

Statement of Common Ground

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.”

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

Local Planning Authority: Cherwell District Council

Cherwell District Council Reference: 21/04289/OUT

Planning Inspectorate Reference: APP/C3105/W/23/3326761

2 October 2023

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1. Introduction

- 1.1. This Statement of Common Ground (SoCG) was initially drafted on behalf of Richborough Estates, Lone Star Land Ltd, K and S Holford, A and S Dean, NP Giles, and A L C Broadberry (hereinafter “the Appellant”) in relation to a planning appeal that has been lodged for development proposals 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 has subsequently been revised through engagement between the Appellant and Cherwell District Council (CDC).
- 1.3. This Statement sets out all matters which the Appellant and CDC have agreed and matters not agreed between the Appellant and CDC.
- 1.4. The outline planning application was originally submitted on the 24th December 2021. 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 validation and subsequent consideration, the application was reported to Planning Committee on the 9th March 2023, with an Officer recommendation of approval. Despite this, the application was refused at Planning Committee, with the Decision Notice being issued on the 31st March 2023.
- 1.6. The Decision Notice outlined two Reasons for Refusal (RfR). These are set out in Section 4 of this Statement.
- 1.7. This statement follows the Procedural Guide: Planning Appeals – England updated June 2023 and the Appellant’s draft statement of common ground proforma.
- 1.8. A final list of Core Documents will be agreed before the exchange of Proofs of Evidence.
- 1.9. The Appellant and CDC will continue to engage with one another to determine if further common ground can be reached in respect of five-year housing land supply and landscape/visual matters. These may result in additional focussed statements of common ground on those matters, if agreement can be reached.

2. The Appeal Site and Surrounding Area

- 2.1. 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.
- 2.2. The Appeal Site is surrounded on two sides (north and west) by the boundary of Policy Villages 5 (Former RAF Upper Heyford) Site Allocation in the CDC Local Plan and on a third side (east) by a proposed new access to commercial development on the former airbase Flying Field utilising the route of the currently abandoned Chilgrove Drive; and abuts 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.
- 2.3. 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 4th September 2023 Executive Report. Site details are shown at Appendix 2 on pages 269-271. Core Policy 82 and Paragraph 7.5. of the draft Cherwell Local Plan 2040 (Regulation 18) explains that the overarching strategy for the area as follows:

“7.5. To achieve this vision, our strategy for Heyford Park is as follows:

Overall Spatial Strategy

Ensure the implementation of the committed growth at Heyford Park to fully establish the new settlement already planned;

Provide for the future expansion of Heyford Park to meet future housing and infrastructure needs should highway capacity limitations be resolved.

Heyford Park Strategy Area

Successful implementation of the approved masterplan (2022);

Delivery of further transport investment to avoid unacceptable impacts on the highway network and support sustainable modes of travel;

Helping to improve the range of employment, community facilities and infrastructure and further enhance the sustainable transport and connectivity credentials of the area;

Recognise the potential for additional development to strengthen the long-term sustainability of the new community at Heyford Park;

Providing the future potential for additional development later in the plan period on land south of Heyford Park to provide approximately 1,235 new dwellings.”

- 2.4. 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.
- 2.5. 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.
- 2.6. 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 site is adjacent to an extant hybrid permission for Dorchester Living which secured permission in September 2022 (reference: 18/00825/HYBRID) for 1,175 dwellings, 60 close-care dwellings, 929m² of retail, a 670m² medical centre/pharmacy, 35,175m² of B1, B2 and B8 type employment uses, a new primary school and a 2,520m² expansion of existing educational facilities, a 925m² community use building, a 30m observation tower with zip-wire and 100m² visitor centre, a 1,000m² energy centre, and extensive landscaped parkland, open space, sports and recreational facilities;
 - To the west are two outstanding applications for Pye Homes 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) cumulatively for 120 dwellings;
 - Also to the west is a further application for David Wilson Homes 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 but proposes 126 dwellings on the land instead.

Constraints and Designations

Flood Risk

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

Heritage Designations

- 2.9. The Appeal Site is not subject to any heritage designations.
- 2.10. However, the Appeal Site is within 1km of four Grade II Listed Buildings beyond Heyford Park and sits alongside the RAF Upper Heyford Conservation Area containing Scheduled Ancient Monuments and other listed and non-listed Cold War Structures, associated with the former Upper Heyford Airbase.

Ecology and Landscape

- 2.11. The Appeal Site is not subject to any ecological or landscape designations.
- 2.12. However, the Appeal Site is close to existing known biodiversity on adjoining former airfield land to the north, which is designated a Local Wildlife Site for a variety of species of flora and fauna.

Public Rights of Way

- 2.13. There are no existing Public Rights of Way (PRoW) which pass through the Appeal Site. The Aves Ditch PRoW passes immediately to the east along Chilgrove Drive.
- 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 together with the infrastructure required to achieve sustainable development as part of a comprehensive approach.

3. Planning Application Plans and Documents

3.1. The planning application was submitted in outline, with all matters reserved. The application was supported by a comprehensive suite of plans and documents, as follows:

Ref.	Document Title	Prepared By	Document Ref.	Date
Plans and Documents Submitted as Part of the Application				
SD01	Application Forms	Walsingham Planning		24 th December 2021
SD02	Covering Letter	Walsingham Planning		24 th December 2021
SD03	Site Location Plan	Edge Urban Design	L01	December 2021
SD04	Land Use Parameter Plan	Edge Urban Design	P01	December 2021
SD05	Access and Movement Parameter Plan	Edge Urban Design	P02	December 2021
SD06	Building Heights Parameter Plan	Edge Urban Design	P03	December 2021
SD07	Density Parameter Plan	Edge Urban Design	P04	December 2021
SD08	Landscape and Open Space Parameter Plan	Edge Urban Design	P05	December 2021
SD09	Illustrative Masterplan	Edge Urban Design	P06	December 2021
SD10	Illustrative Masterplan (without annotations)	Edge Urban Design	P06	December 2021
SD11	Design and Access Statement	Edge Urban Design		December 2021
SD12	Statement of Community Involvement	Walsingham Planning		December 2021
SD13	Transport Assessment	Hub Transport Planning		15 th December 2021
SD14	Draft Travel Plan	Hub Transport Planning		20 th December 2021
SD15	Landscape and Visual Impact Assessment	Tyler Grange		23 rd December 2021
SD16	Flood Risk Assessment	BWB		20 th December 2021
SD17	Ecological Impact Assessment	RammSanderson		December 2021
SD18	BIA Metric 3.0			
SD19	BIA Baseline Habitats Plan	RammSanderson		15 th December 2021
SD20	BIA Proposed Habitats Visualisation Plan	RammSanderson		15 th December 2021
SD21	Preliminary Arboricultural Impact Assessment	Tyler Grange		23 rd December 2021
SD22	Heritage Impact Assessment	RPS		December 2021
SD23	Desktop Archaeology	RPS		17 th December 2021
SD24	Geophysical Survey Report	Magnitude Surveys		November 2021
SD25	Phase 1 Land Contamination	BWB		August 2021
SD26	Agricultural Land Quality	Soil Environmental Services Ltd		December 2021
SD27	Air Quality Assessment	BWB		December 2021

Additional/Updated Plans and Documents Submitted During Determination				
<i>Submission on 1st April 2022</i>				
AD01	Sustainable Drainage Strategy	BWB		January 2022
AD02	Utilities Assessment	BWB		January 2022
AD03	Planning Statement	Walsingham Planning		March 2022
AD04	Noise Impact Assessment	BWB		March 2022
AD05	Environmental Statement	Wardell Armstrong		March 2022
AD06	Environmental Statement Appendices	Wardell Armstrong		March 2022
AD07	Environmental Statement Non-Technical Summary	Wardell Armstrong		March 2022
AD08	Updated Covering Letter	Walsingham Planning		1 st April 2022
<i>Submission on 8th July 2022</i>				
AD09	LLFA Further Consultation Response	BWB		7 th July 2022
<i>Submission on 15th July 2022</i>				
AD10	Archaeological Evaluation Report	Oxford Archaeology		June 2022
AD11	Design and Access Statement Addendum	Edge Urban Design		July 2022
AD12	Access and Movement Parameter Plan	Edge Urban Design	P02 Rev A	6 th July 2022
AD13	Landscape and Open Space Parameter Plan	Edge Urban Design	P05 Rev A	6 th July 2022
AD14	Illustrative Masterplan	Edge Urban Design	P06 Rev A	6 th July 2022
AD15	Illustrative Masterplan (without annotations)	Edge Urban Design	P06 Rev A	6 th July 2022
<i>Submission on 19th July 2022</i>				
AD16	Technical Note 1 (Highways)	Hub Transport Planning		19 th July 2022

3.2. All documents submitted to CDC as part of the application will also be listed in the Core Document List.

4. Background to Appeal Proposals

The Appeal Site

The Outline Planning Application – 21/04289/OUT

- 4.1. 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.
- 4.2. By way of background, the outline planning application was originally submitted on the 24th December 2021. However, CDC responded to a separate EIA Screening Application (reference: 21/04193/SO) confirming that CDC'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.
- 4.3. A revised application submission was made on the 1st April 2022, which confirmed that an Environmental Statement was submitted in support of the application. The application reference remained unchanged. An initial Validation Letter was issued 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. An updated Validation Letter was issued on the 14th April 2022 with the correct 16 week determination date. Despite this, on the 9th May 2022 the Secretary of State issued a Screening Direction confirming that the application was not EIA development. A further updated Validation Letter was therefore issued by CDC on the 19th May returning the determination date to 13 weeks. The Environmental Statement was not withdrawn.
- 4.4. Following initial consultation, updated submissions were made to CDC in order to address consultation responses received. The application was reported to Planning Committee on the 9th March 2023, with an Officer recommendation for approval. However, the application was refused at Planning Committee and a formal Decision Notice issued dated 31st March 2023.
- 4.5. The Decision Notice includes 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 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."

Environmental Impact Assessment

- 4.6. 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. On the 7th January 2022, a response was received from CDC that the proposals would constitute EIA development, when having regard to Schedule 3 of the EIA Regulations 2017.
- 4.7. A request for a Screening Direction (reference: 22/00379/SD) was submitted to the Department for Levelling Up, Housing and Communities on the 8th February 2022. A response was received on the 9th May 2022 from the Secretary of State, who directed that the Proposed Development is not 'EIA development' within the meaning of the 2017 Regulations. The Environmental Statement was not formally withdrawn.

The Appeal Site – Previous Planning History

- 4.8. Part of the Appeal Site was the subject of a hybrid application in 2014 for the erection of a total of 21,981sqm of warehouse and logistics floorspace (full permission sought for a 9,844m² B8 warehouse and outline permission sought for 9,137m² for a B2/B8 facility and a further 3,000m² B1 office with new access off Camp Road – 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.

Duplicate Application Submission

- 4.9. Following refusal of the outline planning application, a duplicate application was submitted to CDC on the 2nd June 2023 (reference: 23/01503/OUT). That duplicate submission was the same description of development, for an outline application of up to 230 dwellings, with the same red line as the appeal proposals.
- 4.10. The duplicate application submission contained 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 were 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.
- 4.11. On 22nd August 2023 CDC confirmed its decision to Decline to Determine the application in accordance with Section 70B (3) of the Town & Country Planning Act on the grounds that it was an identical application on the same site as this appeal and no decision had been issued on the appeal.

Relevant Nearby Planning History

Airbase

4.12. Military use of the former RAF/USAF Upper Heyford ceased in 1994. Since 1998 the airbase site adjacent the Appeal 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.

4.13. There are three key planning applications involving the comprehensive redevelopment of parts of the former RAF/USAF 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 Cherwell District Council's website as the Lead Appeal. It established the principle of employment reuse in a considerable number of the retained buildings and structures on the former flying field, in association with a management plan and the demolition of some other structures and redevelopment of new housing and associated infrastructure along Camp Road and to the south of the former airbase.

4.14. 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

4.15. 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 additional dwellings, 60 close care dwellings, retail space, a medical centre/pharmacy, employment buildings, a new school, community buildings, open space, and associated infrastructure works, including upgrading Chilgrove Drive and the junction with Camp Road to provide a replacement access to commercial developments on the former airbase.

4.16. 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

4.17. There are currently three 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 recently been approved, subject to a S106.
2. Outline planning application 21/03523/OUT for 31 dwellings submitted by Pye Homes. It has recently been approved, subject to a S106. It lies to the north of above referenced application 15/01357/F.
3. A separate application 22/03063/F has been submitted for the same combined 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 November 2023 subject to completion of a S106.

5. Appeal Proposals

- 5.1. 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.
- 5.2. 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 illustrative suggestion of an internal road hierarchy;
 - **Building Heights Parameter Plan** – demonstrating illustrative building heights of between 2, 2.5 and 3 storey's across the Appeal Site;
 - **Density Parameter Plan** – illustratively proposing areas of up to 40dph and 45dph; and
 - **Landscape and Open Space Parameter Plan** – illustrating areas of green space, SuDS features, proposed vegetation, footpaths and cycle routes, and tree lined streets.
- 5.3. 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 LAP and LEAP.
- 5.4. 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.
- 5.5. A revised illustrative masterplan has been submitted to CDC as part of this appeal showing potential increased separation of development parcels from the north boundary of the appeal site, which CDC is prepared to consider as part of the appeal.

Access Arrangements

- 5.6. 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, and illustrative street hierarchies and routes through the site.
- 5.7. 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.
- 5.8. 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.

6. Development Plan Policy

6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 directs Local Planning Authorities to determine planning applications in accordance with the policies of the Development Plan unless material considerations indicate otherwise. Section 38(3) of the Act provides that the Development Plan includes the 'development plan documents (taken as a whole) which have been adopted or approved in relation to that area'. It is agreed that the adopted statutory Development Plan for Cherwell comprises:

- Cherwell Local Plan 2011 – 2031 (Part 1) (adopted 20th July 2015);
- Cherwell Local Plan 2011 - 2031 (Part 1) Partial Review – Oxford's Unmet Housing Need (adopted 7th September 2020) [CDC contend this partial review Plan is irrelevant to this appeal proposal; the Appellant contends that it is relevant]
- Cherwell Local Plan 1996 Saved Policies (adopted November 1996); and
- Mid Cherwell Neighbourhood Plan (made May 2019).

6.2. It is agreed that, based on the Officer's Report to Committee, the following policies from the adopted Development Plan are of relevance to the appeal proposals:

Table 1: Relevant Policies Contained in the Adopted Development Plan

	Cherwell Local Plan (Part 1)	Saved Policies of the 1996 Local Plan	Mid-Cherwell 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) • Policy PH3 (Adaptable Housing)

	Cherwell Local Plan (Part 1)	Saved Policies of the 1996 Local Plan	Mid-Cherwell Neighbourhood Plan
			<ul style="list-style-type: none"> • 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)
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)

	Cherwell Local Plan (Part 1)	Saved Policies of the 1996 Local Plan	Mid-Cherwell Neighbourhood Plan
			<ul style="list-style-type: none"> • Policy PD6 (Control of Light Pollution)
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) 		

6.3. 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.

6.4. CDC's two Reasons for Refusal only identify conflict with the following policies of the Development Plan:

Cherwell Local Plan 2011-2031

- **Policy PSD 1** (Presumption in Favour of Sustainable Development)
- **Policy Villages 5** (Former RAF Upper Heyford)
- **Policy ESD1** (Mitigating and Adapting to Climate Change)
- **Policy ESD15** (The Character of the Built and Historic Environment)
- **Policy ESD13** (Local Landscape Protection and Enhancement)
- **Policy ESD15** (The Character of the Built and Historic Environment)
- **Policy INF1** (Infrastructure)

Cherwell Local Plan 1996

- **Policy H18** (New Dwellings in the Countryside)
- **Policy C8** (Sporadic Development in the Open Countryside)
- **Policy C30** (Design Control)
- **Policy C33** (Protection of Important Gaps of Undeveloped Land)

Mid Cherwell Neighbourhood Plan

- **Policy PD4** (Protection of Important Views and Vistas)

7. Material Considerations

7.1. It is agreed between the Appellant and the CDC that the following documents, and where appropriate specific section or paragraph references, are material considerations in the determination of this planning appeal:

- National Planning Policy Framework (NPPF, September 2023)
 - 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)

- 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
- Cherwell Housing Land Supply Statement (February 2023)
- Draft Local Plan 2040 (Regulation 18) Consultation (September 2023)

8. The Agreed Matters

8.1. The following matters are *[to be agreed]* between the Appellant and CDC.

Format of the Application

8.2. It is agreed by the parties that the application was submitted in outline with all matters reserved, except for access. As such, the matters of appearance, landscaping, layout and scale are not for determination in this appeal.

8.3. It is agreed that a positive Screening Opinion was provided by CDC on the 7th January 2022, confirming that the application was EIA development. An Environmental Statement was subsequently submitted on the 1st April 2022. However, the Secretary of State issued a negative Screening Direction on the 9th May 2022. CDC considered that the proposal was therefore not EIA development, and issued an updated Validation Letter to this effect on the 19th May 2022. Although the Environmental Statement (ES) was not formally withdrawn and it concluded that the proposals were acceptable in environmental terms. Both parties agree that the development was not EIA development following the issue of a Screening Direction from the Secretary of State.

Reason for Refusals

8.4. The Decision Notice states two Reasons for Refusal. The key issues are summarised as:

8.5. Reason for Refusal 1:

- The site's location on greenfield land, outside of the Policy Village 5 allocation, in open countryside;
- The site is separated from the built-up area of Heyford Park;
- Development would have a poor and incongruous relationship with the form and character of Heyford Park, by reason of the site's general openness;
- Harm to the RAF Upper Heyford Conservation Area and the views into/out of the Conservation Area would cause harm to the setting of designation heritage assets;
- Environmental harm is considered to be less than substantial, but the harm caused is not outweighed by the public social and economic benefits;
- CDC is able to demonstrate a 5.4 year housing land supply; and
- Conflict with the adopted policies in the Local Plan should be afforded substantial weight.

8.6. Reason for Refusal 2 concerns the lack of a legal agreement to secure necessary infrastructure contributions to mitigate impacts. Both parties are committed to advancing discussions with a view to overcoming this reason for refusal.

8.7. With reference CDC's two Reasons for Refusal, it is agreed that there is no conflict with any policies of the Development Plan other than those specified below:

- Policy PSD 1 (Presumption in Favour of Sustainable Development)
- Policy Villages 5 (Former RAF Upper Heyford)
- Policy ESD1 (Mitigating and Adapting to Climate Change)
- Policy ESD13 (Local Landscape Protection and Enhancement)

- Policy ESD15 (The Character of the Built and Historic Environment)
- Policy INF1 (Infrastructure)
- Policy H18 (New Dwellings in the Countryside)
- Policy C8 (Sporadic Development in the Open Countryside)
- Policy C30 (Design Control)
- Policy C33 (Protection of Important Gaps of Undeveloped Land)
- Policy PD4 (Protection of Important Views and Vistas)

Designations

- 8.8. The Appeal Site is not subject to any statutory ecological, landscape or arboricultural designations, and is situated in Flood Zone 1, which is at the lowest risk of fluvial flooding.
- 8.9. The Appeal Site is not subject to any heritage designations. There are four Grade II Listed Buildings within 1km of the Appeal Site that are beyond Heyford Park, alongside the RAF Upper Heyford Conservation Area with its Listed Buildings and Scheduled Monument Cold War Structures, associated with the former Upper Heyford Airbase.

Sustainable Development Location

- 8.10. Both parties agree that Policy Villages 5 identifies the CDC's position that Heyford Park is a sustainable location in the District. It is clear from Policy Villages 5 that as Heyford Park continues to grow and provides more supporting infrastructure it is becoming a more sustainable settlement, being one of the four main strategic locations for accommodating future growth needs.
- 8.11. It is agreed that the existing settlement benefits from a number of existing facilities, including a community centre, two shops, pharmacy, restaurant, bowling alley, pub, hotel, schools amongst other facilities. Additional further facilities are proposed in line with the overall Masterplan for phased delivery at Heyford Park.
- 8.12. It is agreed that many of the facilities within Heyford Park are located within reasonable walking and cycling distance from the Appeal Site – the centre of the Appeal Site is about 750m from the Free School, about 950-1,000m from the shops, pub and hotel, about 1,600m from the community centre and about 1,900m from the new Primary School. The proposals broadly comply with Paragraph 105 of the NPPF.
- 8.13. Due to the planned growth of Heyford Park under the Policy Villages 5 Site Allocation, 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.
- 8.14. The Appeal Site is subject to a draft allocation in the Draft Cherwell Local Plan to 2040 (Regulation 18), as part of a wider site for 1,235 dwellings (Site Reference: South of Heyford Park, Core Policy 82 – Paragraph 7.5). Within the Regulation 18 consultation, the draft allocation is one of the largest allocations proposed.

Principle of Development

- 8.15. It is agreed that the Appeal Site is outside of, but immediately adjacent to, the RAF Upper Heyford Strategic Allocation (Policy Villages 5).
- 8.16. Policy Villages 5 relates to the former RAF/USAF Upper Heyford, which has an overall area of around 520ha, and a settlement of approximately 1,600 dwellings ultimately rising to about 2,800 under existing approvals,

and the supporting necessary infrastructure including primary and second schools, commercial uses, employment opportunities and improved transport connectivity. Whilst the original development of the site was largely for brownfield land, this policy now includes areas of greenfield land.

- 8.17. It is agreed that the Policy Villages 1 provides a framework for housing development in the rural areas of the District, grouping villages into certain categories of settlement (Categories A – C). Both parties agree that Upper Heyford is not specifically allocated as a certain category of settlement, as it has its own separate policy under Policy Villages 5. The adopted Development Plan explains that the allocation for Upper Heyford in Villages 5 relates to making an allocation for a new settlement (Paragraphs D.20, C.246 and I.29).
- 8.18. It is agreed that the Appeal Site is largely contained by sites either with extant planning permission or permissions pending formal determination. To the north and west, the site is adjacent to an extant hybrid permission which secured permission in September 2022 (reference: 18/00825/HYBRID). Immediately to the west are three outstanding applications for residential development (references: 15/01357/F, 21/03523/OUT and 22/03063/F).
- 8.19. The Appeal Site is currently located between proposed residential development to the west and Chilgrove Road to the east.

Housing Land Supply Position

- 8.20. The Appellant will work with the CDC on a separate SoCG on housing Land Supply. This will set out matters in relation to the Five-Year Housing Land Supply (5YHLS) that can be agreed and will set out the areas of disagreement including the difference between the two parties in terms of the figure the 5YHLS should be measured against and a list of disputed sites.
- 8.21. The following points will be agreed:
- The Council's 5YHLS statement is not an "Annual position statement" as defined in the Annex to the Framework on page 65.
 - The base date is 1st April 2022 and the relevant 5YHLS period is 1st April 2022 to 31st March 2027
 - The Cherwell Local Plan Part 1 (adopted July 2015 and re-adopted in December 2016) is more than five years old; and
 - A 5% buffer applies.

Affordable Housing Provision

- 8.22. It is agreed that a policy compliant provision of 35% of dwellings as affordable housing should be provided in the event of any consent, in accordance with Policy BSC3. This would be secured by way of a Section 106 agreement.

Heritage

- 8.23. A Built Heritage Statement was prepared in support of the application, alongside the Environmental Statement. This confirmed that there are no designated or non-designated built heritage assets located within the Appeal

Site, and identified 4no. Listed Buildings, a Conservation Area, 2no. Scheduled Monuments and 61no. Non-Designated Heritage Assets within a 1km search of the Appeal Site. All of the assets relate to the former RAF /USAF Upper Heyford Airbase.

8.24. The following heritage assets are relevant to this Appeal:

- RAF Upper Heyford Conservation Area (designated heritage asset);
- Former Hardened Aircraft Shelters within the southern part of the Conservation Area (non-designated heritage assets);
- Former Bomb Stores with the southern part of the Conservation Area (non-designated heritage assets).

8.25. The Conservation Area and its setting have seen change in the 21st century. Further changes, including the introduction of additional residential and commercial development would be delivered by application 18/00825/HYBRID which was granted in 2020. This development lies to the north and west of the site.

8.26. Both parties agree that any potential impacts to the significance of the heritage assets will arise only through changes to their settings, with no physical alterations to the heritage assets themselves.

Archaeology

8.27. It is agreed that the Oxfordshire County Council Archaeologist commented on the application and confirmed that the site has been subjected to an archaeological evaluation, but would still require further investigation. Both parties agree that this could be dealt with by way of a planning condition.

Landscape and Visual Impact

8.28. A Landscape and Visual Impact Assessment (LVIA) was submitted alongside the Environmental Statement. This LVIA confirmed that the Appeal Site is not subject to any statutory landscape designation.

8.29. The appeal site is not situated within a valued landscape as described within Footnote 7 of the NPPF.

8.30. The methodology used within the LVIA, and the identification of cumulative schemes for assessment, was agreed with Tim Screen, Landscape Architect for the Council, as set out in his email of 2nd November 2021.

8.31. A series of proposed viewpoints were identified and issued to the Council on 7th October 2021. The Council requested an additional viewpoint (viewpoint 10) on 7th October 2021 which was acknowledged by Tyler Grange on 14th October 2021.

8.32. No significant effects would occur on the wider landscape although the openness setting and immediate views/landscape setting to parts of the RAF Upper Heyford Conservation Area would be affected.

8.33. The site has a medium/low landscape value.

8.34. Residual effects on people using the PRow in the middle distance east of the site (views 4 and 10) and south of the site (viewpoint 5) will be minor adverse. All other effects will be of negligible significance.

8.35. The Landscape Officer in his response dated 11th May 2022 set out that he was in general agreement with the findings of the LVIA.

- 8.36. Both parties agree that the appellant's Environmental Statement concludes that there will be no major landscape and visual effects arising as a result of the appeal proposals, when considered in combination with other planned and under construction schemes in the wider area.
- 8.37. The appeal proposals will not result in the loss of any rare or unique features and affect only a limited geographical area. The perception or distinctiveness of the wider Landscape Character Areas would not be altered following the development of the Appeal Site. The most noticeable visual effects would be experienced by those people walking along public bridleways in middle distant views east of the Appeal Site and by those passing along Camp Road.
- 8.38. The Appeal Site does not feature in any of the views identified in the Ardley, Upper Heyford, Rousham or Fritwell Conservation Area Appraisals.
- 8.39. The Appeal Site is potentially visible from views east from the 'residential zone' as identified on Figure 11 of the RAF Upper Heyford Conservation Area Appraisal (viewpoint 6 of the LVIA).
- 8.40. The Conservation Officer confirmed that there were no specific views into the RAF Upper Heyford Conservation Area affected by the proposals.
- 8.41. The Appeal Site is not situated on the protected skyline as identified on figure 8 of the Mid Cherwell Neighbourhood Plan.
- 8.42. The appeal proposals do not adversely affect views towards identified church towers as set out on Figure 8 page 51 of the Mid Cherwell Neighbourhood Plan.
- 8.43. The Appeal Site does not feature in views identified in Appendix 3 page 90 of the Mid Cherwell Heritage and Character Assessment (2017).
- 8.44. It is agreed that there are no important views or vistas identified across the Appeal Site by Policy PD4 of the Mid Cherwell Neighbourhood Plan.

Settlement Coalescence and Important Views/Vistas

- 8.45. Both parties agree that the Appeal proposals would not cause coalescence of any settlements, in accordance with Policy PD3 of the Mid Cherwell Neighbourhood Plan.

Open Space and Green Infrastructure

- 8.46. It is agreed that the Landscape and Open Space Parameter Plan indicates that a range open space and green infrastructure could be provided, including a green-blue corridor, incorporating existing ponds, new planted sustainable urban drainage systems, mature vegetation, and, recreational routes and habitats for wildlife. Further to this, recreational routes could also be provided to link with adjacent residential areas and controlled by condition or S106.
- 8.47. The Landscape and Open Space Parameter Plan also indicates how a 400sqm LEAP with a 200m buffer and a 100sqm LAP with a 5m buffer could be included within the site.
- 8.48. Policy BSC11 requires 2.74ha of 'general green space' per 1,000 residents. Based on an average household size in Cherwell of 2.43 residents per household, the overall requirement would total 1.53ha. The Landscape and Open Space Parameter Plan suggests 5.64ha of open space.

8.49. It is therefore agreed that the appeal proposals could be made compliant with Policies BSC10 and BSC11 and Neighbourhood Plan Policies PD5, PH3 and PH5.

Ecology

8.50. An Ecological Assessment and Biodiversity Impact Assessment were provided as part of the application, which indicated that a biodiversity net gain could potentially be achievable within the Appeal site subject to compliance with appropriate conditions.

8.51. CDC's Ecologist is satisfied that subject to the imposition of planning conditions to secure mitigation and improvements that the proposals would be acceptable in respect to the impact upon any habitat or protected species that they would be safeguarded. The conditions relate to the following matters:

- Additional surveys for Red Kites and Water Voles;
- Lighting;
- Construction Environment Management Plan; and
- Landscape Environment Management Plan.

8.52. Both parties agree that the Appellant indicated that a 12.37% Biodiversity Net Gain could potentially be achieved and this would be controlled by way of the Landscape Ecology Management Plan (to ensure such net gain was achieved and managed appropriately), secured by condition.

8.53. Either a Natural England or CDC District License would need to be entered into, to mitigate against the impact on Great Crested Newts. NatureSpace confirmed that they are content that such licence could be supported.

8.54. Therefore, it is agreed that the appeal proposals could be made compliant with Policy ESD10 and Paragraph 174 of the NPPF.

Arboriculture

8.55. The outline application was accompanied by a Preliminary Arboricultural Impact Assessment, which confirmed that the site does not fall within a Conservation Area, Ancient Woodland designation, and that there are no Tree Preservation Orders on or adjacent to the Appeal Site.

8.56. Tree loss was proposed to be limited to three sections of hedgerow to facilitate the construction of the internal road network, which totals 130.5m in total. As these are Category C, they could potentially be compensated for as part of any reserved matters landscaping scheme.

8.57. It is agreed that an Arboricultural Method Statement could be provided by way of a suitably worded planning condition.

8.58. Both parties agree that proposals could be made compliant with Policy ESD17 and Paragraph 174 of the NPPF.

Highways

- 8.59. It is agreed that Oxfordshire County Council were consulted on the outline application and would have no objection to the proposals subject to S106 contributions being provided to fund mitigating highway works, public transport services, travel plan monitoring, an obligation for a S278 and conditions.
- 8.60. Both parties are agreed that the proposals would impact on the road network and could be appropriately mitigated, and are therefore considered acceptable in highway terms, complying with Policy SLE4 and Paragraphs 104, 105, 110 – 113 of the NPPF.

Drainage and Flood Risk

- 8.61. The Appeal Site is located within Flood Zone 1, which is situated at lowest probability of fluvial flood risk.
- 8.62. Both parties agree that the proposed mitigation strategy for the site includes development levels of all dwellings being set at 150mm above surrounding ground level and to include foul water from the development to be drained separately to clean water. This could be controlled by condition. A Sustainable urban Drainage System (SuDS) would also be necessary and need to be controlled by condition.
- 8.63. It is agreed that the Lead Local Flood Authority has no objection to the Proposed Development, provided that the following conditions are agreed:
- Provision of a surface water drainage scheme, prior to commencement of development.
 - Prior to first occupation, details of the construction of the Sustainable Drainage Systems and their associated drainage.
- 8.64. Both parties agree that the Environment Agency have raised no objection to the Proposed Development.
- 8.65. The CDC Land Drainage raised concerns regarding the impact on Gallos Brook, where the flood plain has not yet been modelled or mapped. The risk would need to be quantified and mitigated if any such areas lie outside the fluvial flood plain, but this could potentially be dealt with by way of a condition.
- 8.66. It is therefore agreed that the Proposed Development could be made compliant with Policies ESD6 and ESD7 and Paragraphs 167 and 169 of the NPPF.

Environmental Matters (Amenity)

Air Quality

- 8.67. An Air Quality Assessment supported the application, and confirmed that the Appeal Site is not located within, or within the vicinity of an Area Quality Management Area.
- 8.68. The Air Quality Assessment suggested that the proposals are not predicted to result in exceedances of the relevant air quality objectives and therefore the overall impact on local air quality was likely negligible.
- 8.69. Both parties agree that the Air Quality Assessment recommends dust mitigation measures for construction. Subject to implementation, the effects would not be significant. This could be dealt with by way of a condition.

8.70. Accordingly, both parties agree that the Proposed Development could be made compliant with the requirements of the Policy ESD10 and Paragraph 186 of the NPPF.

Noise

8.71. The application was supported by a Noise Impact Assessment, which suggested that the Appeal Site was suitable for residential development and therefore could be made compliant with the requirements of the NPPF which relate to noise.

8.72. It is therefore agreed that the Appeal proposals could be made compliant with Policy ENV1 and Paragraph 130(f) of the NPPF.

Environmental Matters Conclusion

8.73. Both parties agree that CDC's Environmental Health Officer did not have an objection to the outline planning application, subject to the imposition of conditions for a Construction Environmental Management Plan and a contamination condition. As such, it is agreed that the proposals are unlikely to result in undue harm to the environment on grounds of pollution.

8.74. This results in potential compliance with saved Policy ENV1 which seeks to ensure that development does not seek to cause materially detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution; or on neighbouring amenity. This could also result in further compliance with saved Policy ENV12 which relates to contaminated land, and Paragraph's 174, 183 and 185 of the NPPF.

Agricultural Land Quality

8.75. Both parties agree that the Agricultural Land Classification Report confirmed that 75% of the Appeal Site (totalling 9ha) is Grade 3b Agricultural Land, with the remaining 25% (totalling 3ha) comprising Grade 3a Agricultural Land.

8.76. It is agreed that CDC did not raise any objection to the application on the grounds of agricultural land quality.

Sustainability

8.77. A Sustainability Statement was provided as part of the application which indicated that the proposals would intend using an 'energy hierarchy' and a holistic approach to sustainability to meet national best practice guidance and CDC's objectives for sustainable design and construction.

8.78. Both parties agree that no conflict was identified in the Reasons for Refusal with Policies ESD3 and Paragraph's 152, 154, and 157 of the NPPF.

9. The Matters not Agreed

9.1. The following matters are not agreed:

- Whether policies relating to the site's location on greenfield land, outside of the Policy Village 5 allocation, in open countryside are considered to have full weight, reduced weight or be out of date;
- Whether the NPPF para.11 d) presumption in favour of sustainable development is engaged, due to any inability on the part of CDC to demonstrate a five-year housing land supply, including the following matters:
 - Whether separate calculations should be made for Cherwell excluding Oxford's unmet needs.
 - The figure the 5YHLS should be measured against. Whether this should be the local housing need for just for Cherwell or whether it should be Cherwell's needs plus the requirement for Oxford's unmet needs which is to be met in Cherwell.
 - The extent of the deliverable 5YHLS.
- Whether the site is separated from the built-up area of Heyford Park;
- Whether 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;
- If the appeal proposals would result in harm to the RAF Upper Heyford Conservation Area and views into and out of the Conservation Area;
- Whether the proposals would cause harm to the setting of designated heritage assets – the Appellant suggests no harm/neutral impact; the LPA suggest less than substantial harm;
- Whether the environmental harm is considered to be less than substantial, and whether such harm would be outweighed by the public social and economic benefits; and
- Whether there is conflict with the adopted policies in the Local Plan when read as a whole, and if this should be afforded substantial weight.
- Whether the sums of the S106 obligations requested by consultees should be specified in this statement.

11. Conditions

11.1. The Appellant and CDC are agreed on the following draft planning conditions for consideration by the Planning Inspector. These draft planning conditions are based on the report to Planning Committee of 9 March 2023. However, if the Inspector is minded to accept any/all of the additional plans and documents suggested by the Appellant, changes may become necessary.

11.2. Draft Planning Conditions:

1. No development shall commence until full details of the layout (including the layout of the internal access roads and footpaths), scale, appearance, and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. In the case of the reserved matters, the final application for approval shall be made not later than the expiration of three years beginning with the date of this permission.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

3. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: To be Confirmed.

Reason: For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

5. No development shall commence until a Construction Method Statement, incorporating a construction traffic management plan has been submitted to and approved in writing by the Local Planning Authority. The CTMP will need to incorporate the following in detail and throughout development the approved plan must be adhered to:

- a) The CTMP must be appropriately titled, include the site and planning permission number.

- b) Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
- c) Details of and approval of any road closures needed during construction.
- d) Details of and approval of any traffic management needed during construction.
- e) Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
- f) Measures to control the emission of dust and dirt during construction as detailed in paragraph 6.1.2 of the Air Quality Management Plan;
- g) Details of appropriate signing to accord with standards/requirements, for pedestrians during construction works, including any footpath diversions.
- h) The erection and maintenance of security hoarding / scaffolding if required.
- i) A regime to inspect and maintain all signing, barriers etc.
- j) Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.
- k) The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.
- l) No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will park, and occupiers transported to/from site to be submitted for consideration and approval. Areas to be shown on a plan not less than 1:500.
- m) Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.
- n) Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution.
- o) Any temporary access arrangements to be agreed with and approved by Highways Depot.
- p) Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.
- q) Delivery, demolition and construction working hours.

Reason: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and local residents, particularly at morning and afternoon peak traffic times. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

6. No development shall commence until a detailed surface water drainage scheme for the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is first occupied. The scheme shall include:

- a) A compliance report to demonstrate how the scheme complies with the “Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire”;
- b) Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
- c) A Flood Exceedance Conveyance Plan;
- d) Comprehensive infiltration testing across the site to BRE DG 365 (if applicable);
- e) Detailed design drainage layout drawings of the SuDS proposals including cross-section details;
- f) Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element;
- g) Details of how water quality will be managed during construction and post development in perpetuity;
- h) Confirmation of any outfall details; and
- i) Consent for any connections into third party drainage systems.

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community in accordance with Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

7. Prior to the approval of any related reserved matters, a detailed Surface Water Management Scheme for each phase or sub-phase of development, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be in accordance with the details approved as part of the strategic scheme (Strategic Surface Water Management Scheme) and include all supporting information as listed in the Condition. The scheme shall be implemented in accordance with the approved details and timetable.

Reason: To ensure development does not increase the risk of flooding elsewhere; in accordance with Paragraph 155 of the National Planning Policy Framework (NPPF) and Local and National Standards.

8. No development shall take place on any phase (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:

- a) Arrangements for a site walkover survey undertaken by a suitably qualified Ecologist to ensure that no protected species, which could be harmed by the development have moved onto the site since the previous surveys were carried out. If any protected species are found, details of mitigation measures to prevent their harm shall be required to be submitted;
- b) Risk assessment of potentially damaging construction activities;
- c) Identification of ‘Biodiversity Protection Zones’;
- d) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);

- e) The location and timing of sensitive works to avoid harm to biodiversity features;
- f) The times during construction when specialist ecologists need to be present on site to oversee works;
- g) Responsible persons and lines of communication;
- h) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- i) Best practice with regard to wildlife including use of protective fences, exclusion barriers and warning signs.

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

9. Prior to the commencement of development hereby approved, a phasing plan covering the entire application site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved phasing plan and each reserved matters application shall only be submitted in accordance with the terms of the approved phasing plan and refer to the phase (or phases) it relates to as set out in the approved phasing plan.

Reason: To ensure the proper phased implementation of the development and associated infrastructure in accordance with Government guidance contained within the National Planning Policy Framework.

10. Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

Reason: To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing built environment and to comply with Policy C28 of the adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. Prior to the commencement of the development, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

12. If contamination is found by undertaking the work carried out under condition 10, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

13. If remedial works have been identified in condition 11, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 11. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

14. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development [or relevant phase of development] is resumed or continued.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

15. No development shall take place until details of all finished floor levels in relation to existing and proposed site levels and to the adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be constructed strictly in accordance with the approved levels.

Reason: To secure an acceptable standard of development that safeguards the visual amenities of the area and the living conditions of existing and future occupiers and to ensure compliance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance within the National Planning Policy Framework.

16. No development shall take place until the applicant (or their agents or successors in title) has submitted to and had approved in writing by the local planning authority a programme of archaeological work consisting of a written scheme of investigation and a timetable for that work. The development shall thereafter proceed in accordance with the approved written scheme of investigation and timetable.

Reason: To secure the provision of archaeological investigation and the subsequent recording of the remains, to comply with Government advice in the National Planning Policy Framework (NPPF) (Section 16). This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

17. No development shall commence unless and until a Landscape and Ecology Management Plan (LEMP), which shall also cover the construction phase of the development, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out or managed other than in accordance with the approved LEMP.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

18. No reserved matters applications shall be made or development commenced until a Design Code for the site has been produced in accordance with Condition 25 and following consultation with the Local Planning Authority and other stakeholders, and has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved Design Code.

Reason: A Design Code, is required at the beginning of the development process to ensure that the subsequent reserved matters applications are considered and determined by the Local Planning Authority in the context of an overall approach for the site consistent with the requirements to achieve high quality design as set out in the Environmental Statement and the adopted Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

19. The Design Code shall include:

- a) the character, mix of uses and density of each character area identified, to include the layout of blocks and the structure of public spaces;
- b) the character and treatment of the structure planting to the development areas;
- c) guidance of surface water control including design standards and methodology for sustainable drainage systems, detail of specific features and constraints, including appropriate options for SUDs features, considerations for implementing during construction, and adoption requirements;
- d) the building height, scale, form, design features and means of enclosure that will form the basis of the character of each phase, sub-phase or parcel;

- e) the street form and hierarchy and the features that will be used to restrict traffic speeds and create legibility and requirements for street furniture;
- f) the approach to car parking and cycle parking within the phases, sub-phases and parcels and the level of car and cycle parking within each phase to be provided to serve the proposed uses;
- g) the materials to be used within each character area;
- h) the treatment of any hedge or footpath corridors and retained trees and woodlands and local areas of play within each phase, sub phase or parcel;
- i) the measures to be incorporated to protect the amenities of the occupiers of existing properties adjacent to the site measures to be incorporated into the development to ensure all properties have convenient locations for individual waste and recycling bins;
- k) lighting proposals.

Reason: A Design Code, is required at the beginning of the development process to ensure that the subsequent reserved matters applications are considered and determined by the Local Planning Authority in the context of an overall approach for the site consistent with the requirements to achieve high quality design as set out in the Environmental Statement and the Adopted Cherwell Local Plan 2011-2031 and Government Advice within the National Planning Policy Framework.

20. As part of any submission for reserved matters, full details of a renewable energy strategy for the site in accordance with Policy ESD5 of the Cherwell Local Plan, shall be submitted and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details prior to the first occupation of any building the renewable energy serves.

Reason: To encourage the use of renewable and low carbon energy in accordance with Policy ESD5 of the Cherwell Local Plan Part 1.

21. Prior to first occupation on site an updated Travel Plan is submitted to and approved by the local planning authority. This plan should be produced in accordance with the Oxfordshire County Council guidance document Transport for New Developments, Transport Assessments and Travel Plans (March 2014).

Reason: In the interests of promoting sustainable transport modes in accordance with Government advice in the National Planning Policy Framework.

22. Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:

- a) As built plans in both .pdf and .shp file format;
- b) Photographs to document each key stage of the drainage system when installed on site;
- c) Photographs to document the completed installation of the drainage structures on site;
- d) The name and contact details of any appointed management company information.

Reason: To ensure that the development/site is served by sustainable arrangements for the disposal of surface water, to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice in the National Planning Policy Framework.

12. Section 106 Agreement

- 12.1. The Appellant and CDC intend to co-operate in the preparation and completion of the S106 Agreement in the event that the appeal is allowed. It is the intention to submit a draft of the S106 Agreement prior to the Inquiry. It is agreed that, if completed, this should address Reason for Refusal 2.
- 12.2. The Appellant agrees with the heads of terms considered during the determination of the application and these relate to:
- Affordable Housing
 - Oxfordshire Clinical Commissioning Group
 - Thames Valley Police
 - Public Art
 - Indoor and Outdoor Sports Provision
 - Community Development Fund
 - Community Development Worker
 - Community Hall Facilities
 - Training and Employment Plan
 - Landscaping
 - Public Transport
 - Travel Plan Monitoring
 - Highway Works
 - M40 Junction 10 mitigation
 - Middleton Stoney mitigation
 - Village Traffic Calming
 - Cycle Route
 - Safety Improvements 1
 - Safety Improvements 2
 - Local Weight Restriction
 - Primary and Nursery Education
 - Secondary Education
 - SEND Education
 - School Transport
 - Libraries
 - Household Waste Recycling Centres
 - Appropriate Legal Costs
 - Appropriate Monitoring Costs
 - Any other matters that may be deemed appropriate during the course of the Inquiry and supported by the Inspector.
- 12.3. Both parties agree that subject to the completion of a mutually agreeable S106 Agreement that is implemented in a timely and agreed manner, compliance will be demonstrated with Policy INF1 of the adopted Development Plan, Cherwell District Council's Planning Obligations SPD 2018 and the NPPF.

13. Declaration

13.1. The above matters have been agreed by Cherwell District Council and the Appellant:

Declaration	Declaration
Signed and dated on the behalf of the Appellant: David Bainbridge Planning Director, Savills	Signed and dated on behalf of Cherwell District Council Andy Bateson Development Management Team Leader Cherwell District Council

Date: 2 October 2023