



*Cherwell*

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

## **TOWN AND COUNTRY PLANNING ACT 1990**

**APPEAL BY ARCHSTONE AMBROSDEN LTD, BELLWAY  
HOMES LTD & ROSEMARY MAY**

**LAND EAST OF PLOUGHLEY ROAD, AMBROSDEN, OX25 2AD**

**LOCAL PLANNING AUTHORITY REF NO: 22/02866/OUT**

**PLANNING INSPECTORATE REF NO: APP/C3105/W/23/3327213**

**STATEMENT OF CASE CHERWELL DISTRICT COUNCIL**

**SEPTEMBER 2023**

## Contents

|  |    |
|--|----|
| 1. Introduction  | 3  |
| 2. Site and Surroundings                                   | 4  |
| 3. Site History  | 5  |
| 4. Consultation  | 5  |
| 5. The Policy Position                                     | 5  |
| 6. Planning Considerations in Support of the Councils Case | 7  |
| 7. Conclusion  | 10 |
| 8. Other Matters   | 10 |
| 9. Documents to be referred to in evidence                 | 11 |

## 1. INTRODUCTION

1.1 This Statement sets out the case for Cherwell District Council (“**the Council**”) in respect of the appeal submitted by Archstone Ambrosden Ltd, Bellway Homes Ltd and Rosemary May (“**the Appellants**”) under Section 78(1) of the Town and Country Planning Act 1990 against the Council’s failure to determine Planning Application ref 22/02866/OUT pertaining to Land East of Ploughley Road, Ambrosden, OX25 2AD (“**the Site**”).

1.2 Cherwell District Council Officers reported the application to Planning Committee on 13th July 2023. They recommended to Members that the application should be refused for the following two reasons:

*1. The site is located outside the built form of Ambrosden and within an area of open countryside. By reason of its location and the proposed scale of development, the proposal would have a poor and incongruous relationship with the existing settlement appearing prominent in the open countryside. Its development would therefore have an adverse effect on the landscape on the approach to Ambrosden to the detriment of the character and appearance of the countryside. 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 proposed development is therefore contrary to Policies ESD13, ESD15, BSC1, PSD1 and Villages 2 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy H18 of Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework.*

*2. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions required as a result of the development and necessary to 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 INF1 of the Cherwell Local Plan 2011-2031 Part 1, CDC’s Planning Obligations SPD 2018 and Government guidance within the National Planning Policy Framework.*

1.3 The Members upheld the officer’s recommendation, and the application was refused on the 14<sup>th</sup> of July 2023

## **2. SITE AND SURROUNDINGS**

- 2.1 The appeal site comprises 9.46ha of agricultural farmland. It is located outside the settlement boundary of Ambrosden (to the north), in the open countryside. It is unallocated land and has never previously been developed.
- 2.2 The land slopes downward from the eastern boundary at circa. 77-78m AOD to the western boundary, at circa. 65m AOD.
- 2.3 The eastern boundary of the site runs parallel with a Public Right of Way (reference 105/6/20), which connects the A41/B4011 Junction at Blackthorne Farm with Ploughley Road, opposite the Bicester Garrison Gym. There are a number of green fields surrounding the northern and western boundaries of the appeal site.
- 2.4 The appeal site, and the surrounding fields, are characterised by open grassland, mature hedgerows, and several mature trees. It is in this context that the site appears not to be connected to the existing urban area and reads as being an attractive, rural, pastoral landscape.
- 2.5 The site is currently accessed from Ploughley Road, a road which runs through the village and connects with the A41 in the North and Arncott in the South.
- 2.6 Ploughley Road, as it approaches the northern part of Ambrosden, is framed by mature hedging on either side: the hedge is lower to the north, providing significant views into the open countryside (including the appeal site).
- 2.7 There is a very distinct character change along this part of Ploughley Road when the visitor leaves the countryside behind and enters the village. In fact, the character change along this part of Ploughley Road is three-fold: it changes from the industrial buildings along the A41 to the pastoral nature of the open countryside before moving into the built up, urban area of the village. In short, this part of the countryside serves as a visually significant landscape buffer between Industrial and residential urban areas.

## **3. SITE HISTORY**

- 3.1 A summary of the planning history relating to the site and its immediate surrounds is set out in the 13th of July Planning Committee Report.

## **4. CONSULTATION**

- 4.1 The Council will elaborate on the results of the statutory consultation responses as set out in the Committee Report, the Committee update note & minutes, and may refer to representations of the public and internal and external consultees as part of its case.

## 5. PLANNING POLICIES

- 5.1 The Cherwell Local Plan 2011-2031 - Part 1 ('CLP 2015') was formally adopted by Cherwell District Council on 20th July 2015 and provides the Strategic Planning Policy Framework for the District to 2031.
- 5.2 The CLP 2015 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996, although many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's Statutory Development Plan are set out below:

### CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- PSD1: Presumption in Favour of Sustainable Development
- BSC1: District Wide Housing Distribution
- BSC2: The Effective and Efficient Use of Land – Brownfield land and Housing Density
- BSC3: Affordable Housing
- BSC4: Housing Mix
- BSC7: Meeting Education Needs
- BSC8: Securing Health and Well-Being
- BSC9: Public Services and Utilities
- BSC10: Open Space, Outdoor Sport and Recreation Provision
- BSC11: Local Standards of Provision - Outdoor Recreation
- BSC12: Indoor Sport, Recreation and Community Facilities
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD4: Decentralised Energy Systems
- ESD5: Renewable Energy
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems (SuDS)
- ESD8: Water Resources
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- ESD17: Green Infrastructure
- Villages 1: Village Categorisation
- Villages 2: Distribution Growth Across the Rural Areas

- Villages 4: Meeting the Need for Open Space, Sport and Recreation
- Policy INF1: Infrastructure

#### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18: New dwellings in the countryside
- C8: Sporadic development in the open countryside
- C15: Prevention of coalescence of settlements
- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- C32 – Provision of facilities for disabled people
- TR7 - Development attracting traffic on minor roads
- TR10 - Heavy Goods vehicle
- C28 – Layout, design and external appearance of new development
- C30 – Design Control
- ENV1 – Development likely to cause detrimental levels of pollution
- ENV2 – Redevelopment of sites causing serious detriment to local amenity.
- ENV12 – Development on contaminated land
- R1 - Allocation of land for recreation use R1 (part replaced)

#### Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Town and Country Planning Act 1990 (as amended)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- DfE - Securing developer contributions for Education - November 2019
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Developer Contributions SPD (February 2018)
- Infrastructure Delivery Plan (IDP) Update (December 2017)
- Countryside Design Summary (1998)
- Cherwell Design Guide SPD (July 2018)
- Oxfordshire Wildlife & Landscape Study 2004
- Annual Monitoring Report (AMR) (December 2021)
- Annual Monitoring Report (2022 AMR) (February 2023)
- Regulation 10A Review of Local Plan Policies (February 2023)
- Housing Land Supply Statement (February 2023)
- Oxfordshire County Council: Local Transport Plan 4 (2015-2031)

- Cherwell District Council Housing & Economic Land Availability Assessment (February 2018)
- The Council published its Cherwell Local Plan Review 2040 – Consultation Draft for public consultation, on 22 September 2023. The draft Local Plan provides a draft vision and policy framework for the future development of Cherwell District and contains proposed strategic sites including for housing and employment development. It proposes that the final Plan should identify sites at the District's most sustainable villages to accommodate 500 additional new dwellings. A draft settlement hierarchy is proposed which is based on an assessment of a number of factors including population size, number and range of facilities and services, settlement characteristics, accessibility, local employment opportunities and the functional relationship with other settlements. Ambrosden is identified as a larger village.

## **6. PLANNING CONSIDERATIONS IN SUPPORT OF THE LOCAL PLANNING AUTHORITY'S CASE**

- 6.1 The Council will show that the proposals do not comply with development plan policies, nor do they comply with national planning policy statements, guidance and circulars, and supplementary guidance. The Council will demonstrate that there are no (or insufficient) material considerations which would otherwise outweigh the failure to comply with the development plan and other material considerations.
- 6.2 The Council, having taken a balanced view, is of the opinion that the proposal is contrary to the development plan and that there are no material considerations that would justify the grant of planning permission. It will be shown that it is appropriate to refuse planning permission as the first of these two objections is not capable of resolution through minor amendments within the scope of the application for planning permission. It is anticipated that the second reason for refusal can, potentially, be overcome and withdrawn prior to the start date of the public inquiry.

### **LANDSCAPE/INCONGRUOUS RELATIONSHIP**

- 6.3 The Council remains of the opinion that the proposed development, because of its scale and prominence in this sensitive part of the open countryside, would have a poor and incongruous relationship with the existing settlement, it would also materially harm the landscape and greatly undermine the current approach to Ambrosden.
- 6.4 The Council considers that the Landscape Visual Impact Assessment (and supporting Appendices), submitted by the Appellant as part of the application, does not fully demonstrate the true impacts the development would have on the landscape.
- 6.5 The Council, by calling an expert landscape witness, will explain how it considers the proposed development fails to respect the landscape character of this sensitive site (and the form and pattern of the surrounding area) thereby causing harm that is permanent and enduring. This level of harm is a matter of negative weight in the overall balance.
- 6.6 The Council will explain how the development would not introduce such benefits to the area that would outweigh the harm that would be caused, and the development would therefore be contrary to national and local policy.

## FIVE YEAR LAND SUPPLY

- 6.7 Local housing need, calculated for Cherwell District in accordance with the standard method, provides for the requirement against which housing land supply should be assessed for the purposes of Paragraph 74 of the NPPF (2023). This dictates the position set out *Refusal 1*. The Cherwell Local Plan (Part 1) (adopted July 2015) is more than five years old and the housing requirement within its adopted strategic policies requires updating for the purposes of NPPF (2023) paragraph 74 and footnote 39.
- 6.8 In February 2023, Cherwell District Council approved a review of their adopted planning policies, carried out under regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012. Paragraph 74 and footnote 39 of the NPPF requires that, in such circumstances, the five-year housing land supply (5YHLS) should be calculated using the government's standard methodology.
- 6.9 The Council's most recent assessment of the 5YHLS is set out in the Housing Land Supply Statement (HLSS), published in February 2023, and is aligned with the latest review of adopted planning policies. The base date of the 5YHLS assessment within the HLSS is 1st April 2022. The application of the standard method, as set out in the Council's published position, has the effect of reducing the annualised requirement from 1,142 dpa to 742<sup>1</sup> dpa for the purposes of calculating the land supply. Consequently, Cherwell District Council is able to demonstrate a 5.4-year housing land supply.
- 6.10 The Council's published housing land supply position of 5.4 years applied when determining the application proposal. This means that the relevant development plan policies are up to date. Whilst the NPPF states that the requirement to have a 5YHLS is not a cap on development, Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In this instance, the development plan comprises the Cherwell Local Plan 2011-2031 Part 1 (the CLP 2015) and the saved policies of the Cherwell Local Plan (1996) (the CLP 1996). The housing policies of the Development Plan are the starting point for decision making and are afforded full weight. However, it is recognised that the delivery of homes across the district remains an important material consideration in the planning balance.
- 6.11 The application seeks planning permission for the development of up to 120 dwellings. The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan. Moreover, whilst Policy Villages 2 allows for the provision of 750 dwellings at Category A settlements (of which Ambrosden is one), the Council will show that this number has been exceeded, including a significant contribution made by Ambrosden to this number. Whilst the 750 dwelling number is

---

<sup>1</sup> For the purposes of its evidence on housing land supply and the requirement against which this is to be assessed the Council notes that the calculation of local housing need (LHN) is undertaken independently from calculation of supply. The Council's position will therefore reflect the calculation of local housing need based on the latest inputs to the standard methodology for Cherwell (presently 710 homes per annum).



accepted not to be a cap, should this number be significantly exceeded, then the overall strategy for the delivery of housing within the Cherwell District could be altered to such an extent that it would conflict with Policy BSC1 (which requires development to be located in the most sustainable locations).

- 6.12 Given that the Council can demonstrate in excess of 5 year's housing land supply, the presumption in favour of sustainable development (outlined in Paragraph 11 of the NPPF) needs to be applied in that context and means approving development proposals that accord with an up-to-date development plan without delay. Paragraph 12 of the NPPF goes on to state that planning law requires that development plans are the starting point for decision making and, where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. For the reasons outlined in this statement, the proposal is considered to conflict with the Council's up-to-date development plan and should therefore be dismissed.

*Oxford's Unmet Housing Needs, the HENA 2022 and Implications for the Housing Requirement*

- 6.13 Part 1 of Reason for Refusal 1 is unrelated to the approach to providing for part of Oxford's unmet needs within the policies of the current development plan. The 'Cherwell Local Plan 2011-2031 (Part 1) Partial Review- Oxford's Unmet Housing Need' or "Partial Review" which was adopted on 7 September 2020 and is less than five years old.
- 6.14 Paragraph 74 of the NPPF 2023 does not make any express provision for how unmet needs forming part of the housing requirement in adopted strategic policies are to be treated for the purposes of assessing housing land supply.
- 6.15 The housing requirement in adopted strategic policies providing for part of Oxford's unmet needs is set out separately within the 'Cherwell Local Plan 2011-2031 (Part 1) Partial Review- Oxford's Unmet Housing Need' or "Partial Review". Policies PR1 and PR12a respectively specify the contribution towards unmet needs (4,400 dwellings) and arrangements for maintaining housing land supply to meet these needs for the period 2021-2031.
- 6.16 Relevant strategic Policy PR12a of the Partial Review states *"The Council will manage the supply of housing land for the purpose of constructing 4,400 homes to meet Oxford's needs. A separate five-year housing land supply will be maintained for meeting Oxford's needs"*.
- 6.17 The policy of the NPPF at paragraph 74 and footnote 39, to apply local housing need where the strategic policies are more than five years old, and to use the standard method is therefore not applicable to the housing requirement in the adopted strategic policies of the Partial Review.
- 6.18 Paragraph 1.4 of the Partial Review states: *"The Partial Review provides a vision, objectives and specific policies for delivering additional development to meet Oxford's housing needs. It seeks to do this in a way that will best serve Oxford's needs and provide benefits for existing communities in Cherwell and adjoining areas. The Partial Review is a positively prepared Plan. It avoids undermining the existing Local Plan's development strategy for meeting Cherwell's needs and detracting from the delivery of growth at Bicester, Banbury and former RAF Upper Heyford. The Plan aims to achieve sustainable development which will be deliverable by 2031."*

- 6.19 The separation of Cherwell's housing needs from Oxford's unmet needs was assessed by the Inspector who examined the Partial Review. Paragraph 148 of the examination (Appendix 17) states "*I can see the sense of the Council wanting to separate out their commitment to meeting Oxford's unmet needs from their own commitments in the Local Plan 2015*". The Inspector deemed this plan to be sound, which subsequently led to its adoption.
- 6.20 The Council's latest Housing and Economic Needs Assessment (HENA) was published in December 2022 and is used to assist the Council in the preparation of their Local Plan review. The HENA is intended to provide an integrated evidence base to help identify the appropriate level of and distribution of housing and employment over the period to 2040.
- 6.21 Oxfordshire's HENA was considered when the Council took the 'Regulation 10A' Planning Policy Review and Housing Land Supply Statement to the Council's Executive for approval on 6th February 2023.
- 6.22 The Council will call specialist Five Year Housing Land Supply evidence to demonstrate that it's five-year housing land supply is robust and sound and that the tilted balance of paragraph 11 of the NPPF is not engaged.

### **PLANNING OBLIGATIONS**

- 6.23 The Council will explain the extent of planning contributions deemed necessary to make the development acceptable in accordance with NPPF, the Local Plan, Community Infrastructure Levy Regulations 2010 (as amended) and its Developer Contributions SPD.
- 6.24 The Council will demonstrate that in the absence of necessary planning contributions, the proposed development would fail to adequately mitigate its impacts and the additional pressure that the development would place on local infrastructure.
- 6.25 However, the Council will continue to negotiate with the Appellant with the aim of submitting an agreed draft planning obligation to the Inspector prior to the inquiry.

### **7. CONCLUSION**

- 7.1 The Council therefore considers that the shortcomings of the proposal outweigh the benefits of the scheme and, pursuant to section 38 of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

### **8. OTHER MATTERS**

- 8.1 Without prejudice to the Council's case, the Council will endeavour to negotiate and complete a S106 legal agreement as appropriate with the appellant in the course of this appeal, should the planning permission ultimately be granted on appeal.
- 8.2 In accordance with government guidance and without prejudice to the Council's case, appropriate planning conditions for the appeal proposals will be discussed with the Appellant and submitted to the Inspector in good time for the inquiry.

**9. DOCUMENTS TO BE REFERRED TO IN EVIDENCE**

9.1 The Council will refer in its evidence to the documents identified above and other relevant documents including:

- Letters of representation and observations
- Any other relevant planning appeal decisions
- All documents which formed part of or accompanied the Planning Application.
- The Proof of Evidence of the Council's Planning Officer
- The Proof of Evidence of an Independent Five-Year Housing Land Supply Consultant
- The Proof of Evidence of an Independent Landscape Consultant

9.2 The Council reserves the right to refer to further documents in response to the appellant's case or any more recent updating information.

9.3 This document and the Council's questionnaire and Statement of Case, written comments, information, or other documents sent by or to the Council in connection with the appeals can be inspected online at:

<https://planningregister.cherwell.gov.uk/Appeals/Display/23/00091/REF>

