-sliced approach to its evidence base upon which it seeks to argue that the scheme is acceptable.

7.23. In the absence of rigorous and robust assessment, on the above, it is impossible to determine if the application will or will not result in a severe residual impact on the surrounding highway network, nor whether it has appropriately mitigated its impact to an acceptable (cost effective) degree.

#### **Access Junction**

7.24. Vehicular access to the site is to be forged north off Camp Road, into the southern frontage of the site. The proposed site access junction is to be a new T-Junction with Camp Road, which directly ties into the proposed signalised Chilgrove Drive junction (Drawing 001 Hub Transport TA) as presented in drawing T19562.001 and ties into a proposed traffic calming scheme to the west on Camp Road.

7.25. The access also includes footway provision on the western side for a 2.0metre width with a shared footway/cycle provision on the eastern side at 3.0m, which appears to be the only investment in infrastructure for pedestrians and cyclists.



7.26. Camp Road is a currently 30 mph road where it abuts the Appellants boundary, and the design appears to confirm to the Oxfordshire County Council Street Design Guide. However, it is noted from the submitted transport assessment that Camp Road has been subject to the greatest number of accidents in the most recent 5-year period (2016–2021). Of a total of 20 accidents, Camp Road has experienced a quarter of them.

7.27. The OCC guidance states that:

**‘Where a Transport Assessment is required to be submitted and it recommends highway improvements to enable the development, then the feasibility layout and Stage 1 Safety Audit should always be included.’**

7.28. The NPPF is clear that new development should not have a significant adverse impact on the safety of the surrounding highway network. There is no evidence available to date that an independent Road Safety Audit has been undertaken on the proposed access design, which is unusual where there has been a significant incident of accidents.

7.29. In the absence of Road Safety Audit on the above access junction, it is impossible to determine if the application will or will not result in a safety impact on the surrounding highway network.

#### **LPA Reason for Refusal 2**

7.30. Given the proximity of the site to the wider masterplan at Heyford Park in relation to the PV5 allocation work, the proposed development will benefit from certain key sustainable infrastructure as follows:

- Cycle Route alongside Unnamed road to B430
- New Crossing Camp Road near Heyford Free School
- Camp Road improvements

7.31. However, the Appellants’ Transport Assessment makes very little reference to, nor does it commit to contribute to, any of this proposed required infrastructure, which is a failing of the Appellants to acknowledge that their application is reliant upon these key pieces of infrastructure to meet the key test of delivering sustainable development for non-motorised users.

7.32. In the absence of the above infrastructure the Appellants are proposing no additional new pedestrian or cycle facilities other than access; and even at the point of access and internally there is no reference as to whether the internal road layouts and access point will conform to national governments LTN 1/20 Cycle infrastructure design guide. Furthermore, there is no reference to the level of cycle provision that the development will deliver across the site. The scheme is regrettably devoid of otherwise appropriate linkages for non-car modes to the remainder of Heyford Park and beyond (see below).

7.33. If it is demonstrated that the mitigation identified by others (Heyford Park) is sufficient to mitigate the traffic impacts of their development, it would still be expected that this Appellant would be

making a proportionate contribution to the delivery of those measures and calculated on a pro-rata basis based on overall housing numbers and their associated vehicular trip generation as part of the wider PV5 allocation. The development will need to be held back with Grampian conditions.

- 7.34. Furthermore, the illustrative masterplan shows primary vehicular, pedestrian and cycle access to the South onto Camp Road and an additional pedestrian and cycle access point on to Chilgrove Drive to the east. With the approved Dorchester Group Application (18/OO825/HYBRID) sitting to the north of the David Wilson Homes Application for 126 dwellings which is still pending determination (ref. 22/O3O63/F, there is concern that this speculative, unallocated application has given very little consideration of holistic sustainable integration to the wider masterplan for pedestrians and/or cyclists.
- 7.35. Overall, the Appellants have not undertaken a thorough and holistic approach, in line with wider allocated sites, in relation to the full assessment of transportation impacts.
- 7.36. As such, the residual impacts on the local highway network have not been adequately assessed, therefore the necessary infrastructure improvements have not been fully identified and secured through either S106 or other appropriate methods.
- 7.37. In summary:
- Junction Capacity Assessment undertaken – uncertainty over the acceptable scope of assessment undertaken by the Appellants;
  - Highway Access Design – uncertainty over the assessment undertaken to determine safe access onto Camp Road; and
  - Reliant on committed sustainable infrastructure – concerns over the level of reliance on the Heyford Park sustainable infrastructure improvements, without contributions sought to the Appellant or recognition that development may need to be held back until it is in place.
- 7.38. The proposal is, therefore, not delivered in accordance with the relevant transport policies from the Development Plan and the NPPF and should not be considered acceptable in traffic and transportation terms.

### **Issue 3 Accessibility and integration of new development**

- 7.39. As already explained in the context of the principle of development (Issue 1), Policy Villages 5 requires a comprehensive and coordinated approach and it amongst other things, expects a high degree of integration with development within the Policy Villages 5 allocation.
- 7.40. The Appellants are keen to draw attention to the planning history of the land to the west as it may (in time) create a physical linkage between the appeal site and the wider Heyford Park development. However, there is no planning permission in place for that land. Without development to the west, the appeal site represents a detached and isolated island of 230 dwellings with no meaningful connectivity and integration with the new settlement community.

- 7.41. DL recognise and accept that the land to the west is identified in the adopted Local Plan as an area with potential for additional development, but even if permission is granted, the latest site layout for that land (detailed full application) shows a landscaped buffer with no links to the appeal site apart from at the south eastern corner adjacent to Camp Road.
- 7.42. Regardless of the above, the appeal site itself has been poorly designed as a large cul-de-sac with a single point of access in and out for vehicles. There are no proposed connections to the west, where the main facilities are located, or to the north. The north western part of the appeal scheme is particularly isolated as a result.
- 7.43. The lack of a comprehensive and co-ordinated approach in this case represents poor design even at this Outline stage and it gives rise to a form of development that fails to achieve the required levels of integration and connectivity. This cannot be overcome at the reserved matters stage.

**Issue 4 – Infrastructure**

- 7.44. DL’s objections in relation to infrastructure are closely related to the objections relating to the principle of development (where development at Heyford Park has to date sought to balance new development with infrastructure provision) and the objections on traffic and transportation.
- 7.45. The table below gives an indication of the package of mitigation measures that have been deemed necessary to accommodate the existing levels of committed development. The mitigation is to be provided at specified trigger points.

S106 Requirement	Trigger
Middleton Stoney Bus Gate S278 Scheme	Initial traffic surveys to be undertaken prior to 1st occupation as per technical note
	10% of contribution payable prior to 620 trips
	90% of contribution payable prior to 775 trips
Chilgrove Drive S278 Junction Scheme (Package A)	To be delivered prior to the occupation of 40% (620 Trips) of the development or prior to the occupation of Masterplan Area A
Camp Road East – S278 Scheme (Package B)	Prior to occupation of development of Area A
B430/Minor Road S278 Scheme (Package C)	Prior to 35% (542 trips) of the development being delivered or with 12 months of Chilgrove Drive (Package A) being delivered



Rural Cycle Link S278 Scheme (Package C)	Prior to 35% (542 trips) of the development being delivered or with 12 months of Chilgrove Drive (Package A) being delivered
Ardley Bucknell S278 Scheme (Package D)	To be delivered prior to the occupation of 40% (620 trips) of the development
Hopcrofts Holt S278 Scheme (Package E)	To be delivered by the 500th occupation
M40 Junction 10 Padbury	Contributions payable no later than 31st March 2025 if works have commenced Limit on development past 1,163 trips (75% of development) until a scheme is delivered
Safety Improvements Contribution (No 2)	Payable by the 100th occupation
Village Traffic Calming (Fritwell, Ardley, Middleton Stoney, North Aston, Somerton, Chesterton, Lower Heyford, Kirtlington, Bucknell)	10% of contribution payable on commencement of development 90% of contribution payable on receipt of Notice not before 200 occupations
Junction Safety Improvements A4260/North Aston Road (No 1)	To be delivered by the opening of the Middleton Stoney bus gate. Only required if the bus gate solution is provided
Northern/Chilgrove Bus Loop	To be delivered prior to the occupation of 40% of the development or prior to the occupation of Creative City or Commercial Parcel or Parcel 23 or Primary School or closure of western access
Local Weight Restriction Contribution	10% Payable on commencement of development 90% payable on receipt of weight restriction notice not prior to 200th occupation
Rural Cycle Land Contribution	Trigger TBC

- 7.46. If additional speculative development is allowed to come forward in an uncoordinated way, then there will be more traffic which would mean that the point at which mitigation is required will arrive sooner. DL has no intention of delivering the infrastructure/mitigation any earlier than that which is planned for within their own s.106.
- 7.47. The Appeal scheme will therefore give rise to unmitigated effects that make the development unacceptable.
- 7.48. If in the alternative Grampian conditions are proposed by the Appellants preventing the appeal proposals from coming forward until a time when mitigation is provided by others, then this brings into question the immediate deliverability of the scheme and the contribution that it can make to housing land supply in the next 5 years. In turn this will affect the weight that can be afforded to the benefits of the appeal scheme in the planning balance.
- 7.49. The Appellant will wait to see what the Appellants propose as part of any s.106 agreements/unilateral undertakings and will respond accordingly. .

#### **The Overall Planning Balance**

- 7.50. This is a case where the proposals should be considered in the context of the unweighted balance in Section 38(6) of the 2004 Act.
- 7.51. Where a proposal conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted.
- 7.52. In this case the proposals do not accord with the Development Plan when read as a whole. There are no other sufficiently weighty material considerations that indicate that the plan should not be followed. The appeal should therefore be dismissed.
- 7.53. Even if the Inspector were to conclude that the tilted balance is engaged in this case, DL consider that the appeal should still be dismissed. DL will identify the benefits of the appeal proposals and will attribute weight to them. The same exercise will be carried out for the adverse impacts which will include inter alia, conflicts with important Development Plan policies which still attract weight in the planning balance. Overall, it will be shown that the adverse impacts of granting planning permission significantly and demonstrably outweigh the benefits.

Either way, the appeal proposals do not represent sustainable development in Development Plan or NPPF terms, and the appeal should be dismissed.

## 8. Documentation

- 8.1. A set of Core Documents will be agreed with the Appellant and LPA in advance of the Public Inquiry.
- 8.2. In addition to the application documents, planning history and consultation responses, it is anticipated that the following will be referred to.

### National Documents

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- CIL Regulations

### Local Documents

- Cherwell Local Plan 2011 – 2031 Part 1 (CLP 2015)
- Cherwell Local Plan 1996 Saved Policies (CLP 1996)
- Mid Cherwell Neighbourhood Plan (MCNP 2019)
- Emerging Cherwell Local Plan 2040 and its related evidence base

### Relevant Appeal Decisions and Legal Cases

- Various appeal decisions
- Various legal judgements

- 8.3. DL reserves the right to refer to additional documents to those outlined above in preparation of its case and in support of the proposals.



## 9. Planning conditions and obligations

### Planning Conditions

- 9.1. DL would reserve the right to comment on draft conditions and to participate at the relevant round table session.

### Planning Obligations

- 9.2. DL would reserve the right to comment on draft Planning Obligations and to participate at the relevant round table session. DL will seek to ensure that if planning permission is granted, the Appellant properly mitigates the impact of the development and does not place additional burdens on the delivery of the wider Heyford Park development.

Town & Country Planning Act 1990 (as amended)  
Planning and Compulsory Purchase Act 2004

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