
Appellant's Planning Proof of Evidence

APP/C3105/W/23/3326761, OS Parcel 1570 Adjoining And West Of Chilgrove Drive And Adjoining And North Of, Camp Road, Heyford Park.

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

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

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1. Introduction

Qualifications and Experience

- 1.1. My name is David Bainbridge and I am a Planning Director at Savills.
- 1.2. I have continually been a chartered member of the Royal Town Planning Institute since 1999. I was awarded a Master of Arts in Town Planning from Heriot-Watt University in 1998.
- 1.3. The majority of my work comprises the planning promotion of land for residential and mixed-use development. In this work I have participated at planning appeal inquiries, planning appeal hearings and development plan examinations.
- 1.4. I provide planning advice to a range of private and public clients including landowners, house builders and housing associations.
- 1.5. Whilst Savills were not the agent for the original outline planning application, I have reviewed the refused application and provided advice to my clients, and am therefore familiar with the Proposed Development and the Appeal Site. I am also in frequent dialogue with the original agent for the outline planning application, Walsingham Planning, and am therefore aware of the history of this application.
- 1.6. I am instructed by Richborough Estates, Lone Star Land Ltd, K and S Holford, A and S Dean, NP Giles, A L C Broadberry ("the Appellant") to provide evidence in relation to the planning balance matters raised by the refusal of planning permission by Cherwell District Council ('CDC').
- 1.7. The evidence which I have prepared and provide for this appeal in this proof of evidence is true and has been prepared and is given in accordance with the guidance of the Royal Town Planning Institute and I can confirm that the opinions expressed are my true and professional opinions.

Background

- 1.8. This Proof of Evidence is in support of a Section 78 appeal following the refusal of outline planning permission for up to 230 dwellings, creation of new vehicular access from Camp Road with all associated works, with all matters reserved except for access.

1.9. The outline planning application was reported to Planning Committee on the 9th March 2023, with an Officer recommendation of approval (Core Document C6). The Planning Committee resolved to refuse planning permission and the Decision Notice (Core Document C10) was issued on the 13th March 2023, with 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.

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.”

1.10. The Appellant's Statement of Case (Core Document E2) provides an overview of the Appeal Site and its surroundings; the application and its determination; and, details of the proposals. The outline planning application documents equally provide an overview on such matters.

Scope and Structure of Evidence

1.11. I am instructed by the Appellants, Richborough Estates, Lone Star Land Ltd, K and S Holford, A and S Dean, NP Giles, A L C Broadberry to provide evidence in relation to the planning balance relevant to the planning appeal.

1.12. My Proof of Evidence addresses the planning policy matters raised, as well as the overarching planning balance.

1.13. In my Proof of Evidence, I comment on CDC's Statement of Case, dated 18th September 2023 (Core Document E3).

1.14. Where relevant, I refer and rely on the evidence submitted on behalf of the technical experts in relation to the following:

- Heritage, prepared by Mr Thomas Copp.
- Housing Land Supply, prepared by Mr Benjamin Pycroft.
- Landscape and Views, prepared by Mrs Wendy Lancaster.
- Transport, prepared by Mr James Parker (in response to the Rule 6 Party's evidence).

1.15. Please note that the Heritage Proof of Evidence was granted an extension for exchange, until Tuesday 14th November.

1.16. I have prepared the evidence in relation to planning matters on a topic basis in the context of the adopted Development Plan and material considerations including the National Planning Policy Framework ('NPPF'), set against CDC's reasons for refusal, and other matters raised by third parties to the appeal. I will demonstrate that there are no issues arising from the comments of third parties relating to technical,

environmental, design issues or any other matters which would not be capable of being addressed through the suite of planning conditions and planning obligations to be secured.

- 1.17. Regarding planning obligations, the Appellant intends to agree a S106 in advance of the Inquiry.
- 1.18. I will set out how the planning obligations have evolved to demonstrate that they are suitable to mitigate the impacts of the development. Overall, I find that the Proposed Development accords with the Development Plan.
- 1.19. I will conclude on the planning balance and focus on the significance of any benefits in detail and how they should be treated.

2. The Appeal Proposal

- 2.1. The Appellant's Statement of Case sets out a comprehensive overview of the Appeal Proposals (Core Document E2). This is further agreed within the Statement of Common Ground (Core Document E7).

3. Planning Policy and Material Considerations

- 3.1. The planning system is based on a plan led system, and it is a legal requirement under Section 70(2) of the Town and Country Planning Act 1990 (as amended) and Section 38(6) of the Planning and Compulsory Purchase Act 2004 that applications for planning permission should be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 3.2. The principal policies cited in the Committee Report and Decision Notice are listed in Table 1 of the Statement of Common Ground (Core Document E7), and are set out in full in the relevant Development Plan Documents (Core Documents G1, G2, G4).
- 3.3. Paragraph 1.5 of CDC's Statement of Case is clear that the Reasons for Refusal set out the grounds of disagreement between the parties, with further agreement at Paragraph 8.7 of the Statement of Common Ground that it is not considered that there is conflict with any other policies other than those specified in the RfR (Core Document C10).

Other Material Considerations

- 3.4. Section 7 of the Statement of Common Ground sets out a list of agreed material considerations (Core Documents E7).

4. Case for the Appellant – Reasons for Refusal

- 4.1. Article 35(1)(b) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 states that where planning permission is refused, the notice must state clearly and precisely the Local Planning Authority's full reasons for the refusal, specifying all policies and proposals in the Development Plan which are relevant to the decision.
- 4.2. The Decision Notice contains two reasons for refusal (Core Document C10). I set out below a summary of the issues contained within them reflecting common ground reached with CDC to date, and other ground that I consider to be capable of being resolved through ongoing discussions on planning obligations.
- 4.3. The following section is based upon the Inspector's Main Issues set out in the Case Management Conference Summary Note as follows:

Issue 1 - Whether the appeal site forms a suitable location for development having regard to national and local planning policies.

Issue 2 - The effect of the proposal on the landscape and local character, with particular regard to the form and character of Heyford Park.

Issue 3 - The effect of the proposed development on heritage assets.

Issue 4 - Whether the development makes appropriate provision for infrastructure and transport mitigation to ensure a sustainable development and make the development acceptable in planning terms.

Issue 5 - Whether a five-year supply of deliverable housing can be demonstrated.

Issue 6 - The overall planning balance.

4.4. Each of these issues is reviewed in turn below.

Issue 1 - Whether the appeal site forms a suitable location for development having regard to national and local planning policies.

4.5. In the following Section, I firstly review the overarching Spatial Strategy for Cherwell below, followed by assessing the Proposed Development against policies relevant to the principle of development, to demonstrate that the Appeal Site forms a suitable location for development when having regard to national and local planning policies.

The Spatial Strategy for Cherwell

4.6. Paragraph A.11 of the Cherwell Local Plan 2011 – 2031 sets out the spatial strategy for Cherwell, as follows:

“A.11 Our spatial strategy for Cherwell District is as follows:

- **Most of the growth in the District will be directed to locations within or immediately adjoining the main towns of Banbury and Bicester.**
- **Bicester will continue to grow as the main location for development within the District within the context of wider drivers for growth.**
- **Banbury will continue to grow, albeit to a lesser extent than Bicester, in accordance with its status as a market town with a rural hinterland.**
- **Away from the two towns, the major single location for growth will be at the former RAF Upper Heyford base which will deliver 2,361 homes.**

...”

4.7. Paragraph A.11 of the adopted Development Plan provides the reasoned justification behind the spatial strategy. Policy BSC 1 explains that Cherwell District will deliver a wide choice of high quality homes by providing for 22,840 additional dwellings between 1 April 2011 and 31 March 2031. Policy BSC 1 is the policy which sets the district wide housing distribution.

4.8. There is no alleged conflict with Policy BSC 1 in the RfR. It is agreed common ground at Paragraph 8.7 that there is no conflict with any other policies than those mentioned in the RfR (Core Document C10). This confirms that there is no alleged conflict with CDC's overall strategy for growth or strategic objectives.

4.9. Upper Heyford is expressly identified as a location for major growth in the adopted Development Plan, after Banbury and Bicester. This is a matter reinforced in the Officer's Report for the 2018 hybrid planning permission (reference: 18/00825/HYBRID) (Core Document N8), which confirms at Paragraph 9.2 that the adopted Development Plan:

“9.2...identifies development of former RAF Upper Heyford as the major single location for growth in the District away from Banbury and Bicester”.

4.10. The role of Heyford Park as a location for major growth has also been evidenced through the approval of a number of planning applications in recent times (see Appendices 1 and 2). The key planning applications approved are as follows:

- Lead Appeal (ref. 08/00716/OUT and APP/C3105/A/08/2080594), which secured outline permission for the formation of a new settlement of 1,075 dwellings including employment uses and community uses (appeal allowed, 11th January 2010).
- Outline application (ref. 10/01642/OUT), securing planning permission for 1,075 dwellings, alongside employment uses, a school, and other works (replacing the lead appeal) (approved 22nd December 2011).
- Hybrid planning permission (ref. 18/00825/HYBRID), securing permission for up to 1,175 dwellings, 60 close care dwellings, retail, medical centre, school, community buildings, open space and associated works (approved 9th September 2022).
- Pye Homes outline applications (ref. 15/01357/F and 21/03523/OUT) for 89 and 31 dwellings (both applications approved 14th September 2023).

- David Wilson Homes, full planning application (ref. 22/03063/F) for 126 dwellings (replacing the two Pye Home outline schemes 15/01357/F and 21/03523/OUT) (application pending determination).

4.11. It is agreed common ground between the parties that Heyford Park is one of the four main strategic locations for accommodating future growth needs in the District (Paragraph 8.10, SoCG, Core Document E7). It is further common ground that Heyford Park is a sustainable location in the District, and that as it continues to grow, it will become more sustainable (Paragraph 8.10, SoCG, Core Document E7).

4.12. As the Regulation 10A Review states that Policy BSC 1 is out of date in terms of housing numbers (Core Document G11), this confirms that Cherwell can revert to the Local Housing Needs for the purposes of its five year supply calculations (see the Appellant's Five Year Housing Land Supply Evidence, under Issue 5). However, this does not indicate that CDC are departing from its overarching spatial strategy of directing significant growth to Banbury, Bicester and Upper Heyford.

4.13. The figures set out in Policy BSC 1 set out the minimum housing requirements for the District, in any event (given that there is a requirement to have a rolling five year housing land supply). The Officer's Committee Report noted at Paragraph 9.22 the following:

“9.2...Having a 5-year land supply position does not mean that development allowed for the Local Plan should halt. Indeed, not progressing planning development considered to be acceptable could undermine the land supply position.”

4.14. It is important to progress planning applications to bolster such supply. At no point do CDC identify that directing growth to the Appeal Site would undermine its spatial strategy or would be unsustainable.

4.15. CDC accept at Paragraph 2.3 of their Statement of Case (Core Document E3) that the Proposed Development would assist, on a small scale, in meeting the overall housing needs under Policy BSC1, which should be appropriately weighted in the planning balance. CDC therefore seem to confirm that although the housing numbers under Policy BSC 1 are considered to be out of date, the spatial strategy is not – their case is that the Local Housing Needs are going down and not up.

4.16. It is accepted below that the Proposed Development is technically in the open countryside, outside of the Policy Villages 5 allocation. The Proposed Development is however well related to the Policy Villages 5

allocation, in a highly sustainable location. Paragraph 10.3 of the Committee Report accepted that the Proposed Development would relate well to the surrounding development and would result in a natural rounding off, at a sustainable settlement (Core Document C6). Officers were also content that any perceived adverse impacts would be outweighed by the benefits (Paragraph's 10.3 and 10.4, Core Document C10). Matters surrounding landscape and heritage effects are dealt with through Policies ESD 13, ESD 14, Policy PD4 and Saved Policy C33 (as dealt with under Issues 2 and 3 below). There is overall compliance with the development plan.

- 4.17. In addition to the above, the Proposed Development also complies with the Regulation 18 Cherwell Local Plan Review 2040 Consultation Draft (Core Document H1), which identifies Heyford Park as a 'Local Service Centre' and a location for additional residential growth under draft Site Allocation LPR42a for 1,235 dwellings (of which the Appeal Site falls within). As such, the Proposed Development also complies with the emerging spatial strategy for Cherwell District, although limited weight can be afforded to the emerging Local Plan at this stage.
- 4.18. Accordingly, it is considered that overall compliance can be demonstrated with the strategic objectives of the adopted Development Plan, and specifically the direction of development to Banbury, Bicester and Heyford as the strategic locations for growth.

Policies cited as Reasons for Refusal

- 4.19. Despite CDC confirming to the Inspector during the Case Management Conference that they would clarify which parts of the policies that there is alleged conflict with, it has failed to do so. Accordingly, the Appellant has no option but to address all elements of the policy, due to the fact that it is unclear where CDC say the conflict lies.

Policy ESD1: Mitigating and Adapting to Climate Change

- 4.20. Policy ESD 1 is clear that measures will be taken to mitigate the impact of development within the District on climate change. Policy ESD 1 contains two limbs, the first relating to the strategic level, and the second relating to suitable adaptation measures in new developments.

Policy ESD 1 – Limb (1)

- 4.21. The first limb relates to the strategic level, setting out 4no. criteria. The first two are relevant to the principle of development, requiring development to be directed to the most sustainable locations as defined in the adopted Development Plan, and delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport, to reduce dependency on the use of private cars. Upper Heyford is expressly identified as a significant growth location in the adopted Development Plan. Consequently, both parties are in agreement that Heyford Park is one of the four main strategic locations for accommodating future growth needs (Paragraph 8.10, SoCG, Core Document E7).
- 4.22. It is my opinion that the Appeal Site is located within a sustainable location, which is suitable for additional development. Such development would, in my opinion, constitute sustainable development. Upper Heyford benefits from a range of existing services and amenities, including a community centre, two shops, pharmacy, restaurant, bowling alley, pub, hotel, schools amongst other facilities (Paragraph 8.11, SoCG, Core Document E7). It is further agreed common ground that many of the facilities 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 (Paragraph 8.12, SoCG, Core Document E7).
- 4.23. It is also important to note that the sustainability of Heyford Park will increase over time, once the masterplan is fully developed. Other services which will come forward, particularly in light of the new draft allocation. As Heyford Park becomes more established, services and facilities will continue to be viable.
- 4.24. As a result, it is agreed common ground between the parties 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 950m-1,000m from the shops, pub and hotel, 1,600m from the community centre and about 1,900m from the new primary school (Paragraph 8.12, SoCG, Core Document E7). Accordingly, this lead to the parties agreeing that the Proposed Development complies with Paragraph 105 of the NPPF (Paragraph 8.12, SoCG, Core Document E7).
- 4.25. It is also considered that the Proposed Development is not materially different to the distances of some parts of Policy Villages 5 to the services and amenities at Heyford Park. A key particular example is the land immediately to the west of the Appeal Site which is within Policy Villages 5.

4.26. It should also be noted that parcels of the Dorchester Composite Parameter Plan (Core Document N5), within the Policy Villages 5 allocation, are significantly further from the centre of Heyford Park than the Appeal Site. A key example is Residential Parcel 23, which is circa 300m further north-east of the Appeal Site, but totals around 1.8km in distance from the shops at Heyford Park. Arguably, the Appeal Site is located more sustainably than the peripheral parcels within Policy Villages 5.

4.27. This is a matter which the Officer's Committee Report for the hybrid application (Core Document N8) confirmed at Paragraph 9.158 stating in relation to Parcel 23:

“9.158. However, Officers also have planning reasons to be concerned by the development of the SBS. It is in effect the area of last resort for housing as it is somewhat isolated from the main development parcels and services...”

4.28. Furthermore, his was a position echoed by the Committee Report (Core Document C6), which recommended the planning application for approval, in line with the Officer's opinion. At Paragraph 9.24, the Officer's Committee Report states:

“9.24. The District's Spatial Strategy is to focus most of the growth in the District towards locations within or immediately adjoining the main towns of Banbury and Bicester. Although Heyford Park is not part of these towns, it is clear from the Development Plan Policy Villages 5 growth allocations that as developed Heyford Park is becoming one of the most sustainable settlements, along with the two towns and Kidlington. It is one of the four main strategic locations for accommodating growth needs. The existing settlement has a number of existing facilities, including community centre, shops, pharmacy, restaurant, bowling alley, pub, hotel, schools etc. Additional facilities are proposed in line with the overall Masterplan for the site...” (My emphasis)

4.29. This led to the Committee Report confirming at Paragraph 9.27 that the general principle of development is acceptable on the Appeal Site. Furthermore, at Paragraphs 10.3 of the Officer's Committee Report:

“10.3 Whilst the application site is not allocated for development, Heyford Park is deemed a sustainable settlement location at which to accommodate development

and development of the land would relate well to surrounding development and represent a natural rounding off....” (My emphasis)

4.30. Officers considered that the Appeal Site is a sustainable location for growth (regardless of being outside of the Policy Villages 5 allocation – a matter I deal with below). Additionally, 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. The Appeal Site is subject to a draft allocation in the Draft Cherwell Local Plan to 2040 (Regulation 18) (Core Document H1).

4.31. The evidence base to the emerging Local Plan provides background to the assessment of Heyford and the proposed draft allocation of the Appeal Site at Heyford Park. The Interim Sustainability Appraisal (August 2023) states at Paragraph 5.2.39 the following:

“5.2.39 The adopted Local Plan allocation (2015) discussed the importance of “a comprehensive and lasting approach to the whole site” and securing “a lasting arrangement on this exceptional large scale brownfield site”. These sentiments hold true at the current time, i.e. there is potentially an opportunity for further growth in order to secure realisation of a vision for Heyford Park as a unique service centre, including one with a high proportion of local jobs per household. However, securing transport infrastructure upgrades, and better alignment with transport objectives more generally, is a prerequisite for further growth.” (My emphasis)

4.32. Accordingly, even CDC’s own evidence is clear that Heyford Park is a sustainable location for growth. Their evidence is clear that Heyford Park is sustainable in principle.

4.33. In summary, I consider that development on the Appeal Site would deliver growth in one of the most sustainable locations for growth, and would deliver development that seeks to reduce the need to travel and which encourages sustainable travel options and to reduce dependency on the private car. I consider that the Proposed Development complies with the first limb to Policy ESD 1, which is relevant to the principle of development.

4.34. The following table summarises the Proposed Development’s compliance with Limb (1) of Policy ESD 1:

Table 1: Compliance with Requirements of Limb (1) of Policy ESD 1

| <u>Requirements of Policy ESD1 Limb (1)</u> | <u>Appellant's Response</u> | <u>Compliance</u> |
|--|--|--|
| 1. Distributing growth to the most sustainable locations as defined in this Local Plan | I have reviewed this matter in more detail above – as explained in Paragraph's 4.21 – 4.33. | Compliant – no conflict. |
| 2. Delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars | I have reviewed this matter in more detail above – as explained in Paragraph's 4.21 – 4.33. | Compliant – no conflict. |
| 3. Designing developments to reduce carbon emissions and use resources more efficiently, including water (see Policy ESD 3 Sustainable Construction) | This is an outline planning application and there is no allegation of conflict here, as CDC did not refuse the application on the grounds of Policy ESD 3 (paragraph 8.7, SoCG, Core Document E7). Further details on the approach to design will be provided during the Reserved Matters stage. | Capable of being made compliant – no conflict. |
| 4. Promoting the use of decentralised and renewable or low carbon energy where appropriate (see Policies ESD 4 Decentralised Energy Systems and ESD 5 Renewable Energy). | This is an outline planning application and there is no allegation of conflict here, as CDC did not refuse the application on the grounds of Policy ESD 4 and 5 (Paragraph 8,7, SoCG, Core Document E7). Further details on the approach to design will be provided during the Reserved Matters stage. | Capable of being made compliant – no conflict. |

4.35. I consider that the Proposed Development is fully compliant with the first limb to Policy ESD 1.

Policy ESD 1 – Limb (2)

4.36. The second limb to Policy ESD 1 relates to the incorporation of suitable adaptation measures in new developments to ensure that development is more resilient, taking account of 4no. criteria. I review compliance against each of the criteria in the following table:

Table 2: Compliance with Requirements of Limb (2) of Policy ESD 1

| <u>Requirements of Policy</u> <u>ESD1 Limb (2)</u> | <u>Appellant's Response</u> | <u>Compliance</u> |
|--|--|--|
| 1. Taking into account the known physical and environmental constraints when identifying locations for development. | It is agreed common ground that the Proposed Development is acceptable in terms of archaeology, ecology, arboriculture, highways, drainage and flood risk, air quality, noise (Section 8, SoCG, Core Document E7). I also deal with matters of landscape and heritage under Issues 2 and 3 below. As such, I consider that the Appeal Site has suitably taken into account any known physical and environmental constraints. | Compliant - neutral. |
| 2. Demonstration of design approaches that are resilient to climate change, including passive solar design. | A Sustainability Statement was provided at the application stage (Core Document E7). Such design approaches will be demonstrated at the future Reserved Matters application stage. No substantive issue was raised in the RfR on this ground. | Capable of being made compliant – no conflict. |
| 3. Minimising the risk of flooding and making use of SuDS. | It is agreed common ground that the Proposed Development is situated in Flood Zone 1, and that A SuDS scheme could be controlled by condition (Paragraph's 8.61 – 8.66, SoCG, Core Document E7). | Capable of being made compliant – no conflict. |
| 4. Reducing the effects of development on the microclimate, through green infrastructure, open space, water, planting and green roofs. | Whilst a Landscape and Open Space Parameter Plan was submitted as part of the application (Core Document B13), detailed compliance with such requirements will be demonstrated at the future Reserved Matters stages. No substantive issue was raised in the RfR on this ground. | Capable of being made compliant – no conflict. |

4.37. For the above reasons, I consider that the Proposed Development complies with Policy ESD 1.

Policy Villages 5

- 4.38. Policy Villages 5 sets out the area of growth in Upper Heyford. I accept that the Appeal Site is outside of, but immediately adjacent to the RAF Upper Heyford Strategic Allocation under Policy Villages 5 (as agreed within Paragraph 8.15 of the SoCG, Core Document E7), for where growth should be directed.
- 4.39. Notwithstanding this, there is no suggestion from any parties that the Proposed Development would prejudice the aims and objectives of Policy Villages 5, nor harm the objectives of the policy to bring forward the allocation.
- 4.40. Accordingly, I find that despite being outside of the allocation and deriving no specific support from the allocation, there is no harm or prejudice to the overall objectives of the policy. As such, I find no conflict with Policy Villages 5.

Saved Policy C8: Sporadic Development in the Countryside

- 4.41. Policy C8 seeks to prevent sporadic development in the open countryside, including in the vicinity of the motorway or major road junctions. The Proposed Development is not sporadic development in the countryside; instead it is logical development adjacent to one of the largest locations for growth in Cherwell District, which is also defined as a 'Local Service Centre' as defined in the draft emerging Local Plan Review 2040 (Core Document H1).
- 4.42. Whilst the Appeal Site is within countryside in technical planning policy terms, I do not consider that the Appeal Site is a typical example of such rural sites which Policy C8 seeks to protect. In this case, I do not consider that the Proposed Development is 'sporadic development' nor is it 'open countryside' in typical terms, as the Appeal Site is largely contained by sites with either extant planning permission or permission pending formal determination, and is currently between proposed residential development to the west and Chilgrove Drive to the east (Paragraph 8.18, SoCG, Core Document E7).
- 4.43. The Committee Report dealt with such matters, stating at Paragraph 9.23 the following:

“9.23...The development is an undeveloped greenfield site, which will have a physical and visual relationship with the development at Heyford Park. The site will be bounded by development to the west and to the north. In [addition] there is a barrier with open countryside to the east, which is separated by Chilgrove

Road.... The site is not allocated within the Policy Villages 5 area, however the site adjoining is allocated land, which has a resolution to grant planning permission subject to a S106, so the development will not be a standalone development but would relate well to the established and future planned form of Heyford Park, contained between residential development to the west and Chilgrove Road to the east". (My emphasis)

4.44. This is a position I agree with. The Proposed Development will not form sporadic development in the open countryside. As such, this led to the Officer’s professional assessment in Paragraph 9.24 that:

“9.24. ... The site would result in a natural continuum with the existing development, and would ‘round off’ Heyford Park, given Chilgrove Road to the east, and Camp Road to the south.” (My emphasis)

4.45. Paragraph 9.36 of the Committee Report (Core Document C6) explains that the site was assessed in the HELAA, which considered that the site could be developed without opening development further into the open countryside.

4.46. For these reasons, I do not find any conflict with Policy C8.

Saved Policy C30: Design of New Residential Development

4.47. Whilst not relevant to the principle of development, Policy C30 confirms that design control will be exercised for new residential development, requiring compliance with three requirements. This policy is not applicable to other substantive issues.

4.48. The following table confirms compliance with the three detailed requirement of Policy C30:

Table 3: Compliance with Requirements of Policy C30

| <u>Policy C30 Requirements</u> | <u>Appellant’s Response</u> | <u>Compliance</u> |
|--|---|--------------------------|
| 1. That new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity. | In terms of appearance, layout, scale and density, this is an outline application. There is no allegation of conflict here, as the RfR does not mention any compatibility issues with existing dwellings. | Compliant – no conflict. |

| <u>Policy C30 Requirements</u> | <u>Appellant's Response</u> | <u>Compliance</u> |
|--|--|--------------------------|
| | Further details on the approach to design matters will be provided during future Reserved Matters applications. | |
| 2. That any proposal to extend an existing dwelling (in cases where planning permission is required) is compatible with the scale of the existing dwelling, its curtilage and the character of the street scene. | Not applicable. | Not applicable. |
| 3. That new housing development or any proposal for the extension (in cases where planning permission is required) or conversion of an existing dwelling provides standards of amenity and privacy acceptable to the local planning authority. | It is agreed common ground that the Proposed Development would not cause materially detrimental levels of noise, vibration, smell, smoke, fumes or other environmental pollution; or on neighbouring amenity (Paragraph 8.74, SoCG, Core Document E7). Confirmation of dwelling standards would be provided at the future Reserved Matters stage. | Compliant – no conflict. |

4.49. On this basis, I consider that Policy C30 is complied with as a whole. I do not find any conflict with Policy C30.

Policy H18: New Dwellings in the Countryside

4.50. Policy H18 is one of strict protection with the overarching purpose to 'protect the countryside', and is clear that planning permission will only be granted for the construction of new dwellings beyond built-up limits of settlements other than those identified in Policy H1, where it is essential for agriculture or existing other undertakings; or, meets criteria in Policy H6; and, would not would conflict with other policies in the Plan.

- 4.51. Policy H18 was published in the adopted Local Plan from 1996, and pre-dates the original introduction of the NPPF in 2012. Paragraph 2.76 of the Cherwell Local Plan 1996 explains that Policy H18 is a continuation of past policies and reflected the Government's advice. Policy H18 was evidently adopted in a completely different planning context, and prior to the NPPF's requirements of objectively assessing housing needs, and not treating such needs as a 'maximum', to boost the supply of housing.
- 4.52. In contrast to Policy H18, Paragraph 174 of the NPPF seeks to ensure that planning decisions contribute and enhance the natural environment through various requirements. This includes protecting valued landscapes (of which the Appeal Site is not designated as), and through recognising the intrinsic character and beauty of the countryside. It is now a balanced judgement as to whether development enhances the countryside, as opposed to Policy H18's closed list of circumstances where development is acceptable.
- 4.53. The difference between Paragraph 174 and former policies for the 'protection' of the countryside was a matter dealt with in the Telford Judgement (Core Document M19). At Paragraph 47, Mrs Justice Lang DBE stated:

“47. In my judgment, the Inspector did not err in law in concluding that Policy CS7 was not in conformity with the NPPF and so was out-of-date. It is a core planning principle, set out in NPPF 17, that decision-taking should recognise *“the intrinsic character and beauty of the countryside and supporting thriving rural communities within it”*. This principle is reflected throughout the NPPF e.g. policy on the location of rural housing (NPPF 55); designation of Local Green Space (NPPF 76); protection of the Green Belt (NPPF 79 – 92) and Section 11, headed *“Conserving and enhancing the natural environment”* (NPPF 109- 125). However, NPPF does not include a blanket protection of the countryside for its own sake, such as existed in earlier national guidance (e.g. Planning Policy Guidance 7), and regard must also be had to the other core planning principles favouring sustainable development, as set out in NPPF 17. The Inspector had to exercise his planning judgment to determine whether or not this particular policy was in conformity with the NPPF, and the Council has failed to establish that there was any public law error in his approach, or that his conclusion was irrational.” (My emphasis)

- 4.54. On this basis, this Judgement demonstrates that the NPPF does not result in a blanket protection of the countryside for its own sake, as Policy H18 seeks to secure. There is therefore conflict between Policy H18 and Paragraph 174 of the NPPF.
- 4.55. I also consider that there is inconsistency between Policy H18 and the Cherwell Local Plan Part 1, Policies ESD 13 and ESD 15. I deal with Policy ESD 13 under Issue 2 and Policy ESD 15 under Issue 3, demonstrating compliance with both policies. However, Policy ESD 13 does not seek to “protect” the countryside for its own sake; instead it seeks to “respect” the countryside in line with Paragraph 174 of the NPPF. Paragraph B.248 of the Cherwell Local Plan Part 1 is clear that the Local Plan moved away from blanket areas of protection, confirming that a character based approach is undertaken.
- 4.56. Additionally, Paragraph B.250 of the Cherwell Local Plan Part 1 expressly envisages that development might extend the built up limits of the towns, and that it is not necessarily unacceptable, but CDC will seek a masterplan and a well-designed approach to the urban edge. This seeks to avoid the abrupt transition to open farmland, which the Proposed Development would do.
- 4.57. Section 38(5) of the Planning and Compulsory Purchase Act 2004 is clear that where a policy contained within a Development Plan conflicts with another policy, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted. In this case, this conflict must be resolved in favour of Policies ESD 13 and ESD 15, given that the Cherwell Part 1 Local Plan was adopted in July 2015.
- 4.58. Further to this, Policy H18 is confirmed to be ‘out of date’ in the Regulation 10A Review of Local Plan Policies (Core Document G11). The commentary in the Regulation 10A Statement (Core Document G11) notes inconsistencies with the NPPF relating to circumstances where isolated housing in the countryside is acceptable; with the confirmation that the emerging Local Plan will need to consider this. There is no mention of the inconsistency between Policy H18 and Paragraph 174.
- 4.59. Policy H18 was also dealt with in a recent Appeal Decision for Finmere (Appeal Reference: APP/C3105/W/22/3311483) (Core Document M20). To that effect, the Inspector stated the following at Paragraph 14 of the Appeal Decision:

“14. ... Although the development would not fall within the categories supported by CLP Policy H18, I note that the policy is more limiting than the Framework, which promotes the development of housing where it will enhance or maintain

the vitality of rural communities, especially where they would support local services and would avoid the development of isolated homes.” (My emphasis)

- 4.60. In addition to this, I have also confirmed that under Issue 5 that CDC cannot demonstrate a five year housing land supply. As such, Policy H18 is considered to be out of date in any eventuality.
- 4.61. Due to the inconsistencies between Policy H18 and the NPPF, I consider that only limited weight should be afforded to Policy H18 in any event.

Saved Policy C33 (Protection of Important Gaps for Undeveloped Land) and Policy PD4 of Mid Cherwell Neighbourhood Plan

- 4.62. Despite being referenced in RfR1, as both policies relate to landscape matters, I deal with them under Issue 2 below, where I demonstrate that the Proposed Development would not conflict with either policy.

Summary of Compliance with Overarching Spatial Strategy

- 4.63. I have demonstrated under Paragraph's 4.6 – 4.18 above that the Proposed Development would not undermine the overarching spatial strategy in the adopted Development Plan. I have also explained above the tensions between policies within the adopted Development Plan, such as Policies H18.
- 4.64. Furthermore, the Appeal Site constitutes a similar case to the Finmere Appeal, where the Inspector found broad compliance with relevant policies to the principle of development. In that case, Policy Villages 1 and Policy H18 were relevant. To that effect, the Inspector stated the following at Paragraph 14 of the Appeal Decision (Core Document M20):

“14. Finmere does not benefit from a defined settlement boundary. As identified above, the appeal site would be physically and visually separate from the existing built-up limits of the village and therefore would not be supported by CLPP1 Policy Villages 1. Although the development would not fall within the categories supported by CLP Policy H18, I note that the policy is more limiting than the Framework, which promotes the development of housing where it will enhance or maintain the vitality of rural communities, especially where they would support local services and would avoid the development of isolated homes.” (My emphasis)

4.65. This confirms that the Inspector was satisfied that the addition of dwellings in such location would not undermine the overarching spatial strategy, of the adopted Development Plan. In the same essence, I consider that development at Heyford Park, whilst outside of Policy Villages 5 allocation, would ultimately not undermine the overall spatial strategy, of directing the most growth to Bicester and Banbury, whilst also having a focus on Heyford as a major location for growth.

4.66. As a result, the Inspector concluded the following at Paragraph 18 of the Finmere Appeal Decision (Core Document M20):

“18. Therefore, having regard to local and national policy, the appeal site would be a suitable location for the development. The proposal would be broadly consistent with CLPP1 Policies BSC1, Villages 1 and ESD1 and CLP Policy H18, where they collectively support sustainable patterns of development, locating housing where it would reduce dependence on private cars, support community facilities and protect the countryside from sporadic development.” (My emphasis)

4.67. Accordingly, this demonstrates that it is possible to demonstrate broad consistency with key policies, through according with the overarching spatial pattern of development (to which the Proposed Development does), without needing to be in a location which was within the spatial requirements of Policy Villages 1 (in the case of Finmere) or Policy Villages 5, in this case.

4.68. I consider that this position applies to the Proposed Development. Whilst the Proposed Development is outside of Policy Villages 5 and in a location where Policy H18 takes effect, I consider through locating development adjacent to Heyford Park, one of the key locations for sustainable growth in Cherwell District, it results in development consistent with Policy BSC1, Villages 5, alongside saved Policies H18 and C8.

4.69. It is my position that the Appeal Site’s emerging allocation identifies the direction of travel, and the suitability of this site for residential development .In line with the Appeal Decision for Station Lane, Launton, I afford the emerging Local Plan limited weight (Core Document M1).

Policy PSD 1: Presumption in Favour of Sustainable Development

4.70. Policy PSD 1 broadly reflects Paragraph 11 of the NPPF, confirming that planning applications which accord with the adopted Development Plan should be approved without delay, unless material considerations indicate otherwise.

4.71. In circumstances where there are no policies relevant to the application, or relevant policies are out of date, then granting permission unless material considerations indicate otherwise, taking into account whether:

- Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against policies in the NPPF as a whole; or
- Specific policies in the Framework indicate that development should be restricted.

4.72. In this case, as set out above, my primary position is that I consider that the Proposed Development accords with the adopted Development Plan, when read as a whole. However, I also consider that if an Inspector was to take a different view, that there would be conflict with the adopted Development Plan, I consider that material considerations indicate that the tilted balance should be engaged due to CDC's lack of a five year supply of housing land, and set out further the balance required on this under Section 6. I consider that the tilted balance is engaged on the following grounds, based on the evidence of My Pycroft due to the following:

- The Appellant's five year housing land supply evidence, which confirms that CDC cannot demonstrate sufficient supply (only 2.85 years).
- CDC's own evidence, that even with their claimed five year housing land supply for Cherwell's own Local Housing Need, they cannot demonstrate a five year supply for Oxford's unmet needs (claiming only a 0.2 year supply for Oxford's unmet need).

4.73. In both circumstances, I consider that the tilted balance is engaged, and that key policies relating to the provision of housing for the determination of this appeal are considered to be out of date, including Policy H18. Given that Policy PSD 1 contains the tilted balance, it is still possible to demonstrate overall compliance with the adopted Development Plan, in the eventuality that the most relevant policies are considered to be out of date.

4.74. Even if conflict is found with the adopted Development Plan due to being in the countryside contrary to Policy H18 and outside of the Policy Villages 5 allocation, there is limited planning harm. This is due to the Proposed Development being located immediately to a strategic growth area of Heyford Park, which is one of four main strategic locations for future growth needs (Paragraph 8.10, SoCG, Core Document E7). There is no allegation of harm to the strategic growth objectives or the overarching strategy in the adopted Development Plan, in the RfR. In addition, the Landscape Proof of Evidence demonstrates that the Proposed Development will respect the character and appearance of the countryside, in accordance with the overarching requirements of Paragraph 174 of the NPPF and Policy ESD 13 (Policy ESD 13 was, unlike Policy H18, produced post publication of the NPPF and reflects it). There are a number of other important material considerations which are turned to below, not least the acute need to deliver market and affordable housing in the District.

Emerging Local Plan

4.75. The Appeal Site is also identified as a 'Preferred Allocation' in the Cherwell Local Plan Review to 2040 (Core Document H1). This clearly identifies a spatial strategy for the District and that allocation of the Appeal Site with additional land is a sustainable and suitable location for future growth, subject to addressing infrastructure requirements.

4.76. Within the Regulation 18 Consultation Report, it is explained that Heyford Park would be designated as a Local Service Centre; the second highest tier settlement (with Main Towns being the highest tier). Chapter 7 sets out the Heyford Park Strategy, with emerging Core Policy 82 setting out the overall spatial strategy and area strategy to deliver the vision for Heyford Park (Core Document H1).

4.77. The Appeal Site forms part of a wider proposed emerging allocation for Heyford Park under site reference LPR42a as preferred allocation.

Issue 1 Summary:

4.78. I consider that the Appeal Site forms a suitable location for development, when having regard to national and local planning policies. Whilst there is some limited conflict with Policy H18, I find that there is no conflict with Policy Villages 5, C8, and C30. Overall, I find that the Proposed Development would comply with the overarching spatial strategy.

4.79. In line with Policy PSD 1 and Paragraph 11(d) of the NPPF, planning permission should be granted without delay, as the Proposed Development accords with the adopted Development Plan. I have also explained how key policies are out of date, due to the lack of five year housing land supply, and therefore the presumption in favour of sustainable development and the tilted balance is engaged. I deal with this under the planning balance in Section 8.

Issue 2 - The effect of the proposal on the landscape and local character, with particular regard to the form and character of Heyford Park.

4.80. I refer to the Landscape Proof of Evidence, prepared by Mrs Wendy Lancaster, which deals with this substantive issue. In summary, the Landscape Proof of Evidence concludes:

- The Appeal Scheme will not have unacceptable effects on the local landscape or views, including views to and from the Conservation Area. The existing green infrastructure is to be retained as part of the scheme, with new areas of open space and native planting to be established throughout the development. None of the views identified in the Neighbourhood Plan (Core Document G4) will be affected by the Appeal Scheme. The Appeal Scheme is in accordance with the identified policies in the Development Plan for the area.
- The Appeal Scheme will form a logical extension to Heyford Park, extending no further east than the Creative Hub to the north or the proposed HGV route to the east, and no further south than development within Heyford Park south of Camp Road. It has been identified as a suitable location for residential development in evidence base documents dating back to at least 2014, and this is reflected in the Appeal Site forming part of draft allocation LR42a in the emerging Local Plan 2040. As set out in the Officer Report and as reflected by the Case Officer's recommendation for approval, the Appeal Scheme will form a logical rounding off of the settlement in this location and should be allowed.

4.81. Accordingly, I proceed to review compliance of the Proposed Development against key policies cited as being in contention between the parties on landscape matters.

Policy ESD 13: Local Landscape Protection and Enhancement

4.82. Mrs Lancaster deals with Policy ESD 13 at 6.12 – 6.21 of the Landscape Proof of Evidence.

4.83. The first limb to Policy ESD 13 requirements opportunities to be sought to secure the enhancement of the character and appearance of the landscape. As explained at Paragraph 6.14 of the Landscape Proof of Evidence, the Landscape Strategy Plan (Core Document A15) demonstrates the retention and enhancement of landscape features as far as practicable, including the opening up and enhancement of the wetland corridor and new areas of native planting. As such, I concur that the first limb to Policy ESD 13 is complied with.

4.84. The second limb to Policy ESD 13 explains that development will be expected to respect and enhance local landscape character, securing appropriate mitigation, and 6no. criteria for proposals to comply with. I review these in the following table:

Table 4: Policy ESD 13 Limb (2) Requirements

| <u>Policy ESD 13 Requirements</u> | <u>Appellant's Response</u> | <u>Compliance</u> |
|---|---|----------------------|
| 1. Cause undue visual intrusion into the open countryside. | Paragraph 6.16 of the Landscape Proof explains that the LVIA (Core Document A15) has demonstrated that the Appeal Scheme will not cause undue visual intrusion, especially when considered in conjunction with the surrounding consented schemes. | Compliant – no harm. |
| 2. Cause undue harm to important natural landscape features and topography. | At Paragraph 6.16 of the Landscape Proof, it is confirmed that the LVIA has shown to protect natural landscape features and will result in the introduction of new native landscape features. It will not cause undue harm to the local topography. | Compliant – no harm. |
| 3. Be inconsistent with local character. | Paragraph 6.14 of the Landscape Proof explains that the introduction of new areas of development will inevitably have an impact on character, but this development is not out of context with the surrounding built form within the existing and consented residential areas of Heyford Park, and the form is shown to be softened with retention of the existing landscape infrastructure and the establishment of new areas of tree and other planting throughout the proposed development. | Compliant – neutral. |
| 4. Impact on areas judged to have a | The area of the Appeal Site does not contain a high level of tranquillity and no party has suggested that it does. This is echoed in the 2014 Sensitivity and Capacity Assessment | Compliant – no harm. |

| <u>Policy ESD 13 Requirements</u> | <u>Appellant's Response</u> | <u>Compliance</u> |
|---|---|----------------------|
| high level of tranquillity. | (Core Document J10, Paragraph 4.3.7) which stated that <i>“within the south the area is greatly influenced by vehicles passing along Camp Road and the junction to the south east”</i> . This is confirmed at Paragraph 5.16 of the Landscape Proof. | |
| 5. Harm the setting of settlements, buildings, structures or other landmark features. | Paragraph 6.17 of the Landscape Proof confirms that the Appeal Scheme will not adversely impact upon the setting of Heyford Park, especially in the context of the emerging developments to the north and west. It will not impact upon the visual setting of buildings, structures or other landscape features. | Compliant – no harm. |
| 6. Harm the historic value of the landscape. | Paragraph 6.18 of the Landscape Proof explains that This area of the landscape is not designated for its heritage value and does not form part of the Conservation Area. The Appeal Site appears in one view from the Conservation Area and the Appeal Scheme has been shown to have a negligible effect on that view. The Appeal Scheme will not affect the historic value of the landscape. | Compliant – no harm. |

4.85. Accordingly, I concur with Mrs Lancaster's conclusions that the Proposed Development is in compliance with Policy ESD 13.

Policy ESD 15: The Character of the Built and Historic Environment

4.86. I deal with Policy ESD 15 under Issue 3, as it is mainly a heritage matter. However, I note that some of the policy requirements do cross over into matters of landscape and the built environment. Mrs Lancaster considers that the Proposed Development is compliant with relevant bullet points of Policy ESD 15, from a landscape perspective. This is a position which I concur with.

Policy PD4 of Mid Cherwell Neighbourhood Plan: Protection of Important Views and Vistas

4.87. Policy PD4 relates to the protection of important views and vistas. With regards to the first limb to Policy PD4 (sensitivity to important views and vistas), Mrs Lancaster confirms at Paragraph 6.29 of the Landscape Proof that Table 4 sets out a wide and diverse number of views, unhelpfully with no map to illustrate them, likely because some of the views specified are vague and could refer to huge areas of countryside. Of the

views specified in Table 4, only one is of relevance to the Appeal Site and that is the view east from the recent development edge shown on Figure 11 of the RAF Upper Heyford Conservation Area Appraisal (Core Document G5, page 27) which corresponds broadly with LVIA Viewpoint 6. The LVIA has demonstrated that this view is already characterised by development beyond the intervening open space and that the Appeal Scheme will result in negligible effects at Year 1 and Year 15. These effects will be further diminished once the Pye scheme has been completed.

4.88. Furthermore, Mrs Lancaster confirms that the Appeal Scheme will not impact upon any of the sensitive skylines identified, at Paragraph 6.30 of the Landscape Proof. This complies with the second limb to Policy PD4.

4.89. The third limb to Policy PD4 relates to heritage matters. This is dealt with under Issue 3.

4.90. For these reasons, Mrs Lancaster confirms accordance with Policy PD4 at Paragraph 6.31 of the Landscape Proof, a position I concur with.

Saved Policy C33: Protection of Important Gaps of Undeveloped Land

4.91. Policy C33 states that the Council will seek to retain undeveloped gaps which are *“important in preserving the character of a loose-knit settlement structure or...in preserving a view or feature of recognised amenity or historical value”*.

4.92. Mrs Lancaster notes at Paragraph 6.7 of the Landscape Proof (Core Document E14) that the LVIA identified the views which are likely to be affected by the Appeal Scheme and only one of these is identified within the Conservation Appraisal and therefore as being of some historical value. The LVIA has demonstrated that effects on this view (Viewpoint 6) will be negligible at Year 1 and Year 15. The 2014 Sensitivity and Capacity Appraisal assessed that, in relation to the Appeal Site, as part of site 146, that *“key views across the site do not exist and therefore would be unaffected”* (Core Document J10, Paragraph 4.3.14). Furthermore, the planning evidence base include the 2007 Comprehensive Planning Brief (Core Document N2), the Conservation Area and the 2010 Appeal Decision (Core Document N1), all agree that the HASs within the Conservation Area are detrimental to views.

4.93. Accordingly, Mrs Lancaster explains at Paragraph 6.8 of the Landscape Proof (Core Document E14 that effects on other views have been shown to be limited and localised, and none of these views has been identified as being of notable amenity value.

4.94. As such, Mrs Lancaster confirms that the Proposed Development is not in conflict with Saved Policy C33 from a landscape perspective; a position I concur with. Heritage matters of Policy C33 are dealt with by Mr Copp under Issue 3.

Issue 2 Summary:

4.95. The effect of the Proposed Development on the landscape and local character, with consideration to the form and character of Heyford Park is acceptable, for the following reasons:

- The Appeal Scheme will not have unacceptable effects on the local landscape or views, including views to and from the Conservation Area. Residual effects on the site at Year 15 will be closer to neutral, with the improvements to the existing green infrastructure and the proposed public access to the wetland corridor balancing out the introduction of the built form.
- The existing green infrastructure is to be retained as part of the scheme, with new areas of open space and native planting to be established throughout the development.
- None of the views identified in the Neighbourhood Plan will be affected by the Appeal Scheme.
- The Appeal Scheme will form a logical extension to Heyford Park, extending north further east than the Creative Hub to the north or the proposed HGV route to the east, and no further south than development within Heyford Park south of Camp Road.
- The Appeal Scheme is in accordance with Policies ESD13, PD4 and Saved Policy C33.

Issue 3 - The effect of the proposed development on heritage assets.

4.96. I refer to the Appellant's Heritage Proof of Evidence, prepared by Mr Copp, which deals with this substantive issue. In summary, Mr Copp concludes:

- The Appeal Site forms part of the setting of the RAF Upper Heyford Conservation Area and a grouping of seven Hardened Aircraft Shelters, which are identified as non-designated heritage assets, located within it.

- The setting of the Conservation Area is generally rural in character, but also includes some limited residential development. The setting of the Hardened Aircraft Shelters is mixed and includes the related Flying Field and structures, 20th and 21st century residential development and rural land.
- The Appeal Site currently forms part of this rural land and permits some views into the Conservation Area, including partial views of the Shelters. It contrasts with the hard military character of the Flying Field, but does not permit an appreciation of the historic function and development of the airbase. It makes no contribution to the significance of the Conservation Area, or the non-designated heritage assets within it.
- The proposals will lead to a change within the setting of the Conservation Area and the reduction in rural context. However, this rural land use makes no contribution to the significance of the Conservation Area, with the development retaining the clear contrast between the Flying Field (and related structures) and the land beyond, which includes a mixture of residential and rural land uses. The proposals will have no impact on the historic or architectural interest of the Conservation Area, or on its overall significance.

4.97. This leads to Mr Copp's overall conclusions that the Proposed Development will have no impact on the significance of the RAF Upper Heyford Conservation Area, or the designated and non-designated heritage assets within it. This results in compliance with Policy ESD 15 of the adopted Development Plan and the provision of the Planning (Listed Buildings and Conservation Areas) Act, 1990.

4.98. Mr Copp also considers the position when approved and committed development is built out. He considers that there will be a notable change to the Hardened Aircraft Shelters, their immediate setting and their relationship with the wider airfield. The development will also further separate the Shelters from the Site. New residential development will be introduced to the immediate east and west, with commercial development to the south. The provision of large-scale extensions to the buildings and new development of up to 18m in height will diminish the architectural interest of the Hardened Aircraft Shelters and the ability to view them from the Site, with the shelters closest to the Site seeing significant alteration and extension. These changes will diminish the significance of the Shelters and reduce the ability to experience and appreciate that significance from the Site.

4.99. I further review the compliance with detailed requirements of Policy ESD 15, PD4 and Saved Policy C33 below.

Policy ESD 15: The Character of the Built and Historic Environment

4.100. Policy ESD 15 is concerned with conserving the historic environment and securing high quality urban design. The policy includes a list of bullet points that new development proposals should meet. These bullet points are discussed in turn below with reference to relevant Proofs of Evidence prepared by technical consultants, as appropriate. Some bullet points will be addressed with a reserved matters submission.

Table 5: Compliance with Requirements of Policy ESD 15

| <u>Requirements of Policy ESD 15</u> | <u>Appellant Response</u> | <u>Compliance</u> |
|--|---|---|
| 1. Be designed to deliver high quality safe, attractive, durable and healthy places to live and work in. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions. | Mrs Lancaster deals with this matter at Paragraph 6.23 of the Landscape Proof of Evidence (Core Document E14), explaining the Illustrative Masterplan and its benefits, and that the LVIA assessed the effects on the local landscape as minor beneficial. This is an outline planning application and there is no allegation of conflict here. Further details on the approach to design will be provided during the Reserved Matters stage. | Capable of being made compliant – no conflict |
| 2. Deliver buildings, places and spaces that can adapt to changing social, technological, economic and environmental conditions. | This is an outline planning application and there is no allegation of conflict here. Further details on the approach to design will be provided during the Reserved Matters stage. | Capable of being made compliant – no conflict |
| 3. Support the efficient use of land and infrastructure, through appropriate land uses, mix and density/development intensity | This is an outline planning application and there is no allegation of conflict here. Further details on the approach to design will be provided during the Reserved Matters stage. | Capable of being made compliant – no conflict |

| <u>Requirements of Policy ESD 15</u> | <u>Appellant Response</u> | <u>Compliance</u> |
|---|---|--|
| <p>4. Contribute positively to an area’s character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views, in particular within designated landscapes, within the Cherwell Valley and within conservation areas and their setting</p> | <p>This is an outline planning application and there is no allegation of conflict here. Further details on the approach to design will be provided during the Reserved Matters stage.</p> <p>However, Paragraph 6.24 of the Landscape Proof deals with this requirement, confirming that the Proposed Development does not adversely affect local topography, it retains and enhances landscape features, mitigating any losses and establishing new areas of native tree and hedgerow planting. It does not impact adversely upon skylines identified within the Mid Cherwell Neighbourhood Plan or valley floors.</p> | <p>Capable of being made compliant – no conflict</p> |
| <p>5. Conserve, sustain and enhance designated and non-designated ‘heritage assets’ (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG. Proposals for development that affect non-designated heritage assets will be considered taking account of the scale of any harm or loss and the significance of the heritage asset as set out in the NPPF and NPPG. Regeneration proposals that make sensitive use of heritage assets, particularly where these bring redundant or under used buildings or areas, especially any on English Heritage’s At Risk Register, into appropriate use will be encouraged</p> | <p>I have dealt with such matters under issue 3, and Paragraph 4.97, confirming that there would be no impact on any designated heritage assets.</p> | <p>Compliant – no conflict.</p> |

| <u>Requirements of Policy ESD 15</u> | <u>Appellant Response</u> | <u>Compliance</u> |
|---|---|---|
| 6. Include information on heritage assets sufficient to assess the potential impact of the proposal on their significance. Where archaeological potential is identified this should include an appropriate desk based assessment and, where necessary, a field evaluation. | As explained above, a Heritage Impact Assessment accompanied the application, which provided information on heritage assets and an assessment of the impact of the Proposed Development. No issue was raised by CDC regarding the sufficient of the Heritage Impact Assessment at the application stage. | Complaint – no conflict |
| 7. Respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages | This is an outline planning application and there is no allegation of conflict here. Further details on the approach to design will be provided during the Reserved Matters stage. | Capable of being made compliant – no conflict |
| 8. Reflect or, in a contemporary design response, re-interpret local distinctiveness, including elements of construction, elevational detailing, windows and doors, building and surfacing materials, mass, scale and colour palette | This is an outline planning application and there is no allegation of conflict here. Further details on the approach to design will be provided during the Reserved Matters stage. | Capable of being made compliant – no conflict |
| 9. Promote permeable, accessible and easily understandable places by creating spaces that connect with each other, are easy to move through and have recognisable landmark features | This is an outline planning application and there is no allegation of conflict here. Further details on the approach to design will be provided during the Reserved Matters stage. However, Paragraph 6.25 of the Landscape Proof of Evidence (Core Document E14) deals with this, recognising the Illustrative Masterplan provides a permeable block structure, responds to existing landscape features, provides potential to connect to north and west, and design to | Capable of being made compliant – no conflict |

| <u>Requirements of Policy ESD 15</u> | <u>Appellant Response</u> | <u>Compliance</u> |
|--|---|---|
| | address the wetland corridor and countryside. | |
| 10. Demonstrate a holistic approach to the design of the public realm to create high quality and multi-functional streets and places that promotes pedestrian movement and integrates different modes of transport, parking and servicing in The Manual for Streets should be followed | This is an outline planning application and there is no allegation of conflict here. Further details on the approach to design will be provided during the Reserved Matters stage. | Capable of being made compliant – no conflict |
| 11. Consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space | <p>This is an outline planning application and there is no allegation of conflict here. Further details on the approach to design will be provided during the Reserved Matters stage.</p> <p>Nevertheless, in terms of amenity, both parties are in agreement that the Proposed Development could be made acceptable subject to details being provided at the Reserved Matters stage, complying with Policy ESD 15 (Paragraph's 8.32 - 8.33, SoCG, Core Document E7).</p> | Compliant – no conflict |
| 12. Limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation | <p>This is an outline planning application and there is no allegation of conflict here. Further details on the approach to design will be provided during the Reserved Matters stage.</p> <p>Paragraph 6.26 of the Landscape Proof of Evidence (Core Document E14) deals with this, recognising that there was no ecological RfR, and that the consented schemes to west and north will also introduce lighting.</p> | Capable of being made compliant – no conflict |

| <u>Requirements of Policy ESD 15</u> | <u>Appellant Response</u> | <u>Compliance</u> |
|---|---|---|
| 13. Be compatible with up to date urban design principles, including Building for Life, and achieve Secured by Design accreditation | This is an outline planning application and there is no allegation of conflict here. Further details on the approach to design will be provided during the Reserved Matters stage. | Capable of being made compliant – no conflict |
| 14. Consider sustainable design and layout at the master planning stage of design, where building orientation and the impact of microclimate can be considered within the layout | This is an outline planning application and there is no allegation of conflict here. Further details on the approach to design will be provided during the Reserved Matters stage. | Capable of being made compliant – no conflict |
| 15. Incorporate energy efficient design and sustainable construction techniques, whilst ensuring that the aesthetic implications of green technology are appropriate to the context (also see Policies ESD 1 - 5 on climate change and renewable energy) | This is an outline planning application and there is no allegation of conflict here. Further details on the approach to design will be provided during the Reserved Matters stage. I have demonstrated compliance with Policy ESD1 in Issue 1 above. Policies ESD 2 and ESD 3 are not in conflict. | Capable of being made compliant – no conflict |
| 16. Integrate and enhance green infrastructure and incorporate biodiversity enhancement features where possible (see Policy ESD 10: Protection and Enhancement of Biodiversity and the Natural Environment and Policy ESD 17 Green Infrastructure). Well-designed landscape schemes should be an integral part of development proposals to support improvements to biodiversity, the micro climate, and air pollution and provide attractive places that improve people's health and sense of vitality | This is an outline planning application and there is no allegation of conflict here. Further details on the approach to design will be provided during the Reserved Matters stage. Notwithstanding this, the Landscape Proof deals with this requirement at Paragraph 6.27, confirming that enhancements are proposed from an ecology, landscape and visual perspective. | Compliant – no conflict |
| 17. Use locally sourced sustainable materials where possible | This is an outline planning application and there is no allegation of conflict here. Further details on the approach | Capable of being made compliant – no conflict |

| <u>Requirements of Policy ESD 15</u> | <u>Appellant Response</u> | <u>Compliance</u> |
|--------------------------------------|---|-------------------|
| | to design will be provided during the Reserved Matters stage. | |

4.101. Based on the foregoing, I consider that Policy ESD 15 is complied with, when read as a whole, and as such I consider that there is no conflict with such policy.

Policy PD4: Important Views and Vistas

4.102. I have dealt with the first two limbs of Policy PD4 under Issue 2 above, as they are relevant to landscape matters. The third limb to Policy PD4 is relevant to heritage matters, which requires developments to demonstrate in a Heritage Impact Assessment that they have taken into account the Conservation Area Appraisal, and demonstrates that the proposals cause as little harm to an identified view as possible, that any harm is outweighed by the benefits. The development should not harm the Conservation Area and its setting, other heritage assets, or historic street and villages views, and longer distance views.

4.103. I refer to Paragraph 4.97 above, where Mr Copp concludes that there would be no impact on the significance of the RAF Upper Heyford Conservation Area, or the designated and non-designated heritage assets within it. For these reasons, I consider that the Proposed Development complies with Policy PD4.

Saved Policy C33: Protection of Important Gaps of Undeveloped Land

4.104. I have dealt with the landscape elements to Saved Policy C33 under Issue 2, but Policy C33 also requires the retention of any undeveloped gap of land which is important maintaining the proposed setting for a Listed Building or in preserving a view or feature of recognised amenity or historical value.

4.105. Mrs Lancaster deals with Policy C33 under Paragraph's 6.4 – 6.10 of the Landscape Proof of Evidence. Mrs Lancaster explains that as the Appeal Site is outside of the current boundary of the settlement, it does not form part of the settlement structure and cannot contribute to whether the structure is loose knit; and that there are no views that are identified as being of notable amenity value. Mrs Lancaster concludes that the Proposed Development is not in conflict with Policy C33.

4.106. Mr Copp's position is that there would be no impact on the significance of the RAF Upper Heyford Conservation Area, or the designated and non-designated heritage assets within it. The Appeal Site does not relate to a Listed Building, and is not important in maintaining a view or feature of historical value.

4.107. I consider that Policy C33 is complied with, and that there is no conflict with the policy.

Whether any Heritage Harm would be Outweighed by the Public Benefits

Designated Heritage Assets

4.108. RfR1 asserts that any heritage harm would not be outweighed by the public benefits.

4.109. I set out above the evidence of Mr Copp, who confirms his professional assessment that the impact of the Proposed Development on designated heritage assets (the Conservation Area) would give rise to 'no harm'.

4.110. The Planning (Listed Buildings and Conservation Areas) Act 1990 confirms that Listed buildings and conservation areas are protected. In the context of Conservation Areas, the Act requires special attention to be paid to "*to the desirability of preserving or enhancing the character or appearance of that area*" (s. 72(1)). On the basis of Mr Copp's evidence, there would be no harm to the character or appearance of the Conservation Area, preserving the existing character.

4.111. As the evidence of Mr Copp confirms no harm to any designated heritage assets, the test at Paragraph 202 of the NPPF is not engaged.

4.112. Notwithstanding this, should an Inspector disagree with Mr Copp's assessment, it is considered that any harm would be 'less than substantial'. CDC stated in their Committee Report their position that such harm would be 'less than substantial' and would be outweighed by the public benefits (this was in the position of a claimed five year housing land supply). It is agreed in the Statement of Common Ground at Paragraph 9.1 that CDC claim that any harm is 'less than substantial'. I consider that the public benefits of the Proposed Development would outweigh the less than substantial harm in line with Paragraph 202.

4.113. The public benefits are set out in details in Section 8 below, but in summary comprise:

- Provision of market housing, to boost supply of housing.
- Provision of affordable housing, to meet the significant need locally.
- Improvements in housing mix and choice.

- Development in a sustainable location.
- Construction spend.
- Direct and indirect employment opportunities.
- Investment in the local area.
- Providing homes for economically active residents, and new residents in the area.
- Local spending increase.
- Increase in revenue for CDC.
- S106 contributions.
- Biodiversity Net Gain.

4.114. I therefore consider that in the circumstances of the Inspector finding ‘less than substantial harm’ to heritage assets, that the public benefits sufficiently outweigh such harms.

Non-Designated Heritage Assets

4.115. Non-designated heritage assets do not benefit from the statutory presumption and protection afforded under the Planning (Listed Buildings and Conservation Areas) Act 1990.

4.116. Paragraph 203 stipulates that the effect of an application on the significance of a non-designated heritage asset should be taken into account, and that in weighing applications which directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss, and the significance of the heritage asset. Policy ESD 15 broadly reflects this.

4.117. Mr Copp confirms in his evidence that the Appeal Site makes no contribution to the significance of the Conservation or the non-designated heritage assets within it. Accordingly, this ensures compliance with Policy ESD 15 and Paragraph 203 of the NPPF.

Issue 3 Summary:

4.118. In summary, I conclude that there will be no adverse effects on designated heritage assets:

- The evidence of Mr Copp confirms that there will be no impact on the significance of the RAF Upper Heyford Conservation Area, or the designated and non-designated heritage assets within it.

- The Proposed Development is fully compliant with Policy ESD 15 and the Planning (Listed Buildings and Conservation Areas) Act, 1990. The Proposed Development is also compliant with the heritage elements of Policies PD4 and Saved Policy C33.
- As there is 'no harm' to designated heritage assets, the Proposed Development is in compliance with the NPPF.
- If the Inspector was to find 'less than substantial harm' to designated heritage assets it is considered that the public benefits far outweigh such less than substantial harm, in accordance with Paragraph 202, in any event.
- Paragraph 203 requires a balanced judgement of any effect on non-designated heritage assets, there is no harm or loss to the significance of any non-designated heritage assets, resulting in compliance with Policy ESD 15 and the NPPF.

Issue 4 - Whether the development makes appropriate provision for infrastructure and transport mitigation to ensure a sustainable development and make the development acceptable in planning terms.

- 4.119. RfR2 solely relates to the lack of a S106 agreement. Policy INF1 of the adopted Development Plan requires proposals to demonstrate the infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.
- 4.120. It is agreed common ground with CDC that subject to the completion of a mutually agreeable S106 Agreement, compliance will be demonstrated with Policy INF1 of the adopted Development Plan, CDC's Planning Obligations SPD (2018) and the NPPF. This S106 Agreement will be completed and submitted to PINS prior to the opening of the Inquiry.

Issue 4 Summary:

- 4.121. In summary, I consider:
- The Proposed Development makes appropriate provision for infrastructure and transport mitigation, to ensure a sustainable development, making the Proposed Development acceptable in planning terms.

- It is agreed between the parties that subject to the agreement of a S106 agreement, compliance can be demonstrated with Policy INF1 of the adopted Development Plan, CDC's Planning Obligations SPD (2018) and the NPPF.

Issue 5 - Whether a five-year supply of deliverable housing can be demonstrated.

4.122. I refer to the Appellant's Housing Land Supply Proof of Evidence (Core Document E13), prepared by Mr Benjamin Pycroft, which deals with this substantive issue. Mr Pycroft summarises the Appellant's case in Section 1, as follows:

- The Local Plan Part 1 and Partial Review have significantly failed, and will fail to deliver the number of homes required over the period 2011 to 2031. Even on the Council's figures in its trajectories set out in the HLSS (Core Document I1), there will be a shortfall of housing against the housing requirement set out in the Local Plan Part 1 of 2,657 dwellings by 2031, and a shortfall of 2,440 dwellings against the requirement in the Partial Review for Oxford's unmet housing need by 2031. Therefore, on the Council's figures there will be a very significant shortfall against the adopted housing requirement of the Local Plan as a whole of 5,097 dwellings.
- The local housing need in Cherwell at 1st April 2022 is 742 dwellings per annum. Whilst it has not updated its HLSS, the Council claims that the local housing need at 1st April 2022 is now 710 dwellings per annum because it uses the annual household growth over the 10-year period starting in 2023 rather than 2022 and the affordability ratio published in March 2023, rather than that published in March 2022.
- The base date for the 5YHLS calculation is agreed as 1st April 2022, which is the date that both the requirement and supply should relate, with Paragraph 74 of the Framework requiring the Council to identify both the deliverable supply and (in this case) the local housing need. The Framework does not support an approach where the local housing need is updated but the deliverable supply is not, and the use of the affordability ratio published in March 2023 would result in a skewed assessment.
- Mr Pycroft refers to three recent appeal decisions in Malvern Hills which considered this issue in detail and concluded that consistency is required between the need and supply and the application of the March 2023 affordability ratio to a 5YHLS position at 1st April 2022 would result in an unbalanced assessment (Core Documents M21, M22 and M23).

- The consequence of applying the local housing need figure of 742 dwellings per annum means that the Council's supply figures equate to 5.15 years in Cherwell (excluding Oxford's unmet housing need) and 0.2 years for Oxford's Unmet Housing Need.
- The Council's approach of providing separate 5YHLS calculations is inconsistent with the 2023 Framework.
- The Cherwell Local Plan Part 1 and Partial Review – Oxford's Unmet Housing Need were both adopted under the 2012 Framework. Paragraph 47 of the (archived) 2012 version of the Framework explained that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their "*housing requirements*" (plural).
- The 2023 Framework and associated guidance in the PPG do not set out that there should be separate 5YHLS calculations as the Council proposes. Paragraphs 61 and 66 of the Framework require local planning authorities to identify "*a housing requirement for their whole area*".
- Paragraph 74 of the 2023 Framework then sets out the minimum requirement for Local Planning Authorities to demonstrate a 5YHLS against their "*housing requirement*" set out in adopted strategic policies or against the local housing need where the strategic policies are more than five years old.
- The 2023 Framework clearly envisages one housing requirement which includes the local housing need for the area and any unmet need from neighbouring areas and it is this figure which the 5YHLS should be measured against.
- It is of note that the approach of a single housing requirement which comprises the need for the area and Oxford's unmet housing need is taken in the South Oxfordshire Local Plan. This plan was examined and adopted under the current wording of the Framework.
- Cherwell itself proposes to abandon its approach to separate housing requirements and 5YHLS calculations in its emerging Local Plan (Core Document H1).
- To be consistent with the current Framework, a single 5YHLS calculation should be made. Due to housing requirements in Policy BSC 1 being out of date, the component of the housing requirement which relates to Cherwell's needs should be replaced by the local housing need (of 742 dwellings per annum). However, the policies of the Cherwell Local Plan 2011-31 (Part 1) Partial Review – Oxford's Unmet Housing Need, adopted September 2020 are less than five years old and therefore 380 dwellings should be added to the 742 figure. Taking the two components together, the total

housing requirement for the district for the purposes of the 5YHLS calculation is 1,122 dwellings per annum. The same approach is used in Vale of White Horse District Council (Oxfordshire).

- This approach is also consistent with the way the Government measures housing delivery in Cherwell through the Housing Delivery Test (HDT). The same approach used in the HDT should also be taken with the 5YHLS. This is because whilst the HDT looks at past delivery and the 5YHLS looks at future supply, the two are intrinsically linked. The outcome of the HDT result determines which buffer should apply as part of the 5YHLS calculation.
- The Council's approach of providing separate 5YHLS calculations is also inconsistent with the Framework because it avoids the consequences of a failure of delivery and supply to meet Oxford's unmet housing need. No dwellings have been delivered on the Partial Review sites and even on the Council's figures, only 80 dwellings are considered deliverable by 31st March 2027 equating to 0.2 years against the requirement, shortfall and a 5% buffer. However, on the Council's case it avoids the following consequences:
 - CDC's case is that the tilted balance does not apply because it can demonstrate a deliverable supply of 5.37 years (excluding Oxford's unmet housing need);
 - CDC avoids the application of the tilted balance through the HDT because housing delivery is measured against a single housing requirement for Cherwell as described above;
 - CDC avoids the application of the 20% buffer because the trigger is the HDT; and
 - CDC avoids the need to prepare a HDT Action Plan.
- A single 5YHLS calculation should be made. The consequence of applying a single 5YHLS calculation is that even on the Council's supply figure, it can only demonstrate a 3.27 year supply. The tilted balance to the presumption in favour of sustainable development therefore applies.
- The tilted balance to the presumption in favour of sustainable development applies in any event as CDC can only demonstrate a 0.2 year supply against the requirement to meet Oxford's Unmet Housing Need.
- The Partial Review allocates 6 sites (surrounded by Green belt and urban areas) to meet Oxford's Unmet Housing Need, but does not define a geographical area where other sites could come forward to address the shortfall and there is no windfall allowance.
- Sites elsewhere in Cherwell are capable of meeting Oxford's need because Oxfordshire operates as one Housing Market Area.
- It is unclear how the Council intends to address the significant shortfall in the 5YHLS for Oxford's unmet housing need.

- 443 dwellings should be removed from the Council's 4,008 figure for Cherwell because the Council has not provided the "clear evidence".

4.123. Accordingly, Mr Pycroft concludes that CDC cannot demonstrate a five year housing land supply and sets out his position in Table 12.1 of his Proof of Evidence. For completeness, his calculated housing land supply position is summarised below:

Table 6: Mr Pycroft's Summarised Five Year Housing Land Supply Position (Table 1.2 of the Housing Land Supply Proof of Evidence)

| | Local housing need 742 dwellings p.a. plus Oxford's unmet need |
|--------------------------------------|--|
| Annual requirement | 742 + 380 = 1,122 |
| Shortfall | 340 |
| Five year requirement | 5,950 |
| Five year requirement plus 5% buffer | 6,248 |
| Annual requirement plus 5% buffer | 1,250 |
| 5YHLS | 5YHLS |
| Years supply | 2.85 |
| Under / oversupply | -2,683 |

4.124. This concludes that CDC cannot demonstrate a five year housing land supply. Mr Pycroft concludes that against the local housing need for Cherwell at the 1st April 2022 of 742 dwellings plus the adopted requirement for Oxford's unmet needs and a 5%, and the deliverable supply of 3,565 dwellings, a **2.85 year supply** can be demonstrably.

4.125. In light of the Malvern Hills Appeal Decision (Core Document M.26), Mr Pycroft's evidence explains that even if all of Cherwell's sites are accepted by the Inspector and it is decided that Oxford's needs can be excluded from the five year housing land supply calculations, CDC's claimed five year housing land supply is only at 5.4 years. It would only take 349 units to drop below 5 years. Mr Pycroft's evidence confirms that the NPPF does not support an approach where the local housing need calculation is updated but the deliverable supply is not.

4.126. Despite the Appellant's position above, in the eventuality of a five year housing land supply being found, there is a need to demonstrate a rolling five year housing land supply. This is a matter confirmed at Paragraph's 9.7 and 9.22 of the Committee Report (Core Document C6):

"9.7. Paragraph E.10 of the Plan states, 'Housing delivery will be monitored to ensure that the projected housing delivery is achieved. The District is required by

the NPPF and the NPPG (to maintain a continuous five-year supply of deliverable (available, suitable and achievable) sites as well as meeting its overall housing requirement’.

...

9.22. This updated figure is contained within the Agenda to the Council’s Executive meeting on 6 February. This is largely the result of applying the standard method housing need figure of 742 homes per year from 2022 rather than the Local Plan figure of 1,142 from 2011. The paper states at paragraph 3.26, ‘... economic conditions are challenging, and it is important that officers continue to seek Local Plan compliant housing delivery to maintain supply and deliver the district’s planned development. Having a 5-year land supply position does not mean that development allowed for the Local Plan should halt. Indeed, not progressing planning development considered to be acceptable could undermine the land supply position.’ (My emphasis)

- 4.127. Accordingly, this emphasises the importance of maintaining a rolling five year housing land supply. In the eventuality that a five year housing land supply is identified, it is still considered that the Proposed Development accords with the adopted Development Plan.
- 4.128. Ultimately, the difference between the parties in terms of the five year housing land supply calculations is predicated upon whether Oxford’s unmet need requirements are included or not. Even if Oxford’s unmet needs are excluded from the five year housing land supply calculation, this leaves CDC with a supply of 0 years (Appellant’s position) or 0.2 years (CDC’s position detailed in their Housing Land Supply Statement, Core Document K.1) in respect of meeting Oxford’s unmet housing needs.
- 4.129. CDC are legally obliged to meet Oxford’s unmet needs, with Policy PR12a being clear that 4,400 homes will be provided to meet Oxford’s needs, of which at least 1,700 would be delivered between 2021 to 2026, and the remainder by 2031. This raises serious concerns that CDC will not meet Oxford’s unmet housing needs, particularly as there is no additional contingency in the Partial Review such as additional allocations or a windfall allowance.

4.130. CDC have persistently been unable to demonstrative a five year housing land supply, between 2019 – 2023 based on the Annual Monitoring Reports. Prior to 2019, CDC only had supplies of 5.0 years in 2018, 5.5 years in 2017, 5.4 years in 2016, and 5.3 years in 2016.

4.131. It is clear that the lack of five year housing land supply is a persistent and severe breach of policy requirements. Given the extent of the shortfall as outlined in Table 1.1 of Mr Pycroft's evidence of 2,683 dwellings (based on Local Housing Need of 742 dwellings plus Oxford's unmet needs), I afford the shortfall **substantial weight**.

Issue 5 Summary:

4.132. In summary, CDC are unable to demonstrate a five year housing land supply; only being able to demonstrate a supply of 2.85 years (dependent on whether the local housing need is 710 dwellings or 745 dwellings plus Oxford's unmet needs). Key matters of disagreement between the parties are as follows:

- The Local Housing need calculation, which should remain as 742 dwellings per annum.
- Separate calculations should not be made on 5YHLS, accounting for Oxford's unmet need. In any event, the tilted balance to the presumption in favour of sustainable development is triggered by Footnote 8 of the NPPF, as CDC are unable to demonstrate a five year housing land supply.
- The extent of deliverable supply, as 443 dwellings should be removed CDC's 4,008 deliverable supply figure, due to the Council not providing 'clear evidence' for their required inclusion and therefore do not comply with the definition of deliverable in the annex to the NPPF.

Issue 6 - The overall planning balance.

4.133. I address the overall planning balance in Section 8 of this Proof of Evidence.

5. Rule 6 Party Matters

Mid Cherwell Neighbourhood Plan Group (since withdrawn as a Rule 6 Party)

5.1. The Neighbourhood Plan Group's Statement of Case (Core Document E5) objects on a number of grounds to the Appeal proposals. Their objections relate to the following themes, which I respond to in turn.

Contrary to Policy Villages 5

5.2. I have dealt with Policy Villages 5 under Issue 1 above, where I have demonstrated compliance with the spatial strategy for the District in the adopted Development Plan.

Loss of Greenfield Land

5.3. I have dealt with the point of loss of countryside from a planning policy perspective under Issue 1 above. It is however important to note that the Landscape and Open Space Parameter Plan (Core Document B13) demonstrates how 5.64ha of open space can be provided as part of the Proposed Development, which will provide new publicly accessible open and green spaces.

Loss of Biodiversity

5.4. The RfR did not cite objections to the Proposed Development on the grounds of ecology or biodiversity, nor did it cite conflict with Policy ESD 10. It is agreed common ground between the Appellant at CDC that the Proposed Development would deliver a biodiversity net gain of 12.37% (Paragraph 8.55, SoCG, Core Document E7), and that CDC's Ecologist is satisfied that the imposition of planning conditions would secure ecological mitigation and improvements, leading to the Proposed Development being acceptable in respect to the impact upon any habitat or protected species, which would be safeguarded.

5.5. It is agreed common ground with CDC that Policy ESD 10 is not in conflict (Paragraph 8.57, SoCG, Core Document E7). As such, I do not consider Policy ESD 10 to be in contention for this appeal.

5.6. The Neighbourhood Plan Group also cite conflict with Policy ESD 13. This is dealt with under Issue 2 above. However, the Neighbourhood Plan Group also quote part of Policy ESD13 and state:

“We understand that the Appellant accepts this view as common ground with Cherwell DC.”.

- 5.7. It is not clear what is meant by this statement, as Policy ESD13 is listed under matters in dispute in the Statement of Common Ground.
- 5.8. It is also explained that the Neighbourhood Plan Group are reviewing the Neighbourhood Plan, and intend to strengthen its biodiversity net gain policies. Due to the early stages of the review of the Neighbourhood Plan, in accordance with Paragraph 48 of the NPPF, it is considered that no weight can be applied to such emerging policies at this stage, given that the content of the policies is unknown; the extent of unresolved objections; and the lack of consistency with the adopted Development Plan on such matter.
- 5.9. The Neighbourhood Plan Group also explain that the Appellant only consider the Appeal Site to be freestanding in terms of ecology and biodiversity net gain. As confirmed above, CDC's Ecologist is satisfied from an ecological perspective (Paragraph's 8.50 – 8.54, SoCG, Core Document E7).

Loss of Local Landscape Character

- 5.10. I have dealt with matters of landscape character under Issue 2 above.
- 5.11. Conflict is also cited with Policies ESD13 (I have dealt with Policy ESD 13 under Issue 2 above) and Policy PD3 of the Mid Cherwell Neighbourhood Plan. As Policy PD3 did not form a Reason for Refusal, I do not consider it to be in conflict.

Impact on Surrounding Parishes

- 5.12. It is agreed common ground that subject to the completion of a mutually agreeable S106 Agreement, compliance will be demonstrated with Policy INF1 of the adopted Development Plan, CDC's Planning Obligations SPD (2018) and the NPPF (Section 12, SoCG, Core Document E7).
- 5.13. Concerns are also raised around the effect on neighbouring parishes, and the impact from rising traffic volumes which cause significant problems in several neighbouring villages. Highway matters did not form part of the RfR, and it is agreed common ground with CDC that Oxfordshire County Council did not object to the Proposed Development, subject to S106 contributions. As such, it is agreed between the parties that the impact on the road network could be appropriately mitigated and considered acceptable in highway terms, complying with Policy SLE4 and the NPPF (Paragraphs 8.62 and 8.63, SoCG, Core Document E7). I therefore do not consider highway matters to be in contention.

Dorchester Living

5.14. The Statement of Case prepared by Pegasus Group on behalf of Dorchester Living (Core Document E4) identifies 4no. main issues for Dorchester Living. I review each of these issues below, and respond to each in turn.

Issue 1 – The Principle of Development

5.15. Dorchester Living claim that the Proposed Development conflicts with the adopted Development Plan, and suggest that whether the tilted balance is engaged will be a matter for the Inquiry.

5.16. I deal with this matter under Issues 1 above, and in the planning balance in Section 8 below.

Issue 2 – Traffic and Transportation

5.17. Highway matters did not form part of the RfR, and it is agreed common ground with CDC that Oxfordshire County Council did not object to the Proposed Development, subject to S106 contributions. As such, it is agreed between CDC and the Appellant that the impact on the road network could be appropriately mitigated and considered acceptable in highway terms, complying with Policy SLE4 and the NPPF (Paragraphs 8.62 and 8.63, SoCG, Core Document E7).

5.18. Notwithstanding this, a Highway's Proof of Evidence has been prepared by Mr James Parker. This Proof of Evidence concludes the following:

- The proposed access meets relevant design guidance, and is both safe and suitable to deliver access to the Appeal Site.
- The updated capacity assessments demonstrate that the impacts of the traffic associated with the Proposed Development can be safely and satisfactorily accommodated across the local highway network
- Updated capacity assessments, prepared to meet concerns of R6 parties, show results and conclusions which are generally the same as those provided within the Transport Assessment which have been accepted by Oxfordshire County Council and National Highways.

- The Appeal site is accessible to local service and facilities and would offer residents the ability to travel by non-car modes.
- There are no highway safety issues across the local highway network, and that the Proposed Development would not result in an unacceptable impact on highway safety.

Issue 3 – Accessibility and Integration of New Development

- 5.19. Issue 3 raises concerns around a lack of comprehensive and co-ordinated approach, with no linkages proposed to the west, resulting in the scheme being isolated.
- 5.20. A Pedestrian and Cycle Access Plan is contained at Figure H3 of the Highways Proof of Evidence (Core Document E16), and demonstrates that a footpath connection to the Appeal Site can be provided (to the front of Plot 85); 3no. pedestrian and cycle links to Chilgrove Drive to the east; and a potential route to the north. This addresses concerns around accessibility and connectivity of the Appeal Site.

Issue 4 – Infrastructure (Highway)

- 5.21. Concerns are raised that the Proposed Development will give rise to unmitigated effects that make development unacceptable.
- 5.22. A package of infrastructure improvements have been agreed with Oxfordshire County Council, which ensured that the Oxfordshire County Council did not object to the Proposed Development. Such infrastructure funding is detailed in the Oxfordshire County Council response (Core Documents D19a).

Rule 6 Party Matters Conclusion

- 5.23. In conclusion, I consider that the Rule 6 party matters have been addressed by my evidence, alongside the evidence of others (where referenced), and can be appropriately dealt with by way of planning conditions or obligations.

6. Third Party Representations

6.1. The only third party representations received in response to the appeal are from:

- Oxfordshire County Council, containing their Regulation 122 Compliance Statement including requested infrastructure funding and contributions.
- Buckinghamshire, Oxfordshire and Berkshire Integrated Care Board, requesting updated S106 contributions.

6.2. Both requests have been incorporated into the S106 Agreement, and are therefore capable of being addresses through planning obligations.

7. The Planning Balance

7.1. In this section, I explain how I believe the decision maker should approach the determination of this appeal, including the planning balance.

The Decision Making Framework

7.2. Policy PSD1 and Paragraph 11 of the NPPF confirm that proposals which accord with the adopted Development Plan, when read as a whole, should be approved without delay.

7.3. Under section 38(6) of the Planning and Compulsory Purchase Act 2004, the local planning authority's task is not to decide whether, on an individual assessment of a proposal's compliance with the relevant policies it could be said to accord with each and every one of them, but rather to establish whether the proposal is in accordance with the development plan as a whole. That is classically a matter of planning judgment for the decision-maker: see *R (Corbett) v Cornwall Council [2020] EWCA 508* at [41]-[45] (Core Document M42). I consider that the Proposed Development would comply with the adopted Development Plan as a whole. I have set the reasons for this out above, and consider that the Proposed Development generally accords with Policies PSD 1, ESD 1, ESD 13, ESD 15, Policy Villages 5, and Policy INF1 of the Cherwell Local Plan, Policy PD4 of the Mid Cherwell Neighbourhood Plan, and Saved Policies C8, C30, C33 of the Cherwell Local Plan 1996. Whilst I find limited conflict with Policy H18, due to the Proposed Development complying with the overarching spatial strategy, I find that the Proposed Development complies with the adopted Development Plan when read as a whole. This has been demonstrated in the case of the Finmere Appeal (Core Document M20).

7.4. If the Inspector considers that there is conflict with the adopted Development Plan, the tilted balance applies. I consider that the appeal should be assessed against the presumption in favour of sustainable development contained in Paragraph 11(d) of the NPPF and Policy PSD 1. More specifically, as the Local Planning Authority cannot demonstrate five years' worth of housing land supply, planning permission should be granted unless material considerations indicate otherwise, taking into account:

- Whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against policies in the NPPF.
- or, specific policies in the Framework indicate that development should be restricted.

- 7.5. Footnote 7 to Paragraph 11 of the NPPF explains the circumstances where policies in the Framework protect areas of importance and provide a clear reason for refusal, including designated heritage assets. However, as explained in 4.97 above, Mr Copp's conclusion is that there would be 'no harm' to any designated heritage assets, and even if there was 'less than substantial harm' as the public benefits outweigh the harm, it would not disengage the tilted balance. As such, there is no reason to 'disengage' the tilted balance in this case.
- 7.6. Footnote 8 explains that in the case of the provision of housing, where a Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites, the most relevant policies are considered to be out of date. As explained under Issue 5 above, Mr Pycroft's conclusion is that CDC cannot demonstrate a five year housing land supply, only being able to demonstrate a housing land supply of either 2.85 – 2.93 years (dependent on whether local housing need of 710 dwellings or 742 dwellings per annum, plus Oxford's unmet housing needs).
- 7.7. In such circumstances, it is considered that the 'tilted balance' is engaged. As such, the most relevant policies listed in the reasons for refusal concerning the provision of housing must be considered to be out of date. This includes Policy Villages 5, and Saved Policies Policy H18 and C8.
- 7.8. I have identified limited conflict with Policy H18, but also identified that Policy H18 is out of date by CDC's own determination. However, in circumstances where conflict is found with other policies, such as Policy Villages 5 and Saved Policy C8, it is considered that only limited weight must be afforded to such policies of restriction in the countryside, due to the fact that such policies would inhibit the ability of CDC to meet its housing needs, where there is no five year supply. There is an immediate need for land release and such policies that are out of date constraint the ability of CDC to meet its needs.
- 7.9. In the following section I conduct the planning balance, where I assess whether adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

The Planning Balance

- 7.10. The following section identifies the benefits and adverse impacts of the Proposed Development. In considering the weight to be afforded to each considering in the planning balance, I apply the following scales of weight, from high to low:

- Substantial
- Significant
- Moderate
- Limited

7.11. Such weight may be 'positive' as a benefit, or 'adverse' as a harm, or a 'neutral' effect.

The Adverse Impacts

7.12. I have identified that there is conflict with Policy H18, albeit that policy H18 is out of date by CDC's own determination, CDC's lack of five year housing land supply, and inconsistency with other policies and the NPPF. As such, in any eventuality, I consider that the conflict should be afforded **limited weight**.

7.13. It is considered that the objectives of other policies (such as ESD 1, Policy Villages 5, and Saved Policy C8) are fulfilled, in directing development to sustainable locations. There are no issues in directing growth to a strategic location for growth, and no issues with respecting the character and appearance of the countryside. As such, any policy conflict is a technical matter which should only be afforded **limited weight**.

7.14. The Landscape Proof of Evidence confirms at Paragraph 6.9 that the LVIA assessed effects on both the character of the Appeal Site and the surrounding landscape character (as illustrated by the agreed published landscape character areas) as being of **minor adverse** significance at Year 1 and minor beneficial at Year 15. Mrs Lancaster has assessed the residual effects at Year 15 as being closer to neutral than beneficial, particularly in relation to effects on the character of the Appeal Site. These effects arise from an acknowledgement of the historic context of the Appeal Site and local landscape, their slightly degraded landscape infrastructure and historic context, balanced against the Appeal Scheme not being out of context with the surrounding land uses and built form.

7.15. The LVIA assessed residual effects on users of the bridleways to the south and east of the Appeal Site, and along Camp Road, as being of **minor adverse** significance, with those on residential receptors within the Conservation Area to the south-west as negligible, with no allegation of harm to amenity.

The Benefits

7.16. The following table provides a summary of the benefits associated with the appeal proposals:

Table 7: Summary of Planning Benefits

| Benefits | Weight to be Afforded |
|--|---------------------------|
| Social Benefits | |
| Provision of market housing to help boost the supply of housing, to address the substantial shortfall of between 2,215 – 2,683 dwellings based on either the local housing need figure of 710 or 745 dwellings plus Oxford’s unmet housing needs, to meet the indicative housing requirements of Cherwell over the plan period. | Substantial Weight |
| Provision of affordable housing to help meet the significant need for affordable housing locally (35%). | Substantial Weight |
| Improvements in housing mix and choice , to meet the needs of local people. This will be demonstrated through future Reserved Matters applications, helping to diversify housing stock in the locality. | Moderate weight |
| Development in a sustainable location within close proximity to local shops and services, available in Heyford Park. | Substantial Weight |
| Development in a location which has been identified for growth through the site’s emerging allocation in the Regulation 18 Local Plan. | Limited Weight |
| Economic Benefits | |
| Estimated construction spend of approximately £31 million. In accordance with Paragraph 81 of the NPPF, to be afforded substantial weight . | Moderate Weight |
| Creation of direct employment opportunities of around 264 Full Time Equivalent jobs for the estimated five year build out (approximately 53 jobs per annum) and the Creation of indirect employment opportunities – 288 indirect jobs (approximately 58 jobs per annum). | Moderate Weight |
| Investment in the local area – a GVA of £44,071, per person. Through multiplying this by the net additional employment impact of the scheme (552 jobs) it is estimated that the proposals will result in £24,327,192 of direct GVA over the build period. | Moderate Weight |
| Economically active residents – based on the average household size of 2.43 in line with the 2018 population projections, it is anticipated that 559 new residents would occupy the site. | Moderate Weight |
| Local Spending Increase – the development should support £6,970,236 of spending annually following completion of the development. | Moderate Weight |

| Benefits | Weight to be Afforded |
|---|------------------------|
| Section 106 Contributions – financial contributions to local facilities such as schools, parks and sports pitches. | Moderate Weight |
| Environmental Benefits | |
| Provision of green infrastructure, including a Biodiversity Net Gain of 12.37% . | Moderate Weight |

Social Benefits

- 7.17. The evidence of Mr Pycroft explains that there is a substantial shortfall of between 2,215 – 2,683 dwellings based on either the local housing need figure of 710 or 745 dwellings plus Oxford’s unmet housing needs, to meet the indicative housing requirements of Cherwell over the plan period. Paragraph 60 of the NPPF seeks to significant boost housing supply, and the Proposed Development will help to meet both Cherwell’s housing needs, but also Oxford’s unmet housing needs which cannot be accommodated within the administrative boundaries of Oxford City. There has been a significant and persistent shortfall in housing supply. The **delivery of up to 230no. dwellings** in an area with an identified need for additional housing should be afforded **substantial weight**, Paragraph A.19 confirms that housing is identified as a big concern for Cherwell, particularly the shortage of social and affordable housing. As a result, Paragraph B.104 confirms that Cherwell has a high level of **need for affordable housing**. As such, the Proposed Development will deliver 35% affordable housing (up to 81 dwellings). **Substantial weight** should be afforded to this benefit.
- 7.18. The appeal proposals will deliver a **range of house types and sizes**, to meet the identified needs of local people, helping to deliver a balanced housing stock in the District. This should be afforded **moderate weight**.
- 7.19. The appeal proposals will relate in the development of 230no. additional homes in a **highly sustainable location**. Heyford Park is identified as one of the most sustainable settlement in the District, and growth in Heyford is clearly supported by Policy Villages 5. **Substantial weight** should be afforded to this benefit.
- 7.20. The Proposed Development comprises part of a larger **emerging allocation** for residential development in in a location which has been identified for growth through the Regulation 18 Local Plan. Limited weight

is afforded to this, in accordance with the weight afforded by the Inspector in the Land North West of Station Road, Launton Appeal Decision (Core Document M1).

Economic Benefits

- 7.21. **Estimated construction spend** of approximately £31 million. In accordance with Paragraph 81 of the NPPF, to be afforded **moderate weight**.
- 7.22. Creation of **direct employment opportunities** of around 264 Full Time Equivalent jobs for the estimated five year build out (approximately 53 jobs per annum). Creation of **indirect employment opportunities** – the impacts of the development will extend beyond construction employment. The Office of National Statistics estimates the direct and indirect construction output multiplier at 2.09, which equates to 288 indirect jobs (approximately 58 jobs per annum). **Moderate weight** is afforded to this benefit.
- 7.23. **Investment in the local area** – ‘Annual Business Survey’ (2011) of the Office for National Statistics establishes that the Gross Value Added during the construction of buildings averages 35.2% of turnover (based on the South East region). This results in a GVA of £44,071, per person. Through multiplying this by the net additional employment impact of the scheme (552 jobs) it is estimated that the proposals will result in £24,327,192 of direct GVA over the build period. It is considered that **moderate weight** should be afforded to this benefit.
- 7.24. **Economically active residents** – based on the average household size of 2.43 in line with the 2018 population projections, it is anticipated that 559 new residents would occupy the site. Based on the Nomis Official Labour Market Statistics 2019 for Cherwell of 61.3%, this would result in an additional 343 people of working age residing in Cherwell. Of these people, given an economically active rate of 87.1% in those aged 16 and over in Authority, at least 298 could be expected to be economically active and in employment. **Moderate weight** should be afforded to this benefit.
- 7.25. I consider that **moderate weight** should be afforded to the **Local Spending Increase** – the development should support £6,970,236 of spending annually following completion of the development, through reviewing the Output Area Classification (OAC) of the local area and applying the weekly household expenditure rates, it is possible to quantify the anticipated level of spending that would occur following the completion of the development. The OAC uses 60 variables to break the UK down into 8 ‘supergroups’, profiling populations, structures, and other key results from 2011 UK census data to categorise the

character of local areas. The application site falls into 'Urbanites' (OAC supergroup 5). Given that 35% of the dwellings will be affordable and the remainder of the site will comprise market housing. Whilst this figure expresses average household expenditure across the UK, a more accurate picture can be obtained by applying a weighting according to regional circumstances. The Office for National Statistics' 'Family Spending Survey' presents household expenditure by UK countries and regions 2019 - 2020. Using these figures, it is possible for spending disparities between each region to be expressed as a percentage of UK average household expenditure. This allows a weighting to be applied to the above figure. For the South East region, this amounts to 119%, meaning that residents of the Proposed Development (after weighting appropriate to the region) could be expected to generate total gross expenditure of £8,292,677 per annum.

- 7.26. **Section 106 Contributions** – As highlighted in this Report the development will be dependent on payment of financial contributions to local facilities such as schools, parks and sports pitches. **Moderate weight** should be afforded to this benefit.

Environmental Benefits

- 7.27. Provision of green infrastructure, including a **Biodiversity Net Gain of 12.37%**. Due to exceeding the required 10% biodiversity net gain requirement due to come into force in November 2023, it is considered that **moderate weight** should be afforded to this environmental benefit.

Overall Planning Balance

- 7.28. It is my primary position that the Proposed Development is in accordance with the adopted Development Plan, when read as a whole.
- 7.29. Should the Inspector find conflict with any policies, I consider that key policies are out of date due to CDC's lack of five year housing land supply, which would engage the 'tilted balance'. In considering the benefits and adverse impacts associated with the Proposed Development, it is my opinion that the benefits of the Proposed Development would significantly and demonstrably outweigh the adverse impacts,, were it to be found that the Proposed Development did not accord with the Development Plan as a whole. This ensures compliance with Policy PDS 1 of the adopted Development Plan which sets out how and when the Development Plan envisages that permission will be granted, as well as Paragraph 11(d) of the NPPF.
- 7.30. In the eventuality that the Inspector considers that the Proposed Development conflicts with the adopted Development Plan, and that the 'tilted balance' does not apply, I consider that there are sufficient material

considerations available to justify the grant of planning permission. These material considerations are the significant benefits offered by the Proposed Development, in particular the supply of much needed market and affordable housing. Even in this scenario, my judgement is consistent with CDC's professional Case Officer who considered that planning permission should be granted, notwithstanding the claimed presence of a five year housing land supply at such time.

8. Summary and Conclusions

- 8.1. I have prepared this Planning Proof of Evidence on behalf of my clients, Richborough Estates, Lone Star Land Ltd, K and S Holford, A and S Dean, NP Giles, A L C Broadberry who are the Appellant in this planning appeal. My evidence is in relation to the planning balance matters raised by the refusal of planning permission by Cherwell District Council.
- 8.2. This Proof of Evidence is in support of a Section 78 appeal following the refusal of outline planning permission by CDC for up to 230 dwellings, creation of new vehicular access from Camp Road and all associated works, with all matters reserved apart from access, in respect of land at OS Parcel 1570 Adjoining And West of Chilgrove Drive and Adjoining And North of Camp Road, Heyford Park.
- 8.3. As set out in this proof, my conclusion is that the Proposed Development is in general accordance with the adopted Development Plan, when read as a whole. Whilst I identify limited conflict with Saved Policy H18 I consider that there is compliance with the compliance with the overarching spatial strategy and the adopted Development Plan when read as a whole:

Table 8: Summary of Compliance with Relevant Policies/SPDs:

| <u>Policy Reference</u> | <u>Policy Heading</u> | <u>Compliance</u> |
|--|---|---|
| Reason for Refusal 1 | | |
| Cherwell Local Plan 2011-2031 Part 1 | | |
| PSD1 | Presumption in Favour of Sustainable Development | Yes – no conflict |
| ESD 1 | Mitigating and Adapting to Climate Change | Yes – no conflict |
| ESD13 | Local Landscape Protection and Enhancement | Yes – no conflict |
| ESD15 | The Character of the Built and Historic Environment | Yes – no conflict |
| Policy Villages 5 | Former RAF Upper Heyford | No conflict. Broad compliance with overarching spatial strategy – limited conflict with Policy Villages 5 |
| Mid Cherwell Neighbourhood Plan (made May 2019) | | |
| Policy PD4 | Protection of Important Views and Vistas | Yes – no conflict |
| Cherwell Local Plan 1996 Saved Policies | | |

| <u>Policy Reference</u> | <u>Policy Heading</u> | <u>Compliance</u> |
|---|---|---|
| Policy C8 | Sporadic Development in the Open Countryside) | No conflict |
| Policy C30 | Design Control | Yes – no conflict |
| Policy C33 | Protection of Important Gaps of Undeveloped Land) | Yes – no conflict |
| Policy H18 | New Dwellings in the Countryside | Limited conflict. Policy H18 is out of date. Overarching compliance with the adopted Development Plan as a whole. |
| Reason for Refusal 2 | | |
| Cherwell Local Plan 2011-2031 Part 1 | | |
| INF1 | Infrastructure | Yes – no conflict |
| Material Considerations | | |
| CDC's Planning Obligations SPD 2018 | | Yes – no conflict |

- 8.4. Notwithstanding this, if the Inspector were to conclude that there would be some conflict with relevant policies, I consider that relevant policies would be out of date, and the presumption in favour of sustainable development, contained within Policy PSD 1 and Paragraph 11(d) of the NPPF would apply, engaging the 'tilted balance'.
- 8.5. I have assessed the benefits of the scheme against the harms, and in the event that the tilted balance is engaged, I consider the benefits significant and demonstrably outweigh the adverse impacts in this case. However, if the tilted balance did not apply and instead the normal planning balance was engaged, I consider that there are sufficient material considerations available to justify the grant of planning permission. These material considerations are the significant benefits offered by the Proposed Development, in particular the supply of much needed market and affordable housing.
- 8.6. On the basis of the foregoing, the Inspector is respectfully requested to allow this appeal and grant outline planning permission.

9. Conditions

- 9.1. I consider that sufficient control over the form of the Proposed Development can be achieved through the imposition of planning conditions.
- 9.2. A set of conditions on a without prejudice basis has been agreed with CDC.

David Bainbridge MA (Hons) MRTPI
Director

david.bainbridge@savills.com
+44 (0) 186 526 9053