
Appellant's Planning Proof of Evidence

APP/C3105/W/23/3327213, Land East of Ploughley Road, Ambrosden

Appeal by Archstone Ambrosden Ltd, Bellway Homes Ltd, and Rosemary May against the refusal of application reference 22/02866/OUT by Cherwell District Council for:

“Outline planning application for up to 120 dwellings, vehicular and pedestrian access off Ploughley Road, new pedestrian access to West Hawthorn Road, surface water drainage, foul water drainage, landscaping, public open space, biodiversity and associated infrastructure. Access off Ploughley Road is not reserved for future consideration”

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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. Savills was the agent for the outline planning application for development at Land East of Ploughley Road, Ambrosden ("the Appeal Site"). I am familiar with the Proposed Development and the Appeal Site.
- 1.6. I am instructed by Archstone Ambrosden Ltd, Bellway Homes Ltd and Rosemary May ('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 planning appeal following the refusal of outline planning permission by CDC for up to 120 dwellings, vehicular and pedestrian access off Ploughley Road, new pedestrian access to West Hawthorn Road, surface water drainage, foul water drainage, landscaping, public open space, biodiversity and associated infrastructure. Access off Ploughley Road is not reserved for future consideration.

1.9. The outline planning application was reported to Planning Committee on the 13th July 2023, with an officer recommendation of refusal (Core Document D.45). The Planning Committee resolved to refuse planning permission and the Decision Notice (Core Document E.51) was issued on the 14th July 2023, with the following two Reasons for Refusal (RfR):

“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.”

1.10. The Appellant’s Statement of Case (Core Document G.2) provides an overview of the Appeal Site and its surroundings, the application and determination and the appeal proposal. The outline planning application documents equally provide an overview on such matters.

Scope and Structure of Evidence

- 1.11. I am instructed by the Appellant, Archstone Ambrosden Ltd, Bellway Homes Ltd and Rosemary May, 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 September 2023 (Core Document G.3).
- 1.14. Where relevant, I refer and rely on the evidence submitted on behalf of the technical experts in relation to the following:
- Housing Land Supply, prepared by Mr Ben Pycroft.
 - Landscape, prepared by Mr Ben Connolley.
 - Affordable Housing, prepared by Mr Jamie Roberts.
- 1.15. I have prepared the evidence in relation to planning matters on a topic basis in the context of the statutory 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. Overall, I find that the Proposed Development accords with the Development Plan, when read as a whole.
- 1.16. My Planning Proof of Evidence is accompanied by the following appendices:
- Appendix 1 – Framework Plan, drawing number FP-01, Rev B
 - Appendix 2 – Parameter Plan Access, drawing number 9603, Rev B
 - Appendix 3 – Biodiversity Metric 4.0
 - Appendix 4 – Biodiversity Net Gain Technical Note
 - Appendix 5 – Framework Landscape Environmental Management Plan (LEMP)

- Appendix 6 – Affordable Housing Appeal Statement of Mr Jamie Roberts, MPLAN MRTPI

- 1.17. Regarding planning obligations, the Appellant intends to agree a s106 in advance of the inquiry. I will set out how the planning obligations have evolved to demonstrate that they are suitable to mitigate the impacts of the development.
- 1.18. 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 G.2). This is further set out within the draft Statement of Common Ground (Core Document G.4).
- 2.2. The Appellant and CDC have agreed on a list of determinative plans for the determination of this planning appeal within the draft Statement of Common Ground (Core Document G.4).
- 2.3. The planning application is in outline with only access off Ploughley Road not reserved for future consideration.
- 2.4. Matters such as layout and landscaping are reserved matters capable of being controlled by a planning condition.
- 2.5. The Appellant has identified to CDC that it wishes to omit an indicative pedestrian access to West Hawthorn Road resulting in a minor change to the framework plan and to the parameter plan access. These plans have been submitted to CDC prior to agreement of common ground and these are appended to this proof of evidence (Appendices 1 and 2). The omission of the indicative pedestrian access to West Hawthorn Road would result in the following change to the description of proposed development: OUTLINE planning application for up to 120 dwellings, vehicular and pedestrian access off Ploughley Road, ~~new pedestrian access to West Hawthorn Road~~, surface water drainage, foul water drainage, landscaping, public open space, biodiversity and associated infrastructure. Access off Ploughley Road is not reserved for future consideration.
- 2.6. The Case Management Conference Note (Core Document G.12) includes a request for the Appellant to submit a statement updating the ecology, which has been prepared and provided to the Council. In preparing this update it has been considered relevant to prepare a framework landscape ecology management plan. These documents have been submitted to CDC prior to agreement of common ground and these are appended to this proof of evidence (Appendices 3, 4 and 5).
- 2.7. This documentation shows that the Proposed Development is capable of delivering at least a 10% net gain in biodiversity.

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 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 draft Statement of Common Ground (Core Document G.4), and are set out in full in the relevant Development Plan Documents (Core Documents I.1, I.8).

Other Material Considerations

- 3.3. Section 7 of the draft Statement of Common Ground sets out a list of agreed material considerations (Core Documents G.4).

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 E.51). 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 explores main issues for this planning appeal including those within the Case Management Conference Note, as follows:

Issue 1 – Effect of the Proposed Development on the Character and Appearance of the Area

Issue 2 – The Provision of Infrastructure Contributions Required as a Result of Development and Whether they are Necessary to make the Development Acceptable in Planning Terms

Issue 3 - Whether CDC can demonstrate a Five Year Housing Land Supply (5YHLS)

Issue 4 – The Needs, Benefits and Planning Overview of the Proposed Development

- 4.4. I consider each of these main issues in turn, below.

Issue 1 – Effect of the Proposed Development on the Character and Appearance of the Area

- 4.5. I refer to the Appellant's Landscape Proof of Evidence, prepared by Mr Ben Connelly. Mr Connelly explains in Section 4 of his Proof of Evidence that with the consideration of the mitigation measures proposed on land that is under the Appellant's control, the Proposed Development is a well-designed proposal that is commensurate with its size and location in this part of Ambrosden.

- 4.6. Mr Connelly confirms his considerations that the Appeal Site is technically unconstrained and undesignated in landscape terms, and is not special enough to simply preclude development in principle.
- 4.7. Mr Connelly explains that some harm to openness and rural character is unavoidable wherever a settlement extends onto agricultural land, but this needs to be weighed against the benefits. With respect to the impacts on visual openness and landscape harm, Mr Connelly does not consider that any specific views valued highly by the general public or essential to the appreciation of the area would be unduly harmed. Whilst the development would evidently impact openness at the site level, when the proposals are viewed in the context of the wider landscape, including viewing experiences from Ploughley Road, there remains an open character to the north of Ambrosden, with built development appearing spatially appropriate in scale and form given current development patterns and the existing character of the settlement.
- 4.8. Given that such harm is unavoidable and accrues wherever new development replaces open fields, it is imperative to understand the extent of any wider landscape effects. Mr Connelly considers that the Appeal Sites does not affect the landscape setting of Ambrosden, or the ability to understand and appreciate the form and fabric of the wider settlement. The settlement itself is part of the landscape, and development of the Appeal Site is a logical extension of the landscape in this context.
- 4.9. Mr Connelly also deals with the matter of the effects on the approach to Ambrosden at Paragraph 2.55 of the Landscape Proof of Evidence, explaining that he does not consider the appeal site to form an important part of the appreciation of Ambrosden, with views along Ploughley Road being curtailed by a mature hedgerow, with no significant views into the countryside. Furthermore, at Paragraph 3.50 of the Landscape Proof of Evidence, Mr Connelly explains how such consideration is a matter of judgement, with the character of the approach not being expressly defined or protected in planning policy or supporting guidance. Given the enclosure of appeal site within the wider context, Mr Connelly considers that views of the Proposed Development would be limited to a short section of Ploughley Road, with the most apparent views only being experienced at existing field gateways and the proposed access.
- 4.10. Mr Connelly's overall conclusions confirm the following:
- The appeal proposals will not result in a material harm to the natural environment.

- With regards to effect on landscape resource, local landscape character and visual amenity, that there would be no breach of any landscape related policy.
- The proposed change from open agricultural land to residential will inevitably alter the character of the appeal site, but the proposals would still be acceptable in landscape and visual terms.
- That the appeal sites does not constitute an inappropriate location for housing. The proposals is not inappropriate in the context.
- The Proposed Development looks to retain the most sensitive parts of the landscape and enhance others, in line with published landscape character assessments, which bring benefits to overall landscape character.
- The change of open land to built form in this location is not harmful to the landscape resource as a whole – neither in terms of being in an inappropriate place, nor being through an inappropriate design and appearance. This is due to the proposals sitting within a landscape which is physically and perceptually well-related to Ambrosden. There will be change which is acceptable contextually.
- The proposals are not inappropriate in a spatial sense. The landscape and visual effects are very limited, owing to the delivery of a suitable green infrastructure provision and mitigation. The scale, form and appearance would reflect and enhance the positive characteristics of the surrounding area, within the perceived limits of Ambrosden and raise the overall standard of development expected. Being well-integrated with the surrounding areas, development would appear as a natural and logical addition to Ambrosden.

4.11. Accordingly, Mr Connelly concludes that the matters raised in the Reason for Refusal (that the proposal would have a poor and incongruous relationship with the existing settlement, appearing prominent in the open countryside), are unfounded, and that there is no basis on which to refuse planning permission on landscape grounds.

4.12. I now turn to review compliance of the Proposed Development from a landscape perspective against relevant policies from a landscape perspective, including Policies ESD13, ESD15 and Policy Villages 2.

Policy ESD13: Local Landscape Protection and Enhancement

- 4.13. Policy ESD13 explains that opportunities will be sought to secure the enhancement of the character and appearance of the landscape, through restoration, management or enhancement of existing landscapes, features or habitats. Mr Connelly confirms his conclusions from a landscape perspective at Paragraph 4.11, that he believes there to be no conflict with the aspirations of this policy.
- 4.14. Furthermore, development is expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals are required to demonstrate compliance with 6no. criteria. I review compliance with each criteria in turn below:

Table 1: Assessment of Policy ESD 13

<u>Requirements of Policy ESD13</u>	<u>Appellant Response</u>	<u>Compliance</u>
1. Cause undue visual intrusion into the open countryside	Mr Connelly confirms at Paragraph 4.11 bullet (1) of the Landscape Proof that the Proposed Development would cause limited visual intrusion into the open countryside, with any landscape and visual harm being extremely localised.	Compliant – no conflict.
2. Cause undue harm to important natural landscape features and topography	At Paragraph 4.11 bullet (2) of the Landscape Proof, Mr Connelly confirms that the proposals retain and enhance the landscape fabric of the appeal site, providing a contribution to the fabric of the open landscape to the north.	Compliant – no conflict.
3. Be inconsistent with local character	Mr Connelly confirms at Paragraph 4.11 bullet (3) that Mr Connelly considers the proposals are inappropriate in a spatial sense. The delivery of a suitable green infrastructure provision and mitigation measures within the northern areas of the appeal site serve to retain the separation between Ambrosden and the A41, yet defining an organic edge to the settlement that reflects the recent growth pattern of the village.	Compliant – no conflict.
4. Impact on areas judged to have a high level of tranquillity	Mr Connelly considers at Paragraph 4.11 bullet (4) of the Landscape Proof that he does not consider appeal site to be located in an area of high tranquillity as noise from road corridors, the MOD site at Graven Hill and commercial uses to the north all adversely affect tranquillity and wildness, such that the appeal site is not devoid of urban influence.	Compliant – no conflict.
5. Harm the setting of settlements,	At Paragraph 4.11 bullet (5) of the Landscape Proof, Mr Connelly explains that the developed edges of Ambrosden	Compliant – no conflict.

<u>Requirements of Policy ESD13</u>	<u>Appellant Response</u>	<u>Compliance</u>
buildings, structures or other landmark features, or	have evolved over time, moving beyond hard linear boundaries, to become more of an organic edge. I consider the growth of the village at the northern edge, in landscape terms, to be an appropriate extension to the village, and that the scale, form and appearance of the development as designed would be appropriate in this context.	
6. Harm the historic value of the landscape.	There is no alleged harm to the historic value of the landscape from the proposed development by CDC.	Compliant – no conflict.

4.15. Therefore, I consider that Policy ESD 13 is complied with, when read as a whole, and as such I consider that there is no conflict with such policy.

Policy ESD15: The Character of the Built and Historic Environment

4.16. 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 2: Assessment of Policy ESD 15

<u>Requirements of Policy ESD15</u>	<u>Appellant Response</u>	<u>Compliance</u>
7. New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards. Where development is in the vicinity of any of the District's distinctive natural or historic assets, delivering high quality design that	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 compliance – no conflict.

<u>Requirements of Policy ESD15</u>	<u>Appellant Response</u>	<u>Compliance</u>
complements the asset will be essential.		
8. 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.	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 compliance – no conflict.
9. 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 compliance – no conflict.
10. 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 compliance – no conflict.
11. 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	The evidence of Mr Connelly confirms at Paragraph 4.12 that whilst he accepts that there is limited level of (inevitable) harm to the landscape character and visual amenity of the appeal site, through the addition of landscape fabric enhancement and the provision of new tree planting, being aligned with the guidelines for the host LCT, the appeal proposals provide mitigation that is appropriate within this context. The enhancement of the existing landscape fabric, provision of new tree and shrub planting and the maintenance and improvement of the PRoW network in this area through development of the site also contribute towards the maximisation of green infrastructure opportunities.	Compliant – no conflict.

<u>Requirements of Policy ESD15</u>	<u>Appellant Response</u>	<u>Compliance</u>
<p>12. 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>It is draft common ground at Paragraph 8.40 that the Archaeological and Heritage Assessment confirms that the Proposed Development would not result in any adverse impact on, harm to, or loss of significance from any identified designated heritage or non-designated assets, either in terms of an effect on their physical fabric or changes to their wider setting (Core Document G.4). As such, it is draft common ground at Paragraph 8.42 between the parties that there is no conflict with Policy ESD15 (Core Document G.4).</p>	<p>Compliant – no conflict.</p>
<p>13. 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.</p>	<p>As explained above, an Archaeological and Heritage Assessment accompanied the application, which provided information on heritage assets and an assessment of the impact of the Proposed Development.</p>	<p>Compliant – no conflict.</p>
<p>14. 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,</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>Capable of compliance – no conflict.</p>

<u>Requirements of Policy ESD15</u>	<u>Appellant Response</u>	<u>Compliance</u>
and buildings configured to create clearly defined active public frontages		
15. 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 compliance – no conflict.
16. 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.	Capable of compliance – no conflict.
17. 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 compliance – no conflict.
18. Consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space	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. Nevertheless, in terms of amenity, both parties are in draft agreement that the Proposed Development could be made acceptable subject to details being provided at the Reserved Matters stage, complying	Capable of compliance – no conflict.

<u>Requirements of Policy ESD15</u>	<u>Appellant Response</u>	<u>Compliance</u>
	with Policy ESD15 (Paragraph's 8.32 - 8.33, Core Document G.4).	
19. Limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation	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 compliance – no conflict.
20. 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 compliance – no conflict.
21. 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 compliance – no conflict.
22. 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. Both parties have draft common ground that the Proposed Development accords with Policies ESD1, ESD2 and ESD3, subject to the agreement of suitably worded conditions around sustainable construction, energy efficiency and water usage (Paragraph 8.38, Core Document G.4).	Capable of compliance – no conflict.
23. Integrate and enhance green infrastructure and incorporate biodiversity enhancement features where possible (see Policy ESD 10: Protection and Enhancement of Biodiversity and the Natural	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 compliance – no conflict.

<u>Requirements of Policy ESD15</u>	<u>Appellant Response</u>	<u>Compliance</u>
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		
24. 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 to design will be provided during the Reserved Matters stage.	Capable of compliance – no conflict.

4.17. 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 Villages 2: Distributing Growth Across the Rural Areas

4.18. I have dealt with Policy Villages 2 under Issue 4 below. However, Criteria (5) to Policy Villages 2 (see Table 5) requires development to demonstrate whether significant adverse landscape impacts could be avoided.

4.19. The evidence of Mr Connelly explains at Paragraph 4.20 of his evidence that he does not consider the change of open land to built form to be harmful, as the Proposed Development would sit within a landscape which is physically and perceptually well-related to Ambrosden. Whilst there will be change, this change would be acceptable contextually, and not result in extensive wider landscape change which would make it otherwise unacceptable. This confirms that the Proposed Development avoids significant adverse landscape impacts. This ensures compliance with the landscape criteria (5) of Policy Villages 2.

Other Policies Referenced in Reason for Refusal 1:

4.20. Reason for Refusal 1 also cites conflict with a number of other policies, including matters which fall outside the scope of landscape matters and into planning matters. I deal with the following policies under Issue 4 of this Proof:

- Policy BSC 1 (District Wide Housing Distribution).
- Policy PSD 1 (Presumption in Favour of Sustainable Development).
- Policy H18 (New Dwellings in the Countryside).

Issue 1 Summary:

4.21. In conclusion, I consider the effects of the Proposed Development on the character and appearance of the area to be acceptable, based on the evidence of Mr Connelly. In summary:

- Mr Connelly concludes that the matters raised in the Reason for Refusal (that the proposal would have a poor and incongruous relationship with the existing settlement, appearing prominent in the open countryside and on the approach to Ambrosden), are unfounded, and that there is no basis on which to refuse planning permission on landscape grounds.
- Policies ESD13 and ESD15 are complied with, when read as a whole.
- Relevant landscape elements of Policy Villages 2 are complied with.

Issue 2 – The Provision of Infrastructure Contributions Required as a Result of Development and Whether they are Necessary to make the Development Acceptable in Planning Terms

4.22. 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.

4.23. It is draft 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 2 Summary:

- 4.24. The provision of infrastructure contributions requires as a result of development, can be secured through the agreement of a S106 agreement, to make the development acceptable in planning terms.

Issue 3 - Whether CDC can demonstrate a Five Year Housing Land Supply (5YHLS)

- 4.25. I refer to the Appellant's Housing Land Supply Proof of Evidence, 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 K.1), 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 M.26, M.31 and M.32).

- 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.
- 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".

4.26. 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 3: Mr Pycroft's Summarised Five Year Housing Land Supply Position (Table 12.1 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

4.27. 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.

4.28. 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.

4.29. 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 a recent Committee Report for Heyford Park (Core Document N.1):

"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)

- 4.30. 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.
- 4.31. 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.
- 4.32. 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.

4.33. 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.

4.34. 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 3 Summary:

4.35. 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 4 – The Needs, Benefits and Planning Overview of the Proposed Development

4.36. In the following Section, I assess the overarching planning case, against the policies cited as being in conflict within the RfR.

Policy BSC 1: District Wide Housing Distribution

4.37. Policy BSC 1 is cited in RfR1. 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.

- 4.38. Due to the publication of more recent evidence on housing needs to the supporting the preparation of the Cherwell Local Plan Review 2040, policies including Policy BSC 1 are considered to be 'out of date'. This is confirmed in CDC's Regulation 10A Review of Local Plan Policies (Core Document I.13), due to the fact that the housing need figures need to be updated. As such, the housing numbers are out of date and need to be re-considered through the review of the Cherwell Local Plan.
- 4.39. The Proposed Development was reported to Planning Committee on the 13th July 2023, and subsequently refused on the 14th July 2023. The Committee Report failed to report that Policy BSC 1 was considered to be 'out of date'. I consider that it was inappropriate for Members not to be advised of such a material change to one of their most relevant policies in the determination of the outline planning application.
- 4.40. I consider that through locating additional development in Ambrosden, in accordance with the requirements of Policy Villages 2 (as assessed below), the Proposed Development would align to the broad thrust of the spatial strategy of locating development in the more sustainable settlements in the District (with a majority focus on Banbury and Bicester).
- 4.41. Regardless of the extent to which Policy BSC 1 is out of date, I consider that the Proposed Development would be in broad accordance with Policy BSC1.

Policy Villages 2: Distributing Growth across the Rural Areas

- 4.42. Policy Villages 2 permits additional development at Category A Villages, subject to consideration of the criteria within this policy. Ambrosden is a Category A Village. This is explored below.
- 4.43. CDC evidently consider Policy Villages 2 to be up to date, based on their mention of the policy in the RfR and the Committee Report.
- 4.44. Policy Villages 2 states that a total of 750 homes will be delivered at Category A villages.
- 4.45. Policy Villages 2 states that Sites will be identified through the preparation of the Local Plan Part 2, through the preparation of Neighbourhood Plans where applicable, and through the determination of applications for planning permission.
- 4.46. Two of the three mechanisms under Policy Villages 2 for additional development at Category A Villages are not available at Ambrosden. CDC decided years ago not to progress with a Local Plan Part 2 and there is no Neighbourhood Plan for Ambrosden. Currently the only mechanism to bring forward

development under Policy Villages 2 is through the determination of applications for planning permission and this includes the determination of planning appeals.

- 4.47. CDC has not progressed a Local Plan Part 2. The current Regulation 18 Consultation on the Cherwell Local Plan Review 2040 does not identify sites at the Villages. The latest Local Development Scheme for Cherwell District, dated September 2023, only identifies adoption of a new local plan named the Cherwell Local Plan Review 2040 in January 2025.
- 4.48. It has been confirmed in Appeal Decisions, that the figure of 750 dwellings under Policy Villages 2 is not a maximum number. The Figure is not a ceiling and it is not a cap on the number of homes (both parties have draft agreement on this matter at Paragraph 8.11 of the draft SoCG, Core Document G.4), and the acceptability of development at these settlements is considered having regard to the criteria set out in the policy.
- 4.49. Category A Villages are considered to be the most sustainable villages which offer a range of services and facilities and are well connected to an urban area, particularly by sustainable modes of travel. This is a matter confirmed in Paragraph 9.25 of the Officer's Committee Report (Core Document D.45):

“9.25. Ambrosden is identified in the Local Plan as one of 23 Category A villages intended to provide 750 homes from 2014 to 2031 (Policy Villages 2). By population size (2011 Census) Ambrosden is the 5th largest Category A settlement. It is one of the better served category A Villages and has a number of services and facilities as discussed elsewhere in this report and has a close geographical relationship to Bicester which accommodates a larger range of services, facilities and job opportunities. It was considered sufficiently sustainable by a Planning Inspector allowing the 2021 appeal for a development of 84 houses APP/C3105/W/19/3228169 on Land at Merton Road, Ambrosden, OX25 2NP.” (My emphasis)

- 4.50. Paragraph 11 of the Merton Road, Ambrosden Appeal Decision (Core Document M.6) deals with this point, stating:

“11...Category A villages are ‘Service Centres’ listed under Policy Villages 1. These are considered to be the most sustainable villages, of which Ambrosden

is one, which offer a wider range of services and are well connected to major urban areas, particularly by public transport.”

4.51. This led to the Inspector further confirming at Paragraph 28:

“Ambrosden is by population the fifth largest Category A village, with a population of in the region of 2,25012. It benefits from a range of services including pre-school nurseries, primary school, food shop, post office / general store, village hall, two churches, hairdresser’s, public house, recreational facilities and a limited opening doctor’s surgery¹³. It is some 4.6km from Bicester, has two bus services through the village which connect to Bicester and Oxford, the more frequent S5 providing an hourly service through the week and on Saturdays. An off-road cycle path links the village with Bicester.”

4.52. Accordingly, the suitability of Ambrosden for growth has been confirmed under Policy Villages 2. The sustainability of Ambrosden is further confirmed in the emerging Local Plan Review 2040, which defines Ambrosden as a ‘Larger Village’ in Core Policy 35: Settlement Hierarchy (Core Document J.22). Larger Villages are explained to have a limited range of employment, services and facilities.

4.53. Appeal Decisions (see Core Documents M.2, M.4, M.6, M.8 and M.14) set out the approach to Policy Villages 2 which is summarised below:

- I. The Policy Villages 2 headline figure of 750 is not a ceiling or a cap¹ and this has been agreed by the Council at Paragraph 8.11 of the draft Statement of Common Ground (Core Document G.4).
- II. The specific management criteria of Policy Villages 2 ensures that it is a self-regulating policy; if the point is reached where the number of dwellings granted in Category A villages is likely to undermine the Council’s overall spatial strategy, a series of planning harms is likely to emerge².

¹ See para. 13, Launton decision (Core Document M.8); para. 21, Ambrosden decision (Core Document M.6); para. 10, Bodicote decision (Core Document M.14); para. 13, Sibford Ferris decision (Core Document M.4); para. 15, Adderbury decision (Appendix M.2)

² See para. 25, of Ambrosden decision (Core Document M.6).

- III. Policy Villages 2 does not contain any temporal dimension in that it does not specify when during the plan period housing should be delivered, nor does it contain any phasing element³.
- IV. Policy Villages 2 has no spatial dimension, other than relating to Category A villages⁴.
- V. Some Category A villages are more sustainable than others and therefore it would be acceptable for the more sustainable villages to provide a larger share of dwellings under Policy Villages 2⁵. This was confirmed at the Land at Merton Road, Ambrosden Appeal Decision, re-affirming the role of Ambrosden as being one of the more sustainable villages, to accommodate a larger share of growth.
- VI. In considering proposed sites, particular regard is to be given to a list of 11 specified criteria⁶

Distribution and Spatial Strategy

4.54. Paragraph 9.37 of the Committee Report (Core Document D.45) confirms the following:

“The housing strategy in the Cherwell Local Plan seeks to distribute new housing to the most sustainable locations. Whilst the application proposes dwellings at Category A village with limited facilities, and is not a main rural or urban centre, Policy Villages 2 consider that these settlements represent sustainable development, subject to complying with the criteria of that policy. In this case, whilst the 750 target of housing in these Category A villages” (My emphasis)

4.55. It is therefore clear that the Proposed Development would represent sustainable development through being located in Ambrosden, and would not unbalance the spatial strategy contained in the adopted Development Plan.

4.56. In the case of the Inspector’s decision for Land North West of Station Road, Launton (Core Document M.1), the Inspector stated at Paragraph 27 the following:

³ See para. 24, Ambrosden decision (Core Document M.8); para. 16 of Bodicote decision (Core Document M.14); para. 17 of Deddington decision (Core Document M.3).

⁴ See para. 24, Ambrosden decision (Core Document M.8); para. 10 of Bodicote decision (Core Document M.14).

⁵ See para 27, Ambrosden decision (Core Document M.8); para 12 Hook Norton decision (Core Document M.52).

⁶ See para. 12, of Ambrosden decision (Appendix M.8); para. 10 of Sibford Ferris decision (Core Document M.4).

“27. Policy Villages 2 of the Local Plan sets out that a total of 750 homes will be delivered at Category A villages across the plan period. It is common ground between the main parties that the 750 figure is not a ceiling or a cap and that the delivery of 65 additional houses at Launton would not cause harm to the overall housing strategy endorsed by the development plan. Indeed, Policy Villages 2 has neither a temporal dimension, in that it does not specify when during the plan period housing should be delivered, or a spatial dimension, in that it does not specify how housing should be distributed across the Category A villages. Thus, having also studied the related findings of other Inspectors with respect to recent housing appeals on other sites in the District and notwithstanding that there has been strong delivery of housing at Launton since the beginning of the plan period, I too am satisfied that the scheme would not prejudice the Council’s current housing strategy.” (my emphasis)

- 4.57. This extract of the Launton decision clearly demonstrates that the 750 dwelling figure can be exceeded. There is no allegation that CDC’s overall spatial strategy will be unbalanced in this case.
- 4.58. The application of the approach adopted by Inspectors demonstrates that the appeal proposals comply with Policy Villages 2 and, Policy BSC1: District Wide Housing Distribution (albeit Policy BSC1 is now confirmed to be out of date in terms of specific housing numbers, as discussed above). Policy BSC1 directs the majority of housing to Banbury and Bicester first and then identifies a quantum of development that will be provided in the rest of the district. Para B.97 of the adopted Development Plan states that “*the Plan makes allowances for non-strategic urban and rural sites in sustainable locations*” and “*development at villages will be considered against Policy Villages 1: Village Categorisation, Policy Villages 2: Distributing Growth Across the Rural Areas and Policy Villages 3: Rural Exception Sites.*” I therefore consider that the development of the Appeal Site would therefore not undermine the spatial strategy of the adopted Development Plan.
- 4.59. The Annual Monitoring Report (AMR) (published December 2021 – covering period of 1 April 2020 – 31st March 2021⁷) sets out the Council’s latest position on dwellings with planning permissions given at Category A Villages and completions. Table 39 of the AMR confirms that 749 dwellings are either completed or under construction on sites with planning permission in Category A Villages. Between 1 April

⁷ Despite being published in December 2021, no updated AMR has been published for 2022.

2014 and 31 March 2021 there were a total of 503 net housing completions. 246 dwellings are under construction from the supply of permitted sites and are likely to be delivered in the short term (para. 5.156 of the AMR 2021).

4.60. Further updated information on this situation is provided in Paragraph 9.26 of the Officer's Committee Report (Core Document D.45), where it is confirmed that 703 dwellings have been completed at Category A Villages, with 101 under construction and 270 with planning permission on sites not yet started, at the time of the publication of the Committee Report (13th July 2023). This would total 1,074 dwellings approved at the Category A Villages.

4.61. The Inspector in the Ambrosden Appeal (Core Document M.6) sets out at Paragraph 25 the following:

“...However, I accept that there is force in the point advanced by the Appellant that the specific management criteria of Policy PV2 would seem to ensure that it is a self-regulating policy; if the point is reached where the number of dwellings granted in Category A villages is likely to undermine the Council's overall spatial strategy, a series of planning harms is likely to emerge. These might include the point where local infrastructure is unable to cope, land of higher environmental value is sought, or out-commuting and traffic congestion manifest themselves.” (my emphasis)

4.62. In this case, I do not consider that the Proposed Development would result in a material exceedance, undermining CDC's overall spatial strategy. Whilst the figures in Policy BSC 1 are considered to be out of date, I have assessed whether the additional housing delivery at the Category A Villages plus the Proposed Development (120 dwellings) would adversely affect the spatial housing distribution.

4.63. The following table confirms that the majority of the housing delivery would still be directed to Banbury and Bicester (74.9%):

Table 4: Local Plan Policy BSC 1 Housing Distribution Plus Additional Category A Development

<u>Sub Area</u>	<u>District Wide Housing Distribution as per Policy BSC 1</u>	<u>Total as a Percentage</u>	<u>Total including Additional Delivery⁸</u>	<u>Total as a Percentage</u>
Banbury	10,129	44.3%	10,129	43.5%
Bicester	7,319	32.0%	7,319	31.4%
Rest of District	5,392	23.6%	5,836	25.1%
TOTALS	22,840	100%	23,284	100%

4.64. Reason for Refusal 1 cites that the Appeal Site is outside of the built form of Ambrosden and within an area of open countryside, which resulted in CDC's view of conflict with Policy Villages 2. Paragraph's 9.22 – 9.37 of the Committee Report assess the Proposed Development against Policy Villages 2, which confirms that the Appeal Site is sufficiently related to Ambrosden to ensure that the remit of Policy Villages 2 applies.

4.65. Guidance on this matter is provided by the Inspector at Paragraph 17 of the Deddington Appeal Decision (Core Document M.3):

“...So long as development has at least some relationship with the village and its pattern of development, it would be permitted in principle subject to the criteria set out within the policy” (My emphasis)

4.66. On this basis, given the close relationship of the Appeal Site to Ambrosden, I consider that the Proposed Development has a relationship with Ambrosden which ensures that Policy Villages 2 is applicable. In applying the Inspector's rationale in the Deddington Appeal Decision, this ensures that residential development should be permitted in principle, subject to compliance with the 11no. criteria in Policy Villages 2. I therefore now assess each of these criteria in turn:

⁸ Including Appeal Site of 120 dwellings, plus 324 additional dwellings consented at Category A Villages (in line with Paragraph 9.26 of Committee Report, dated 13 July 2023) over and above original 750 included in Policy BSC 1.

Compliance with 11no. Criteria Listed in Policy Villages 2

Table 5: Assessment of the Proposed Development against Policy Villages 2 Criteria

<u>Policy Villages 2 Criteria</u>	<u>Appellant's Response</u>	<u>Compliance</u>
1. Whether the land has been previously developed or is of lesser environmental value	The Committee Report confirms at Paragraph 9.33 that whilst the land has not been previously developed, the Appeal Site "is not within a designated landscape and does not have any statutory or local environmental designations so could be said to be of lesser environmental value" (Core Document D.45).	Compliant – neutral.
2. Whether significant adverse impact on heritage or wildlife assets could be avoided	Both parties have draft common ground that there would be no conflict with Policy ESD15 from a heritage or archaeology perspective (Paragraphs 8.40-8.41, draft SoCG, Core Document D.45). Regarding ecology, it is draft common ground between the parties that this criteria is complied with (Paragraph 8.28, draft SoCG, Core Document D.45).	Compliant – no conflict.
3. Whether development would contribute in enhancing the built environment	The layout, appearance, scale and landscaping of the proposals are reserved matters and there is no reason for refusal on design grounds. The contribution the proposed development makes to the built environment is discussed further within the Landscape Proof of Evidence.	Compliant – no conflict.
4. Whether best and most versatile agricultural land could be avoided	There is draft common ground between the parties that the Agricultural Land Classification Report confirmed that 81% of the Appeal Site (totalling 7.7ha) is Grade 3b Agricultural Land, with the remaining 19% (totalling 1.8ha) comprising Grade 3a Agricultural Land, and that CDC did not raise any objections on such grounds (Paragraph 8.47 - 8.48, Core Document G.4). This is a matter further confirmed at Paragraph 9.33 of the Committee Report (Core Document D.45). It is important to	Compliant – no conflict.

<u>Policy Villages 2 Criteria</u>	<u>Appellant's Response</u>	<u>Compliance</u>
	note that not all of the Appeal Site would be developed in any extent.	
5. Whether significant adverse landscape impacts could be avoided	<p>This criterion seeks to avoid significant adverse landscape impacts. It does not seek to avoid all landscape impacts and therefore accepts that all greenfield development will have some adverse landscape and visual impacts. PV2 is therefore not prohibiting greenfield development at Category A villages but rather it sets out when it will be acceptable. For example, the Land at Merton Road Ambrosden Appeal Decision (Core Document M.6) recognised that there would be some limited landscape and visual impacts, and in the case of Berry Hill, Adderbury (Core Document M.2), moderate harm to character and appearance. This indicates that such impacts would not be sufficient to bring conflict with Policy Villages 2.</p> <p>The evidence of Mr Connelly explains at Paragraph 4.20 of his evidence that he does not consider the change of open land to built form to be harmful, as the Proposed Development would sit within a landscape which is physically and perceptually well-related to Ambrosden. Whilst there will be change, this change would be acceptable contextually, and not result in extensive wider landscape change which would make it otherwise unacceptable. This confirms that the Proposed Development avoids significant adverse landscape impacts.</p>	Compliant – no conflict.
6. Whether satisfactory vehicular and pedestrian access/egress could be provided	There is draft common ground that the Proposed Development would be served by a safe and suitable means of access, subject to suitably worded conditions (Paragraph 8.21, Core Document G.4).	Compliant – no conflict.

<u>Policy Villages 2 Criteria</u>	<u>Appellant's Response</u>	<u>Compliance</u>
7. Whether the site is well located to services and facilities	<p>The Planning Committee Report confirms at Paragraph 3.46 that Ambrosden is the fifth largest Category A Village, which benefits from a range of services and amenities; is 4.6km from Bicester; and benefits from bus services to Bicester and Oxford. This lead to Officers confirming at Paragraph 3.46 that the village contains a suitable level of services and facilities to meet day to day needs, and is one of the better served Category A Villages (Core Document D.45).</p> <p>This is also a matter confirmed by the Inspector at Paragraph 30 of the Ambrosden Appeal Decision (Core Document M.6).</p>	Compliant – no conflict.
8. Whether necessary infrastructure could be provided	<p>It is draft common ground that subject to the completion of a S106 agreement, compliance with Policy INF1 of the adopted Development Plan, the Planning Obligations SPD and the NPPF can be secured (Section 11, Core Document G.4). This confirms that necessary infrastructure can be provided.</p>	Compliant – no conflict.
9. Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period	<p>Not applicable.</p> <p>CDC are yet to progress a Local Plan Part 2. The Regulation 18 Cherwell Local Plan Review 2040 only sets out proposed larger allocations, and does not include sites at the villages.</p> <p>However, the Appeal Site has been submitted to CDC through the 'Call for Sites' process and is therefore in the mix for potential allocation under the emerging Local Plan in due course. The Proposed Development deliverable within five years, and is therefore a candidate for allocation.</p>	Not applicable.
10. Whether land the subject of an application for planning permission could be	<p>Bellway as the Appellant have an excellent track record of delivery in Cherwell District, including at Ambrosden. Given the scale of the Proposed</p>	Compliant – no conflict.

<u>Policy Villages 2 Criteria</u>	<u>Appellant's Response</u>	<u>Compliance</u>
delivered within the next five years	Development of 120 dwellings, the development could be delivered within 5 years.	
11. Whether the development would have an adverse impact on flood risk	It is draft common ground between the parties that this criterion is complied with (Paragraph 8.25, Core Document G.4).	Compliant – no conflict.

4.67. On this basis, I consider that Policy Villages 2 is complied with, when read as a whole. As such, no conflict arises.

Planning Harms

4.68. As demonstrated in Table 5 above, there are no planning harms emerging from the Proposed Development, when assessed against the 11no. criteria. This ensures full compliance with the detailed requirements under Policy Villages 2.

4.69. Criteria (5) of Policy Villages 2 explains that regard will be given to “whether significant adverse landscape and impacts could be avoided”. I do not consider the matter that there would be a loss of a greenfield site being necessarily sufficient to bring a “significant” impact, conflicting with Policy Villages 2. Paragraph 174(b) of the NPPF requires decisions to recognise the intrinsic character and beauty of the countryside, which evidently is in conflict with Criteria (5) of Policy Villages 2. Therefore, the general thrust is to ‘respect’ and not ‘protect’ the countryside. In any event, I consider that the Proposed Development would accord recognise the character and beauty of the countryside, complying with Paragraph 174.

4.70. It has also been evidenced that development on greenfield sites at Category A Villages under Policy Villages 2 is not sufficient to result in “significant” impacts resulting in conflict with Policy Villages 2. This has been evidenced through the following 9no. Appeal Decisions being allowed on greenfield sites:

- Land at Sibford Road, Hook Norton, APP/C3105/A/14/2226552, allowed 7th December 2015 (Core Document M.52)
- Land off Blackthorn Road, Launton, APP/C3105/W/17/3188671, allowed 18th September 2018 (Core Document M.8)
- Land at Merton Road, Ambrosden, APP/C3105/W/19/3228169, allowed 9th September 2019 (Core Document M.6)

- Land at Tappers Farm, Bodicote, APP/C3105/W/19/3222428, allowed 30th October 2019 (Core Document M.14)
- OS Parcel 4300 North of Shortlands and South of High Rock, Sibford Ferris, APP/C3105/W/19/3229631, allowed 23rd December 2019 (Core Document M.4)
- Land South of Clifton Road, Deddington Appeals A and B, APP/C3105/W/19/3242236 & APP/C3105/W/20/3247698, allowed 19th October 2020 (Core Document M.3)
- Land off Berry Hill Road, Adderbury, APP/C3105/W/20/3255419, allowed 10th September 2021 (Core Document M.2)
- Land North of Hook Norton, APP/C3105/W/21/3278536, allowed 18th August 2022 (Core Document M.53)
- Land North West of Station Road, Launton, APP/C3105/W/22/3301485, allowed 3rd November 2022.

Five Year Housing Land Supply Position

4.71. I have dealt with matters relating to five year housing land supply under Issue 3. Whilst the Appellant does not accept CDC's five year housing land supply position (citing a position of 2.85 years), in the event that an Inspector was to find that CDC do have a five year supply, I consider that compliance with Policy Villages 2 can be demonstrated in any eventuality.

4.72. Since 2018, there have been 5no. Appeals allowed in Category A Villages where there has been either a claimed sufficient 5YHLS, or the protections afforded by the Written Ministerial Statement (3 year supply) (with a lack of five year supply from 2019-2023):

- Land off Blackthorn Road, Launton, APP/C3105/W/17/3188671, allowed 18th September 2018 (Core Document M.8)
- Land at Merton Road, Ambrosden, APP/C3105/W/19/3228169, allowed 9th September 2019 (Core Document M.6)
- Land at Tappers Farm, Bodicote, APP/C3105/W/19/3222428, allowed 30th October 2019 (Core Document M.14)
- OS Parcel 4300 North of Shortlands and South of High Rock, Sibford Ferris, APP/C3105/W/19/3229631, allowed 23rd December 2019 (Core Document M.4)
- Land South of Clifton Road, Deddington Appeals A and B, APP/C3105/W/19/3242236 & APP/C3105/W/20/3247698, allowed 19th October 2020 (Core Document M.3)

4.73. This confirms that in any eventuality (i.e., whether a five year supply can be demonstrated or not), Policy Villages 2 does not seek to restrict, in principle, development near to sustainable villages subject to compliance with 11no. criteria. I have confirmed compliance with such criteria in Table 5 above.

Saved Policy H18: Replacement Dwellings in the Countryside

4.74. 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.

4.75. 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.

4.76. 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.

4.77. 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 M.54). 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)

- 4.78. 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.
- 4.79. Further to this, Policy H18 is confirmed to be ‘out of date’ in the Regulation 10A Review of Local Plan Policies (Core Document I.13). The commentary in the Regulation 10A Statement (Core Document I.13) 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.
- 4.80. 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.
- 4.81. I also consider that there is inconsistency between Policy H18 and the Cherwell Local Plan Part 1. Policy Villages 2 envisages that development adjacent to villages can be acceptable, subject to compliance with 11no. criteria. Whereas, Policy H8 is a policy which restricts all such development. Policy ESD 15 also seeks to ‘recognise’ the intrinsic character and appearance of the countryside, and not simply to protect it for its own sake. Accordingly, these policies are permissive of development of greenfield sites outside of Settlement Boundaries, subject to compliance with their criteria. This is a matter confirmed by the number of allowed appeals at Category A Villages under Policy Villages 2, as I set out in Paragraph 4.70 above.
- 4.82. 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 Policy Villages 2, given that the Cherwell Part 1 Local Plan was adopted in July 2015.

- 4.83. This is also a matter which the Secretary of State's decision dealt with at Paragraph 14 of the decision for Land at Sibford Road, Hook Norton (Core Document M.52), stating the following:

“14. The Secretary of State has considered the degree of conflict with the relevant remaining saved policies of the CDLP, as identified at paragraph 9 above. CDLP Policy H18 on new dwellings in the countryside states that planning permission will not be granted for residential development beyond the built-up limits of settlements, other than in specified exceptions which are not relevant here (IR52). CDLP Policy C8 seeks to prevent sporadic development in the countryside and its supporting text states that it will apply to all new development proposals beyond the built-up limits of settlements. However saved policies H18 and C8 predate and must be read alongside the recently adopted Policy Villages 2 which, subject to criteria referred to in paragraph 13 above, does allow some residential development beyond the built-up limits of Category A settlements including Hook Norton. As the Secretary of State has concluded in paragraph 13 above that the appeal proposal broadly accords with Policy Villages 2, he considers that in the circumstances of this appeal there is conflict between that policy and saved policies H18 and C8. The Guidance states that if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted (Ref 21b-013-20150327). Consequently the Secretary of State places no weight on the conflict between the appeal proposal and saved Policies H18 and C8. For the reasons at paragraph 18 below he finds no conflict with CDLP Policy Env1.” (My emphasis)

- 4.84. I therefore consider that as the Proposed Development complies with Policy Villages 2, the conflict between Policy Villages 2 and Policy H18 must be resolved in favour of Policy Villages 2. I consider that no weight can be applied to this conflict, in line with the Secretary of State's decision above.

4.85. I have also reviewed other relevant Appeal Decisions where Policy H18 has been cited as a Reason for Refusal. In the case of the allowed appeal for Land off Berry Hill Road, Adderbury (Core Document M.2), the Inspector explained at Paragraph 19 the following:

“19. Since their decision, the Council has changed their position in relation to RFR16, to the point where a) it has no in-principle objections to the appeal proposals with regard to saved Policy H18 of the CLP, Policies BSC1 or PV2 of the LP, save for the consideration of landscape matters, b) it considers the appeal site to be locationally sustainable and c) it considers that the proposal would comply with policies ESD1 and SLE4 of the LP. I accept that the proposal would not impede the delivery of the numerical vision for housing in Policies BSC1 and PV2 of the LP. However, community concern remains about the suitability of the location. I am not persuaded that the exceptions in Policy H18 of the CLP are met. Furthermore, the Council’s change in position does not alter the above specifics in this case, and my consequent findings in respect of the identified conflict with aspects of Policies ESD1, PV2 and SLE4 of the LP.” (My emphasis)

4.86. Furthermore, in the decisions for North of Shortlands and South of High Rock (Core Document M.4), the Inspector found no conflict with Policy H18, due to the status of the village under Policy Villages 2.

4.87. In the case of the recent Finmere Appeal (Core Document M.55), the Inspector dealt with Policy H18 stating at Paragraph’s 14 and 18:

“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.

...

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)

4.88. This confirms the position that, subject to according with other relevant policies such as Policy Villages 2, it is possible to result in collectively supporting sustainable patterns of development. I consider this to the case in terms of the Proposed Development, according with the adopted Development Plan when read as a whole.

4.89. Furthermore, through reviewing a number of Category A Village Appeal Decisions, I do not consider that CDC typically rely on Policy H18 in defending such appeals. This is particularly evidenced by the Land at Merton Road, Ambrosden Appeal (Core Document M.6), where Policy H18 was not referenced as a Reason for Refusal.

4.90. In summary, I find that there is conflict between Policy H18 and Policy Villages 2, and the conflict should be resolved in favour of Policy Villages 2, which was adopted most recently. There is also conflict between Policy H18 and Paragraph 174 of the NPPF. I consider that no weight can be afforded to either conflicts. As explained in Section 6 below, I consider that the Proposed Development complies with the adopted Development Plan, when read as a whole.

Policy PSD 1: Presumption in Favour of Sustainable Development

4.91. 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.

4.92. 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.

4.93. 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 Pyrcroft 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).

4.94. 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 Policies BSC1, Policy Villages 2 and saved 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.

The Planning Benefits, Harms and Planning Balance

4.95. I assess the overall planning benefits, harms and the planning balance under Section 6.

Issue 4 Summary:

4.96. In summary, I have confirmed under Issue 4:

- Policy BSC 1. Whilst the housing need figures under Policy BSC 1 are out of date, the Proposed Development would locate development in Ambrosden, a Category A village, which aligns with the broad thrust of the spatial strategy of locating development in the more sustainable settlements. I consider the Proposed Development to be in broad accordance with Policy BSC 1.

- Policy Villages 2. I have confirmed that the 750 figure is not a ceiling or a cap. Previous Inspectors have demonstrated the sustainability of Ambrosden for growth, and the Proposed Development would represent sustainable development, not unbalancing the spatial strategy with the majority of growth still being directed to Banbury and Bicester (74.9%). The 11no. criteria of Policy Villages 2 are complied with, and there are no harms emerging – and I have demonstrated that a significant amount of greenfield sites have come forward under the policy. In the eventuality that a five year supply can be demonstrated, I consider that the principle of development would still be acceptable under Policy Villages 2.

- Policy H18. I have demonstrated that Policy H18 is in conflict with Policy Villages 2, and that the conflict should be resolved in favour of Policy Villages 2. I also identified how Policy H18 is not consistent with Paragraph 174 of the NPPF. I consider that no weight can be afforded to the conflict.

- Policy PSD 1. The proposed development would comply with the adopted Development Plan when read as a whole, but there are grounds to engage the tilted balance in any event, due to the Appellant's cited housing land supply position (2.85 years), but even due to CDC's claimed 0.2 year supply for Oxford's unmet needs. This results in key policies for the provision of housing, such as Policies BSC 1, Villages 2 and H18 being out of date.

5. Third Party Representations

5.1. A total of 21no. third party representations (including Ambrosden Parish Council) have been received in response to the appeal.

5.2. I set out below the general themes raised by the third parties, and my response to each theme.

Appeal Site is not 'allocated' for development

5.3. I agree that the Appeal Site is not allocated for development. There has not been a development plan progressed by CDC nor neighbourhood plan progressed by a neighbourhood plan body capable of allocating such sites since adoption of the local plan in 2015. As explained at Paragraph 5.35 of my evidence, the Deddington Appeal Decision confirms that through having a relationship to a Category A Village, development is permitted in principle, subject to compliance with the requirements of Policy Villages 2. I have demonstrated compliance with such criteria in Table 3 of my evidence.

5.4. If the mere fact that land is not allocated for development at Category A Villages were to be a reason for refusal of planning permission, then this would be contrary to Policy PV2 and it would mean that the housing land supply in Cherwell District would be even lower. The NPPF contains planning policy which is intended to deal with this situation being the presumption in favour of sustainable development.

Developments in Ambrosden have exceeded 750 dwellings under Policy Villages 2

5.5. It is draft common ground between the parties that the 750 dwelling figure is not a ceiling or a cap (Paragraph 8.11 of the draft SoCG, Core Document G.4). I have also set out the approach to Policy Villages 2 at Issue 4 of my evidence.

5.6. Policy PV2 does not assign growth to the Category A Villages and therefore there is no settlement specific element to the policy.

Unnecessarily large

5.7. Paragraph 124 of the NPPF is clear that planning decisions should make the best use of land. I consider that up to 120 dwellings on the Appeal Site would make effective use of land. Officers were also content that up to 120 dwellings could be accommodate on the Appeal Site, as confirmed at Paragraph 9.55 of the Committee Report (Core Document D.45).

The Proposed Development will prejudice the overarching housing strategy

- 5.8. Table 2 of my evidence confirms that the development of up to 120 dwellings at a Category A Village will not prejudice the overarching housing strategy, in delivering the majority of growth at Banbury and Bicester (totalling 74.9% of growth).

The Local Plan is up to date and CDC have a 5YHLS

- 5.9. It is my position that the Proposed Development is in accordance with the adopted Development Plan. I have however outlined at Paragraph's 4.38 and 4.79 above that CDC consider Policies BSC1 and H18 to be partially out of date, in any event.
- 5.10. Notwithstanding this, it has been explained under Issue 3 that CDC cannot demonstrate a five year housing land supply. As explained under Section 6 of my evidence, in such circumstances, the tilted balance should apply – in the event that the Inspector finds conflict with the adopted Development Plan.

Contrary to National Policy and Government's brownfield approach

- 5.11. Paragraph 11 of the NPPF is clear that development which accords with the adopted Development Plan should be approved without delay. I have demonstrated that the Proposed Development complies with Policy Villages 2, and other relevant policies.
- 5.12. Through compliance with the adopted Development Plan, and relevant sections of national policy, I consider that the Proposed Development accords with national policy overall.

No demand for new dwellings in Ambrosden

- 5.13. The evidence of Mr Pycroft confirms that CDC cannot demonstrate five years' worth of housing land supply. There is a significant number of people on the affordable housing register in CDC, as demonstrated by the Statement prepared by Mr Roberts on affordable housing matters which confirms at Paragraph's 6.20 and 6.21 of my evidence that there are significant cumulative shortfalls in affordable housing provision. This confirms that there is need for new dwellings.

The Proposed Development would result in adverse landscape and visual effects, affecting the setting, approach and identity of the villages

- 5.14. I have dealt with such matters under Issue 1, where the evidence of Mr Connelly confirms that the Proposed Development would not result in material harm to the landscape, including not harming the setting, approach and identity of Ambrosden.

Concerns over road capacity, safety concerns and Ploughley Road being a 'Hot Spot'

- 5.15. Such matters did not form a RfR. Both parties are in draft agreement that the Proposed Development would be served by safe and suitable means of access, subject to suitably worded conditions, and that through promoting sustainable modes of travel and subject to securing mitigation, it is agreed that the proposals would not have an unacceptable cumulative impact on the wider local highway network (Paragraph 8.21, draft SoCG, Core Document G.4).

- 5.16. It is also draft common ground at Paragraph 8.20 that the proposed traffic calming feature, and associated speed limit reduction is considered acceptable by Oxfordshire County Council Highways, subject to the provision of Road Safety Audits, which can be addressed during the S278 works. It has been further agreed by Oxfordshire County Council and the parties, that as part of this traffic calming features, a safe pedestrian crossing point could be incorporated to provide a route across Ploughley Road to the northbound bus stop (draft SoCG, Core Document G.4).

- 5.17. Concerns are raised that there is a lack of safe pedestrian access to Bicester. This did not form part of a RfR. An appropriate package of highway improvements relevant to the Proposed Development have been agreed with Oxfordshire County Council Highways.

Insufficient Bus Services

- 5.18. A Public Transport Contribution of £135,960 has been agreed for the provision of bus services in Ambrosden, for the purposes of maintaining and/or improving bus routes that serve the village. As explained at Paragraph 9.34 of the Committee Report (Core Document D.45), Ambrosden has two bus services through the village which connect to Bicester and Oxford, including the more frequent S5 which provides hourly services through the week and Saturday's.

Village Lacks Services and Amenities

- 5.19. As outlined in Paragraph 9.25 of Committee Report (Core Document D.45), Ambrosden is the fifth largest Category A Village, and is one of the better served settlements, having a number of services and facilities

and a close geographical relationship to Bicester which accommodates a larger range of services, facilities and job opportunities. The emerging Local Plan Review 2040 (Core Document J.22) explains that Bicester supports a range of employment sectors including service industries, distribution, defence, motorsports and manufacturing, and has the second largest amount of employment floorspace in Cherwell after Banbury (Paragraph 5.10). It is further explained at Paragraph 5.11 that Bicester is identified in the Oxfordshire Local Industrial Strategy (2019) as a Living Labs Testbed to help develop technologies for climate change; and at Paragraph 5.12 that the Oxfordshire LEP Investment Plan (2020) identifies potential to draw upon attractions such as Bicester Village and Bicester Motion.

5.20. This was further reiterated in Merton Road, Ambrosden Appeal Decision (Core Document M.6). A key vision in the emerging Local Plan Review 2040 is for the villages to be places where communities thrive, as well as benefitting from being well connected to major towns, employments and services.

5.21. Through developing new housing in Ambrosden, additional patronage would be provided for the services and amenities, helping to ensure the vitality and longevity of such services and amenities for future generations.

Concerns of where residents will work and shop

5.22. The Committee Report accepts at Paragraph 9.25 that Ambrosden has a close relationship with Bicester which accommodates a range of services, facilities and job opportunities (Core Document D.45). Further to this, Ambrosden is also around 19 miles from Oxford, where a further array of employment opportunities are available, and is connectable via bus. As such, future residents of the Appeal Site could be from Oxford, particularly in the context of Oxford's unmet housing needs.

Local Infrastructure at Capacity – Schools, Doctors, Water and Sewage

5.23. A range of concerns are raised that the local infrastructure is at capacity and cannot cope. In terms of specific elements of local infrastructure:

- **Waste Water** - Thames Water had no objection to the Proposed Development, subject to conditions, from a water and sewage perspective.
- **Education** – Oxfordshire County Council had no objection subject to financial contributions towards second (including land contribution) and special education need school provision in Ambrosden and the surrounding area.

- **Waste Management** – Oxfordshire County Council had no objection subject to a contribution towards expansion and efficiency improvements of Household Waste and Recycling Centre capacity.
- **Oxfordshire Clinical Commissioning Group** – requested contributions of £360 per person generated, for improvements to the primary care infrastructure services, with the funding being invested into other capital projects which directly benefit this PCN location.

5.24. It is also draft common ground between the parties that subject to the completion of a Section 106 agreement providing contributions to community hall facilities; outdoor and indoor sport provision; public realm/art; Community Development Worker and Fund; open space maintenance and provision of Local Equipped Area of Play; waste; affordable housing; public transport bus services; Travel Plan monitoring; public rights of way; highway works; secondary education; special education; Oxfordshire Clinical Commissioning Group, that compliance would be demonstrated with Policy INF1 of the adopted Development Plan, Cherwell District Council’s Planning Obligations SPD 2018 and the NPPF (Section 11 of draft SoCG, Core Document G.4).

Flood risk concerns

5.25. Flood risk did not form part of the RfR. It is draft common ground that the Appeal Site is within Flood Zone 1, and that whilst there is the presence of surface water flood risk on parts of the site, this can be addressed and mitigated as part of the detailed drainage design (Paragraphs 8.22 – 8.23, draft SoCG, Core Document G.4). There is draft common ground that the proposals are in accordance with the requirements of policies for not adversely affecting flood risk either locally or elsewhere (Paragraph 8.25, draft SoCG, Core Document G.4).

Impact on ecology (including Great Crested Newts)

5.26. In terms of ecological impacts, such concerns did not form a RfR. Instead, it is draft common ground between the parties that subject to the imposition of the above conditions, both parties are in agreement that the existing habitat of value can be conserved and enhanced. Further to this, the development would also deliver new habitats to achieve a net gain, for biodiversity generally and protected/priority species (Paragraph 8.28, draft SoCG, Core Document G.4).

5.27. With regards to Great Crested Newts, it is also agreed that a Great Crested Newt License can be secured either through CDC's scheme or applying to Natural England (Paragraph 8.27, draft SoCG, Core Document G.4).

5.28. It is also draft common ground that the Proposed Development would deliver a minimum of 10% biodiversity net gain (Paragraph 8.27, draft SoCG, Core Document G.4). However, an updated Biodiversity Net Gain assessment and a framework Landscape Environmental Management Plan (LEMP) is appended to this Proof of Evidence, confirming a revised net gain exceeding 10%.

Pollution and amenity concerns

5.29. It is draft common ground between the parties that the Proposed Development could be made acceptable in amenity terms (Paragraph 8.32) and that it is acceptable from a noise, contamination and air quality perspective (Paragraph's 8.34 – 8.36, draft SoCG, Core Document G.4).

Impacts during construction (noise and mud)

5.30. It is draft common ground that the Environmental Protection Officer had no objection to the Proposed Development, subject to imposition of a condition requiring the provision of Construction Environmental Management Plan (Paragraph 8.34, draft SoCG, Core Document G.4).

Police in opposition to application

5.31. Thames Valley Police's Consultation Response (Core Document F.13B) dated 31st October confirm that the police did not object to the application. A number of detailed design points are raised which will be determined through future Reserved Matters applications.

Concerns over sloping nature of the Appeal Site

5.32. Topography concerns did not form part of the RfR. A series of Parameter Plans were submitted, demonstrating how development could come forward on the Appeal Site. Further information on the detailed design will be provided as part of future Reserved Matters applications.

Dwellings do not address that people are living longer

5.33. As confirmed in the Planning Statement (Core Document A.18) and Paragraph 9.83 of the Committee Report (Core Document D.45), a level of bungalow provision is proposed. The precise mix of housing will be determined in future Reserved Matters application

Concerns around number of parks

5.34. Concerns are raised about the number of new parks being provided across Ambrosden. A Locally Equipped Play Space is proposed, for which the Committee Report confirms would be in accordance with Policy BSC 11 (Paragraph 9.54, draft SoCG, Core Document G.4).

Red Line is Incorrect and Concerns of Trespassing

5.35. The Red Line accurately relates to the Appellant's landownership, and contrary to any claims, does not include any third party land ownerships. This has been confirmed through the Appellant's legal team and records.

5.36. Concerns are raised that the connection to West Hawthorn Road would require crossing third party land. Layout and landscaping are reserved matters and the potential pedestrian link was only indicatively shown during the planning application. This link has now been omitted from the framework plan and the parameter plan on access. This therefore address concerns around the link, loss of hedge, and increased footfall from the link.

Agricultural holdings

5.37. The Appeal Site is not subject to any agricultural holdings or tenancies. The Appeal Form is therefore accurate.

Points raised which are not planning considerations or relevant to the determination of this appeal:

- Should use the Appeal Site for a solar development.
- The Proposed Development would affect neighbouring safety and security.
- Antisocial behaviour is increasing in Ambrosden and no plan is addressing this.
- Builders do not fulfil their promises.
- Concerns that future residents will be unhappy on the Appeal Site.
- Lots of recent disruption to Ambrosden due to road works.
- No joined up thinking to development in Ambrosden.

5.38. In conclusion, it is considered that third party representations raise matters which are capable of being addressed through planning conditions and planning obligations. The matters have been addressed above and do not add any new evidence to CDC's reasons for refusal which I have addressed.

6. The Planning Balance

6.1. 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

6.2. 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.

6.3. 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 ESD13, ESD15, BSC1, PSD1, Policy Villages 2, and Policy INF1 of the Cherwell Local Plan. In terms of Policy H18, I have explained above how there is conflict with Policy Villages 2 and ESD 13, but the conflict is resolved in favour of the latter policies, Policy Villages 2 and ESD 13, which ensures compliance with the adopted Development Plan as a whole.

6.4. If the Inspector considers that there is conflict with the adopted Development Plan which results in the Proposed Development not complying with the plan when read as a whole, 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 PSD1. 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.

6.5. 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.. None of the circumstances under Footnote 7 apply to the Proposed Development. As such, there is no reason to 'disengage' the tilted balance in this case.

6.6. Footnote 8 of the NPPF 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 3 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 2.85 years. Notwithstanding this, I also consider the tilted balance to be engaged in the following circumstances:

- If the Inspector agrees with Mr Pycroft's evidence on sites, and CDC is found to be correct on the methodology, the tilted balance would be engaged.
- If CDC is found to be correct on methodology and sites, then it remains the case that CDC cannot demonstrate a five year supply for Oxford. This approach is inconsistent with the current Framework, how the Housing Delivery Test is calculated and how 5YHLS is calculated in the other authorities which are required to meet some of 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 is unable to demonstrate a 5YHLS.

6.7. 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 Policies BSC1, Policy Villages 2, Policy H18, which are therefore out of date.

6.8. Based on a 2.85 year housing land supply, there would be a serious shortfall of 2,683 dwellings. this is a serious and significant shortfall, which jeopardises CDC's ability to meet its own housing needs, Oxford's unmet needs, and wider affordable housing needs.

6.9. The adopted Development Plan is at an early stage (the Partial Review, being adopted in September 2020), and therefore it is imperative to address such significant shortfalls now. I consider it important to therefore direct growth to Ambrosden as one of the main and most sustainable Category A Villages (as demonstrated in the Ambrosden Appeal at Core Document M.6); a development that complies with the adopted Development Plan as a whole.

6.10. It is apparent that there has been a persistent shortfall in housing supply for a significant period of time, under the requirement to demonstrate a five year supply. Even taking CDC's cited supply of 5.4 years

(despite the Appellant's conflict) only results in a surplus of 349 dwellings. This does not demonstrate a healthy housing land supply; instead this is a limited supply at best.

- 6.11. Even if the Local Housing Need for CDC is used for the purposes of determining whether the tilted balance applies, the undisputed position is evidently that there is an acute undersupply for Oxford's unmet needs. The delivery of 120 dwellings on the Appeal Site is a substantial benefit, particularly in the context of Ambrosden being around 16km from Oxford (as the crow flies), and benefitting from regular hourly bus services on weekdays and Saturdays. The Appeal Site is well placed to accommodate some of Oxford's unmet housing needs, and meeting the housing shortfall.
- 6.12. 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

- 6.13. 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
- 6.14. Such weight may be 'positive' as a benefit, or 'adverse' as a harm, or a 'neutral' effect.

Adverse Impacts

- 6.15. I acknowledge that the loss of a greenfield site is in itself an inevitable adverse impact, one which I afford **limited weight**. This is due to no additional adverse impacts through any site specific designations (of which there are not any), or the loss of Best and Most Versatile Agricultural Land. I have also demonstrated above that under Policy Villages 2, greenfield sites have been allowed at appeal, where it has not been found that any harm through the loss of countryside itself would provide sufficient conflict to refuse such development under Policy Villages 2.

- 6.16. Mr Connelly confirms at Paragraph 4.4 of the Landscape Proof of Evidence that some harm to the openness and rural character is unavoidable wherever a settlement extends onto open (agricultural) land. With respect to the impacts on visual openness and landscape harm, Mr Connelly does consider that any specific views valued highly by the general public or essential to the appreciation of the area (in terms of openness or otherwise), would be unduly harmed by the appeal proposals. Whilst the development would evidently impact openness at the site level, when the proposals are viewed in the context of the wider landscape, including viewing experiences from Ploughley Road, there remains an open character to the north of Ambrosden, with built development (including the appeal proposals) appearing spatially appropriate in scale and form given current development patterns and the existing character of the settlement.
- 6.17. Furthermore, Mr Connelly explains at Paragraph 4.5 that given that such harm is unavoidable and accrues wherever new development replaces open fields, it is imperative to understand the extent of any wider landscape effects. The evidence of Mr Connelly confirms that the appeal site does not affect the landscape setting of Ambrosden, or the ability to understand and appreciate the form and fabric of the wider settlement. The settlement itself is part of the landscape, and development of the appeal site is a quite logical extension of the landscape in this context.

The Benefits

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

Table 6: 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%). The Affordable Housing Statement confirms a cumulative shortfall of -1,045 affordable dwellings over the eleven-year period between 2011/12 and 2021/22.	Substantial Weight

Against the affordable housing need of 853 net affordable dwellings per annum between 2020/21 and 2039/40 set out in the 2022 HENA, a cumulative shortfall of -1,254 affordable dwellings has already arisen in the first two years 2020/21 and 2021/22.	
Improvements in housing mix and choice , to meet the needs of local people. This will be demonstrated through future Reserved Matters applications, and could include an element of bungalow housing provision, helping to diversify housing stock in the locality.	Moderate Weight
Development in a sustainable location of a Category A Village, in close proximity to the amenities on offer in the Village, and to Bicester. The Inspector for the Merton Road, Ambrosden Appeal demonstrated the sustainability of Ambrosden, due to a number of services and amenities, and bus services to Bicester and Boxford (with the S5 providing hourly services through the week and on Saturday's).	Moderate Weight
Economic Benefits	
Construction spending. In accordance with Paragraph 81 of the NPPF, to be afforded moderate weight .	Moderate Weight
Creation of direct employment opportunities through construction, alongside the creation of indirect employment opportunities .	Moderate Weight
Investment in the local area – a GVA of £44,071, per person.	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 292 new residents would occupy the site, and a 156 economically active .	Moderate Weight
Local Spending Increase – including spending annually following completion of the development.	Moderate Weight
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 over 10% .	Moderate Weight

Social Benefits

- 6.19. 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 120no. dwellings** in an area with an identified need for additional housing should be afforded **substantial weight**,
- 6.20. Paragraph A.19 confirms that housing is identified as a big concern in Cherwell District, 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**. The Ambrosden Village Survey (Core Document N.2) specifically mentions that 10% of responses noted the need for affordable housing or bungalows. As such, the Proposed Development will deliver 35% affordable housing (up to 42 dwellings). **Substantial weight** should be afforded to this benefit.
- 6.21. The Affordable Housing Appeal Statement (Appendix 6) confirms that against the affordable housing need of 407 net affordable dwellings per annum between 2013/14 and 2030/31 set out in the 2014 SHMA, a cumulative shortfall of -1,045 affordable dwellings has already arisen over the eleven-year period between 2011/12 and 2021/22, equivalent to an average annual shortfall of -116 affordable dwellings and with just 71% of needs being met.
- 6.22. Against the affordable housing need of 853 net affordable dwellings per annum between 2020/21 and 2039/40 set out in the 2022 HENA, a cumulative shortfall of -1,254 affordable dwellings has already arisen in the first two years 2020/21 and 2021/22, equivalent to an average annual shortfall of -627 affordable dwellings and with just 26% of needs being met.
- 6.23. 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 will be demonstrated through future Reserved Matters applications, and could include an element of bungalow housing provision, helping to diversify housing stock in the locality This should be afforded **moderate weight**
- 6.24. The appeal proposals will relate in the development of 120no. additional homes in a **sustainable location**. The Inspector for the Merton Road, Ambrosden Appeal (Core Document M.6) confirmed that Ambrosden

is by population the fifth largest Category A Village, benefitting from a from a range of services including pre-school nurseries, primary school, food shop, post office / general store, village hall, two churches, hairdresser's, public house, recreational facilities and a limited opening doctor's surgery. Ambrosden is also some 4.6km from Bicester, has two bus services through the village which connect to Bicester and Oxford, the more frequent S5 providing an hourly service through the week and on Saturdays. An off-road cycle path links the village with Bicester. This should be afforded **moderate weight**.

Economic Benefits

- 6.25. **Spending during construction**, which in accordance with Paragraph 81 of the NPPF, to be afforded **moderate weight**.
- 6.26. Creation of **direct employment opportunities** of Full Time Equivalent jobs for the estimated five year build out and creation of **indirect employment opportunities**. **Moderate weight** is afforded to this benefit.
- 6.27. **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. It is considered that **Moderate weight** should be afforded to this benefit.
- 6.28. **Economically active residents** – based on the average household size of 2.43 in line with the 2018 population projections, it is anticipated that 292 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 179 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 156 could be expected to be economically active and in employment. **Moderate weight** should be afforded to this benefit.
- 6.29. I consider that **moderate weight** should be afforded to the **Local Spending Increase**.
- 6.30. **Section 106 Contributions** – As highlighted in this Proof, the development will be dependent on payment of financial contributions to local facilities such as schools, parks and sports pitches. **Limited weight** should be afforded to this benefit.

Environmental Benefits

- 6.31. Provision of green infrastructure, including a **Biodiversity Net Gain of over 10%**. Due to exceeding the required 10% biodiversity net gain requirement due to come into force in January 2024, it is considered that **moderate weight** should be afforded to this environmental benefit.

Overall Planning Balance

- 6.32. It is my primary position that the Proposed Development is in accordance with the adopted Development Plan, when read as a whole.
- 6.33. 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 adverse impacts of the Proposed Development would be significantly and demonstrably outweighed by the benefits, 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 and Paragraph 11(d) of the NPPF.

7. Summary and Conclusions

- 7.1. I have prepared this Planning Proof of Evidence on behalf of my clients, Archstone Ambrosden Ltd, Bellway Homes Ltd and Rosemary May who are 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.
- 7.2. This Proof of Evidence is in support of a Section 78 appeal following the refusal of outline planning permission by CDC for up to 120 dwellings, vehicular and pedestrian access of Ploughley Road, new pedestrian access to West Hawthorn Road, surface water drainage, foul water drainage, landscaping, public open space, biodiversity and associated infrastructure (with all matters except access reserved for future determination).
- 7.3. 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. In summary, I consider that all policies cited as being in conflict can be complied with, resulting in compliance with the adopted Development Plan when read as a whole:

Table 7: 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
BSC1	District Wide Housing Distribution	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 2	Distributing Growth Across the Rural Areas	Yes – no conflict
Cherwell Local Plan 1996 Saved Policies		
Policy H18	New Dwellings in the Countryside	Conflict resolved in favour of Policy Villages 2 and ESD 13
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

- 7.4. 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'. This would result in relevant policies BSC1, Policy Villages 2 and saved Policy H18 being out of date.
- 7.5. 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 harms in this case, as set out in Section 6 of this Proof.
- 7.6. On the basis of the foregoing, the Inspector is respectfully requested to allow this appeal and grant outline planning permission.

8. Conditions

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

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Director

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