*[Draft]* Statement of Common Ground

**Land East of Ploughley Road, Ambrosden**

“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”

**Appellant:** Archstone Ambrosden Ltd, Bellway Homes Ltd and Rosemary May

**Local Planning Authority:** Cherwell District Council

**Cherwell District Council Reference:** 22/02866/OUT

**Planning Inspectorate Reference:** TBC

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1. Introduction
   1. This Statement of Common Ground (SoCG) has been prepared on behalf of Archstone Ambrosden Ltd, Bellway Homes Ltd and Rosemary May (hereinafter ‘the Appellant’) in relation to a planning appeal that has been lodged for development proposals at Land East of Ploughley Road, Ambrosden (“the Appeal Site”).
   2. This Statement is submitted in draft. It is a written statement containing factual information about the proposal which the Appellant reasonably considers will not be disputed by Cherwell District Council (‘CDC’).
   3. This Statement sets out all matters which the Appellant considers to be agreed and not agreed between the Appellant and CDC.
   4. The Appellant’s intention is to submit an update to this SoCG as the Appellant is able to reach further agreement with CDC during the appeal process.
   5. The outline planning application was originally submitted on 20th September 2022. The Description of Development was as follows:

*“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.”*

* 1. The application was reported to Planning Committee on the 13th July 2023, with an Officer recommendation of refusal. The application was refused at Planning Committee and the Decision Notice was issued on the 14th July 2023.
  2. The Decision Notice outlined two Reasons for Refusal (RfR). These are set out in Section 4 of this Statement.
  3. This statement follows the Procedural Guide: Planning Appeals – England updated June 2023 and the appellant draft statement of common ground proforma
  4. A final list of Core Documents will be agreed before the exchange of Proofs of Evidence.

1. The Appeal Site and Surrounding Area
   1. The Appeal Site is identified by the Location Plan which was submitted as part of the outline planning application (drawing reference: PL-02). In total, the Appeal Site extends to 9.46ha of agricultural land located to the north of Ambrosden.
   2. The Appeal Site is bounded by Ploughley Road to the southwest, which is the road the Appeal Site would be accessed from. Ploughley Road runs through the centre of Ambrosden linking to the A41 in the North and Arncott in the south. The site is surrounded by established field boundaries to north, west and south, with additional hedgerows and sporadic trees forming the internal field boundaries. The site is bounded by residential development to the east and southeast.
   3. The land slopes gently from the eastern boundary at circa. 77-78m AOD to the western boundary at circa 65m AOD.
   4. The site is located on the northern edge of Ambrosden village. Ambrosden is identified as a Category A ‘Service Centre’ village within the Cherwell Local Plan 2031 Part 1. The site is located approximately 3.2km from the centre of Bicester as the crow flies. Bicester is one of two main towns in CDC and contains a wide range of shops, services, employment and transport opportunities.

**Constraints and Designations**

*Flood Risk*

* 1. The Appeal Site, in its entirety, is situated within Flood Zone 1, and is therefore at lowest risk of fluvial flooding.
  2. The majority of the Appeal Site is at very low risk of surface water flooding, and there are small patches of land that are medium and high risk of surface water flooding.

*Heritage Designations*

* 1. The Appeal Site does not fall within any Conservation Areas, nor does it contain any designated heritage assets.

*Ecology and Landscape*

* 1. The Appeal Site is not subject to any ecological or landscape designations.

*Agricultural Land Classification*

* 1. The Appeal site is recorded as mostly Subgrade 3b (81% of the total appeal site area) although there is a small band of Subgrade 3a (19% of the total appeal site area) across the lower field, which is not capable of practical exploitation.

*Public Rights of Way*

* 1. A Public Bridleway, reference: 105/6/20 is located on the Eastern boundary of the Appeal Site running from the A41/B4011 Junction at Blackthorne Farm to Ploughley Road opposite the Bicester Garrison Gym.

**Summary**

* 1. The Appeal site is not covered by any landscape designations or other significant constraints.

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

| **Ref.** | | **Document Title** | | **Prepared By** | | **Document Ref.** | **Date** |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  | | | | | | | |
| **Plans and Documents Submitted as Part of the Application** | | | | | | | |
| SD01 | | Application Forms | | Savills Planning | |  | September 2022 |
| SD02 | | Covering Letter | | Savills Planning | |  | September 2022 |
| SD03 | | Framework Masterplan | | Barton Willmore now Stantec | | FP-01 | June 2022 |
| SD04 | | Aerial Red Line Plan | | Barton Willmore now Stantec | | PL-02 | July 2022 |
| SD05 | | Parameter Plan – Land Use | | Barton Willmore now Stantec | | 9600 | August 2022 |
| SD06 | | Parameter Plan - Scale | | Barton Willmore now Stantec | | 9601 | August 2022 |
| SD07 | | Parameter Plan - Density | | Barton Willmore now Stantec | | 9602 | August 2022 |
| SD08 | | Parameter Plan - Access | | Barton Willmore now Stantec | | 9603 | August 2022 |
| SD09 | | Illustrative Landscape Strategy Plan | | EDP | | edp4579\_d025c | September 2022 |
| SD10 | | Geophysical Survey Report | | Lefort Geophysics | | 22-0017.02 | June 2022 |
| SD11 | | Archaeology and Heritage Assessment | | EDP | | edp4579\_r002c | July 2022 |
| SD12 | | Arboricultural Impact Assessment | | EDP | | edp4579\_r009a | August 2022 |
| SD13 | | Ground Investigation Report | | Clarke Bond | | B05927-CLK-XX-XX-RP-GT-001 | August 2022 |
| SD14 | | Design and Access Statement | | Barton Willmore now Stantec | |  | September 2022 |
| SD15 | | Ecological Appraisal | | EDP | | edp4579\_r001a | September 2022 |
| SD16 | | Flood Risk Assessment and Drainage Strategy | | Clarke Bond | | B05927-CLK-XX-XX-RP-FH-1001 P04 | September 2022 |
| SD17 | | Landscape and Visual Assessment | | EDP | | edp4579\_r005a | September 2022 |
| SD18 | | Planning Statement | | Savills Planning | |  | September 2022 |
| SD19 | | Transport Assessment | | Clarke Bond | | B05927-CLK-XX-XX-RP-TA-001 P02 | September 2022 |
| SD20 | | Travel Plan | | Clarke Bond | | B05927-TP01 P02 | September 2022 |
|  | | | | | | | |
| **Additional/Updated Plans and Documents Submitted During Determination** | | | | | | | |
| *Submission on 5th December 2022* | | | | | | | |
| AD01 | Framework Plan | | Barton Willmore now Stantec | | FP-01 | | June 2022 |
| AD02 | Aerial Red Line Plan | | Barton Willmore now Stantec | | PL02 | | July 2022 |
| AD03 | Archaeological Evaluation Report | | Oxford Archaeology | | AMPREV | | October 2022 |
| AD04 | Phase 2 Site Investigation Report | | Clarke Bond | | B05927-CLK-XX-XX-RP-GT-002 P01 | | November 2022 |
| AD05 | Technical Note – LLFA Planning Comments Response | | Clarke Bond | | B05927-TN0002 | | November 2022 |
| AD06 | Noise Assessment and Mitigation Scheme | | LF Acoustics Consulting Engineers | |  | | November 2022 |
| AD07 | Updated Covering Letter | | Savills Planning | |  | | December 2022 |
| *Submission on 11th January 2023* | | | | | | | |
| AD08 | Transport Assessment Addendum | | Clarke Bond | | B05927 P03 | | January 2023 |
| AD09 | National Highways Consultation Response | | Clarke Bond | | B05927 P01 | | January 2023 |
| *Submission on the 13th March 2023* | | | | | | | |
| AD10 | Agent Letter | | Savills Planning | |  | | March 2023 |
| *Submission on 4th April 2023* | | | | | | | |
| AD11 | Framework Plan | | Barton Willmore now Stantec | | FP-01 | | June 2022 |
| AD12 | Parameter Plan - Access | | Barton Willmore now Stantec | | 9603 Rev A | | August 2022 |
| AD13 | LVA Addendum | | EDP | | edp4579\_r010a | | February 2023 |
| AD14 | Arboricultural Addendum Statement | | EDP | | edp4579\_r011b | | February 2023 |
| AD15 | Agricultural Land Classification and Considerations | | Kernon | | KCC3364 | | February 2023 |
| AD16 | Design and Access Statement Addendum | | Barton Willmore now Stantec | |  | | March 2022 |
| AD17 | Updated Covering Letter | | Savills Planning | |  | | April 2023 |

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

1. Background to Appeal Proposals

**The Appeal Site**

*The Outline Planning Application – 22/02866/OUT*

* 1. The Appellant engaged with Ambrosden Parish Council prior to submitting the outline planning application. The Appellant and relevant consultants attended a meeting with the Parish Council on 16th June 2022. Ambrosden Parish Council provided feedback following the meeting and this informed the proposed development that was submitted to CDC.
  2. The outline application was submitted to CDC on 20th September 2022, and the application was validated the following day on 21st September 2022. A revised submission was made on the 5th December 2022, which included a revised Aerial Red Line Plan and Framework Plan. The following additional material was also submitted, Planning Covering Letter, Archaeological Evaluation Report, Phase 2 Site Investigation Report, Technical Note responding to the LLFA, Transport Assessment Addendum, alongside a Noise Assessment and Mitigation Report.
  3. A further submission was made on 11th January 2023 which comprised an additional Transport Assessment Addendum to respond to comments received from Oxfordshire County Council Highways, alongside a note in response to the National Highways consultation response.
  4. On 4th April 2023, a further submission was made which comprised of a revised Framework Plan, and a revised Access Parameter Plan (including minor changes in the indicative location of the pedestrian link on the eastern boundary of the site). Additional information including an Agricultural Land Classification and Considerations Report, Design and Access Statement Addendum, LVA Addendum and a Arboricultural Addendum Statement were also submitted on this date.
  5. The application was reported to Planning Committee on the 13th July 2023, with an Officer recommendation for refusal. However, the application was refused at Planning Committee and a formal Decision Notice issued dated 14th July 2023.
  6. The Decision Notice includes 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*

*Environmental Impact Assessment*

* 1. A request for an EIA Screening Opinion (reference: 21/04193/SO) for residential comprising up to 120 dwellings on the Appeal Site was submitted to CDC on the 9th December 2022. On the 21st March 2023, a response was received from CDC confirming that their position was that the proposal would not constitute EIA development in line with the EIA Regulations 2017.

*The Appeal Site – Previous Planning History*

* 1. There is no planning history associated with the site itself.

**Relevant Nearby Planning History**

* 1. Whilst the Appeal Site application was under consideration, there have been two other residential planning applications under consultation within Ambrosden. These are set out below:

*22/01976/OUT – OS Parcel 3489 Adjoining And South West of B4011, Allectus Avenue, Ambrosden*

* 1. *Outline Application (except for access) for residential development of up to 75 dwellings including bungalows; open spaces (including children’s play space); community woodland and other green space; new vehicular and pedestrian access off Blackthorn Road; and associated landscaping, earthworks, parking, engineering works, demolition, and infrastructure*
  2. This application was recommended for approval by the Planning Officer and was resolved to approve by the Planning Committee on 9th February 2023, subject to completion of a S106 agreement. The Decision Notice has not been issued at the time of writing this statement.

*22/02455/OUT – Land West of Church Ley Field, Adjacent to Blackthorn Road, Ambrosden*

* 1. *Erection of up to 55 new dwellings including affordable homes; formation of new pedestrian access; formation of new vehicular access from Blackthorn Road; landscaping and associated works*
  2. This application was recommended for approval by the Planning Officer; however the application was refused by the Planning Committee on 13th July 2023. The decision notice was issued on 31st July. The reasons for refusal are set out below.

*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. The development would therefore have an adverse effect on the landscape 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, 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.*

**Other Policy Villages 2 Residential Development in Ambrosden**

*13/00621/OUT – Ambrosden Court, Merton Road, Ambrosden, Bicester*

* 1. *OUTLINE - Demolition of Ambrosden Court and erection of 45 No residential units with access off Merton Road*
  2. This application was allowed at Appeal in April 2014, following refusal from CDC.

*16/02370/F – Church Leys Fields*

* 1. *Erection of 85 dwellings with public open space, associated parking, landscaping, new vehicular accesses and servicing.*
  2. This application was granted planning permission in January 2018

*16/02611/OUT – OS Parcel 0005 South of Hill Farm and North of West Hawthorn Road*

* 1. *Up to 130 dwellings; open spaces for recreation (including children's play spaces and outdoor sports); a sports pavilion; community orchard and allotments; new vehicular and pedestrian access off Blackthorn Road and associated landscaping, parking, engineering works (including ground re-modelling), demolition and infrastructure.*
  2. This application was refused by CDC in August 2017 on the grounds that this would cause the level, scale and intensity of new housing growth in the village to be inappropriate, result in the unnecessary development of greenfield land, and the absence of a completed S106.

18/02056/OUT – Land to the north of Merton Road, Ambrosden

* 1. *OUTLINE – Erection of up to 84no dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Merton Rd – All matters reserved except for means of access*
  2. This application was allowed at Appeal in February 2019, following refusal from CDC.

1. Appeal Proposals
   1. It is the intention of the Appellant to seek to reach common ground with CDC in respect of a description of the Appeal Proposals.
   2. The Appeal Proposal comprises residential development of up to 120 dwellings, creation of new 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. Details of appearance, layout, landscaping and scale were reserved for future consideration, therefore all matters reserved except for access. No detailed designs were provided.
   3. The following Parameter Plans were submitted as part of the outline application:

* Parameter Plan Land Use (drawing reference: 9600) – demonstrating the residential development parcels and green infrastructure.
* Parameter Plan Scale (drawing reference: 9601) – demonstrating building heights of up to 2 storey development across the Appeal Site;
* Parameter Plan Density (drawing reference: 9602) – proposing areas of low density development (20-30dph) and medium density development (30-40pdh).
* Parameter Plan Access (drawing reference: 9603) – providing an overview of the vehicular and pedestrian access points, and the indicative internal primary access route.
  1. A Framework Plan and an Illustrative Masterplan were also submitted as part of the outline planning application. These plans indicatively demonstrate how up to 120 dwellings could be accommodated based on a mix of 2, 3 and 4 bedroom properties, along with proposed landscaping including tree planting, potential attenuation features, an indicative location for a play area and amenity space.
  2. During the determination of the outline application, a revised Framework Plan (drawing reference: FP-01 Rev A) and Access Parameter Plan (drawing reference: 9603 A) were submitted to CDC. These revised plans accounted for a slight change in the alignment of the pedestrian connection to West Hawthorn Road, and updates to the vehicle site access point.

**Access Arrangements**

* 1. The details of access were submitted for determination as part of the outline planning application. The site access is proposed to be a T-junction with Ploughley Road (as shown on the Framework Plan drawing reference: FP-01 Rev A). The Access Parameter Plan (drawing reference: 9603 Rev A) also sets out the Appeal Site’s access, and indicative primary route throughout the Appeal Site.
  2. The Transport Assessment Addendum was submitted on 11th January 2023 following an objection from Oxfordshire County Council Highways. This Transport Assessment Addendum introduced alternative site access plans that propose a traffic calming feature and revised speed limit on Ploughley Road to reduce traffic speeds such that the available visibility at the site access junction becomes acceptable. These plans include a Site Access Sketch (drawing reference: B05927-CLK-XX-XX-DR-C-0007\_P06), Ploughley Road Sketch (drawing reference: B05927-CLK-XX-XX-DR-C-0012\_P02) and Swept Path Analysis Sketch (drawing reference: B05927-CLK-XX-XX-DR-C-0014\_P02).
  3. These revised access plans also identify widening of the existing Ploughley Road shared use path from 1.8m to 3m where practical to do so, and a redesign of the site access junction to provide priority to the shared use path, and the introduction of new bus stops adjacent to the site. This approach satisfied Oxfordshire County Council Highways.

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

* Cherwell Local Plan 2011 – 2031 (Part 1) (adopted 20th July 2025); and
* Cherwell Local Plan 1996 Saved Policies (adopted November 1996).
  1. It is agreed that, based on the Officer’s Report to Committee, the following policies from the adopted Development Plan are of relevance to the appeal proposals:

Table 1: Relevant Policies Contained in the Adopted Development Plan

|  | Cherwell Local Plan | Saved Policies |
| --- | --- | --- |
| Principle of Development | * **Policy PSD 1** (Presumption in Favour of Sustainable Development) * **Policy BSC 1** (District Wide Housing Distribution) * **Policy Villages 1** * **Policy Villages 2** | * **Policy C15** (Prevention of Coalescence of Settlements) * **Policy H18** (New Dwellings in the Countryside) * **Policy ENV2** (Redevelopment of Sites Causing Serious Detriment to Local Amenity) |
| Design | * **Policy BSC 2** (The Effective and Efficient Use of Land) | * **Policy C8** (Sporadic Development in the Open Countryside) * **Policy C28 (**Layout, Design and External Appearance of New Development) * **Policy C30** (Design Control) |
| Housing Mix | * **Policy BSC 3** (Affordable Housing) * **Policy BSC 4** (Housing Mix) | * **Policy C32** (Provision of Facilities for Disabled People) |
| Open Space | * **Policy BSC 10** (Open Space, Outdoor Sport and Recreation Provision) * **Policy BSC 11** (Local Standards of Provision – Outdoor Recreation) * **Policy BSC 12** (Indoor Sport, Outdoor Sport and Recreation Provision) * **Policy Villages 4** (Meeting the Need for Open Space, Sport and Recreation) | * **Policy R1** (Allocation of Land for Recreation Use) (Part replaced) |
| Sustainability | * **Policy ESD1** (Mitigating and Adapting to Climate Change) * **Policy ESD 2** (Energy Hierarchy and Allowable Solutions) * **Policy ESD 3** (Sustainable Construction) * **Policy ESD 4** (Decentralised Energy Systems) * **Policy ESD 5** (Renewable Energy) |  |
| Flood Risk and Drainage | * **Policy ESD 6** (Sustainable Flood Risk Management) * **Policy ESD 7** (Sustainable Drainage Systems) * **Policy ESD 8** (Water Resources) |  |
| Heritage | * **Policy ESD15** (The Character of the Built and Historic Environment) |  |
| Ecology | * **Policy ESD10** (Protection and Enhancement of Biodiversity and the Natural Environment) |  |
| Highways | * **Policy SLE4** (Improved Transport Connections) | * **Policy TR7** (Development Attracting Traffic on Minor Roads) |
| Landscape and Green Infrastructure | * **Policy ESD13** (Local Landscape Protection and Enhancement) * **Policy ESD17** (Green Infrastructure) |  |
| Environmental Matters |  | * **Policy ENV1** (Development Likely to Cause Detrimental Levels of Pollution) * **Saved Policy ENV12** (Development of Contaminated Land) |
| Planning Obligations | * **Policy INF1** (Infrastructure) * **Policy BSC7** (Meeting Education Needs) * **Policy BSC8** (Securing Health and Well-Being * **Policy BSC9** (Public Services and Utilities) | * **Policy TR1** (Transportation Funding) |

* 1. CDC’s two Reasons for Refusal only identify conflict with the following policies of the Development Plan:
* **Policy PSD 1** (Presumption in Favour of Sustainable Development)
* **Policy Villages 2**
* **Policy ESD13** (Local Landscape Protection and Enhancement)
* **Policy ESD15** (The Character of the Built and Historic Environment)
* **Policy BSC1** (District Wide Housing Distribution)
* **Policy INF1** (Infrastructure)
* **Policy H18** (New dwellings in the countryside) of the Cherwell Local Plan 1996

1. Material Considerations
   1. It is *[to be agreed]* between the Appellant and the CDC that the following documents, and where appropriate specific section or paragraph references, are material considerations in the determination of this planning appeal:

*National Planning Policy Framework (NPPF, July 2021)*

* Chapter 2 – Achieving Sustainable Development (Paragraphs 7-14)
* Chapter 4 – Decision-Making (Paragraphs 47, 55 - 57)
* Chapter 5 – Delivering a Sufficient Supply of Homes (Paragraphs 60-62, 68, 71, 74-77)
* Chapter 6 – Building a Strong Competitive Economy (Paragraph 81)
* Chapter 8 – Promoting Healthy and Safe Communities (Paragraphs 92-93)
* Chapter 9 – Promoting Sustainable Transport (Paragraph 104-105, 110-113)
* Chapter 11 – Making Effective Use of Land (Paragraphs 119 – 120, 124)
* Chapter 12 – Achieving Well-Design Places (Paragraphs 126, 130)
* Chapter 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change (Paragraphs 152, 154, 157, 159 – 167, 169)
* Chapter 15 – Conserving the Natural Environment (Paragraphs 174-188)

*Additional Items*

* Planning Practice Guidance, online resource
* The Planning (Listed Buildings and Conservation Areas) Act 1990
* Natural Environment and Rural Communities Act 2006
* CDC Developer Contributions SPD - February 2018
* Oxfordshire County Council: Local Transport Plan 4 (2015-2031)
* Oxfordshire Wildlife & Landscape Study 2004
* EU Habitats Directive
* Conservation of Habitats and Species Regulations 2017
* Circular 06/2005 (Biodiversity and Geological Conservation)
* CDC Residential Design Guide SPD 2018
* CDC Housing & Economic Land Availability Assessment (February 2018)
* Infrastructure Delivery Plan (IDP) Update (December 2017)
* Countryside Design Summary (1998)
* Annual Monitoring Report (AMR) (December 2021)
* Annual Monitoring Report (2022 AMR) (February 2023)

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

**Format of the Application**

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

**Reason for Refusals**

* 1. The Decision Notice states two Reasons for Refusal. The key issues are summarised as:
  2. Reason for Refusal 1:
* The site’s location outside of the built form of Ambrosden, in open countryside;
* Due to the site’s location and scale, development would have a poor and incongruous relationship with the form and character of Ambrosden, appearing prominent in the open countryside;
* Impacts on the landscape approach to Ambrosden, to detriment of the character and appearance of the countryside;
* CDC are able to demonstrate a 5.4 year housing land supply, and therefore Local Plan policies are up to weight; and
* Conflict with the adopted policies in the Local Plan should be afforded substantial weight.
  1. Reason for Refusal 2 concerns the lack of a legal agreement to secure contributions. Both parties are committed to advancing discussions with a view to overcoming this reason for refusal.
  2. With reference CDC’s two Reasons for Refusal, it is agreed that there is no conflict with any policies of the Development Plan other than those specified below:
* Policy PSD 1 (Presumption in Favour of Sustainable Development)
* Policy Villages 2
* Policy H18 (New Dwellings in the Countryside)
* Policy ESD15 (The Character of the Built and Historic Environment)
* Policy ESD13 (Local Landscape Protection and Enhancement)
* Policy BSC1 (District Wide Housing Distribution)
* Policy INF1 (Infrastructure)

**Designations**

* 1. The Appeal Site is not subject to any statutory ecological, landscape or arboricultural designations, and is situated in Flood Zone 1, which is at the lowest risk of fluvial flooding. The Appeal Site is not subject to any heritage designations, and is not within a Conservation Area.

**Sustainable Development Location**

* 1. Ambrosden is designated as a Category A Village in the adopted Development Plan, and is the 5th largest Category A Village (with a population of circa 2,250 people). It is agreed that Ambrosden is one of the most sustainable villages in the District.
  2. The sustainability of Ambrosden is demonstrated through the array of services and amenities available to current and future residents, including pre-school nurseries, primary school, food shop, post office/general store, village hall, two churches, hairdresser’s, public house, recreation facilities and a limited opening Doctor’s surgery. Both parties agree that such facilities are sufficient to meet the day to day needs of residents.
  3. In addition to this, Ambrosden benefits from a close geographical relationship to Bicester (circa 3.2km from the centre of Bicester). Bicester provides a large range of services, facilities and employment opportunities. An off-road cycle path links Ambrosden with Bicester. Both parties agree that the Appeal Site’s proximity to Bicester is a material consideration which weighs in favour of the appeal proposals.
  4. Sustainable transport opportunities are also available in Ambrosden, in addition to the off-road cycle path to Bicester, through two frequent bus services. The closest bus stops to the Appeal Site are the Ploughley Road/Willow Road stops, approximately 350m (4 minutes’ walk) from the Appeal Site’s entrance. These bus stops are served by the: no.29 service, which provides a frequent service between Bicester and Bullingdon Prison/Arncott; and, the H5 route, which provides a service between Oxford St John Radcliffe Hospital and Bicester.
  5. It is agreed that there are sufficient sustainable transport opportunities for future residents of the Appeal Site. It is agreed that the facilities in Ambrosden are located within reasonable walking and cycling distance from the Appeal Site, and therefore the proposals comply with Paragraph 105 of the NPPF.
  6. Both parties agree that Ambrosden is a sufficient sustainable location to accommodate further growth, in line with the scale of the appeal proposals (120 dwellings).

**Principle of Development**

* 1. It is agreed that the Appeal Site is not allocated for development in the adopted Development Plan, and is currently therefore considered to be countryside in planning terms.
  2. The Appeal Site is immediately adjacent to the existing built form of Ambrosden, with existing residential properties to the west of the Appeal Site. It is agreed that development on the Appeal Site would be a logical addition to the settlement.
  3. Policy Villages 1 of the adopted Development Plan groups villages into three categories – Categories A, B and C. Ambrosden is one of 23no. Category A Villages identified in the adopted Development Plan under Policy Villages 2. Ambrosden is the 5th largest Category A Village. Both parties agree that identification of Category A Villages means that the village represents a location for ‘sustainable development’, being one of the most sustainable villages.
  4. Policy Villages 2 sets out an ambition for Category A Villages to accommodate 750 dwellings between 2014 and 2031 under Policy Villages 2. Both parties acknowledge that this figures is not a ceiling or cap. Policy Villages 2 does not contain any time dimension (at what point in time in the plan period housing in the rural areas should be permitted) nor does Policy Villages 2 have a spatial dimension (specifying how much development should occur at each settlement).
  5. It is agreed that whilst the 750 dwelling target has been met in Category A Villages, the provision of housing represents a significant positive material consideration to weigh in the planning balance and contributes to meeting the overall District housing figures which need to be delivered.
  6. Both parties agree that the addition of 120 dwellings would not cause harm to the overall housing strategy endorsed by the adopted Development Plan. This is a matter agreed in the Committee Report at Paragraph 9.34, where it is accepted that Ambrosden can accommodate additional development at the same scale as the Appeal proposals.

*Detailed Requirements of Policy Villages 2*

* 1. Policy Villages 2 sets out 11no. criteria to be considered when considering sites under the policy. The following table sets out the 11no. criteria, and the elements of Policy Villages 2 which are agreed between the parties:

|  |  |  |
| --- | --- | --- |
|  | **Requirement of Policy Villages 2** | **Agreed Matters** |
| Bullet 1 | **Whether the land has been previously developed land or is of lesser environmental value** | Both parties agree that the Appeal Site is on lesser environmental value. |
| Bullet 2 | **Whether significant adverse impact on heritage or wildlife assets could be avoided** | Both parties agree at Paragraph’s 8.34 – 8.36 below that subject to conditions, any adverse effects on wildlife can be avoided.  It is further agreed at Paragraph’s 8.47 – 8.50 below that there would not be any effects on heritage assets. |
| Bullet 3 | **Whether development would contribute in enhancing the built environment** | It is agreed that the application would contribute to enhancing the built environment. It is agreed that the Reason for Refusal does not cite any concerns around adverse contributions to the built environment. |
| Bullet 4 | **Whether best and most versatile agricultural land could be avoided** | It is agreed that the majority of the Appeal Site is Grade 3b (Moderate Quality), thus avoiding Best and Most Versatile land. This is agreed in Paragraph’s 8.55 – 8.56 below. |
| Bullet 5 | **Whether significant adverse landscape and impacts could be avoided** | This remains a matter in disagreement between the parties. |
| Bullet 6 | **Whether satisfactory vehicular and pedestrian access/egress could be provided** | Both parties agree that satisfactory vehicular and pedestrian access and egress can be provided, as explained in Paragraph’s 8.27 – 8.29 below. |
| Bullet 7 | **Whether the site is well located to services and facilities** | It is agreed that Ambrosden is a sustainable location for growth, and the Appeal Site is well located to services and facilities, as explained in Paragraph’s 8.8 – 8.13 above. |
| Bullet 8 | **Whether necessary infrastructure could be provided** | Subject to the completion of a S106 agreement, both parties agree that this required can be complied with. |
| Bullet 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** | Not applicable. |
| Bullet 10 | **Whether land the subject of an application for planning permission could be delivered within the next five years** | Both parties agree that the development could be delivered within the next five years. |
| Bullet 11 | **Whether the development would have an adverse impact on flood risk.** | It is agreed that the development would not have an adverse impact on flood risk, as explained in Paragraph’s 8.30 – 8.33 below. |

**Housing Land Supply Position**

* 1. The Appellant will work with the CDC on a separate SoCG on housing Land Supply. This will set out matters in relation to the Five Year Housing Land Supply (5YHLS) that can be agreed and will set out the areas of disagreement including the difference between the two parties in terms of the figure the 5YHLS should be measured against and a list of disputed sites.
  2. The following points will be agreed:
* The Council’s 5YHLS statement is not an “Annual position statement” as defined in the Annex to the Framework on page 65. The Council’s approach to its 5YHLS has not been “confirmed” by either of the routes to do so as set out in paragraph 75 of the Framework;
* The base date is 1st April 2022 and the relevant 5YHLS period is 1st April 2022 to 31st March 2027. Any sites which were not deliverable at 1st April 2022 should not be included in the 5YHLS;
* The Cherwell Local Plan Part 1 (adopted July 2015 and re-adopted in December 2016) is more than five years old and the housing requirement within it has been found to require updating but the Cherwell Partial Review is less than 5 years old; and
* A 5% buffer applies.

**Landscape and Visual Impact**

* 1. The Appellant will work with CDC to agree a separate landscape based SOCG, which will consider landscape matters in greater detail.
  2. In addition to this, the following matters are agreed:
* There is no conflict with regards to Saved Policies C8, C28 and C30 of the Cherwell Local Plan 1996.
* The Appeal Site would have the residential settlement of Ambrosden as its backdrop.

**Design and Illustrative Layout**

* 1. Both parties agree that the appeal proposals are in accordance with Policy BSC11, as the Framework Plan and Illustrative Masterplan demonstrate a sufficient quantum of green space, including a LEAP.
  2. It is further agreed that the Framework Plan and Illustrative Masterplan demonstrate how 120 dwellings could be provided on the Appeal Site, at a suitable density, and with sufficient levels of green space/play areas. It is agreed that detailed matters of layout, design and form could be negotiated at Reserved Matters stage.

**Highways**

* 1. Oxfordshire County Council removed their objection to the outline application, upon receipt of additional information (in the form of revised Transport Assessment Addendums and re-consultations).The revised scheme also addressed initial concerns regarding the re-surfacing of a short length of Public Right of Way.
  2. 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 is agreed between 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.
  3. Both parties therefore agree that the proposals would be served by a safe and suitable means of access, subject to suitably worded conditions. 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. As such, it is agreed that the proposals accords with Policies SLE4 and ESD15 of the adopted Development Plan, the relevant highway criteria of Policy Villages 2, and the NPPF.

**Flood Risk and Drainage**

* 1. It is agreed that the Appeal Site is located within Flood Zone 1, and is therefore at lowest risk from fluvial flooding.
  2. Whilst the Flood Risk Assessment notes the presence of surface water flood risk on parts of the Appeal Site, it is agreed that this can be addressed and mitigated as part of the detailed drainage design.
  3. Following the submission of revised information during the application’s determination, the LLFA raised no objection to the proposals, subject to conditions regarding a surface water drainage scheme and future maintenance.
  4. It is therefore agreed that the appeal proposals are in accordance with the requirements of Policies ESD6 and ESD7 of the adopted Development Plan, the Policy Villages 2 criterion for not adversely affecting flood risk either locally or elsewhere, and the NPPF.

**Ecology**

* 1. It is agreed that the Appeal Site is not located in any statutory or non-statutory designated site and that the Ecological Appraisal provided as part of the outline application was considered to be acceptable by the Ecology Officer, subject to suitably worded conditions.
  2. Both parties agree the following conditions could be imposed to secure:
* A Great Crested New License, through either CDC’s scheme or applying to Natural England.
* A Construction Environmental Management Plan (CEMP), to ensure that retained vegetation and protected priority species are protected during construction. This would incorporate the Environment Agency’s recommendations (i.e. for reptiles and badgers) alongside ecological protection zones and any Ecological Clerks of Works.
* The delivery of a 10% Biodiversity Net Gain.
* A Landscape Environmental Management Plan (LEMP), including provision of additional bat/bird/invertebrate provision per dwelling, to be integrated into the fabric of buildings.
  1. 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. This ensures compliance with the requirements of Policy ESD10 and the relevant criteria of Policy Villages 2, alongside the NPPF.

**Housing Mix and Affordable Housing**

* 1. Both parties agree that the proposals are capable of accommodating a mix of house types and sizes, including 2, 3 and 4 bedroom dwellings, and a provision of bungalows. Details of the mix would be demonstrated at the Reserved Matters stage.
  2. It is agreed that a policy compliant provision of 35% of dwellings as affordable housing (split 25% First Homes, 70% social/affordable rent and 5% intermediate tenures), in accordance with Policy BSC3. This would be secured by way of a Section 106 agreement.
  3. It is therefore agreed that the proposals comply with Policies BSC3, BSC4 of the adopted Development Plan and the NPPF.

**Residential Amenity**

* 1. Both parties agree that the development could be made acceptable in residential amenity terms for existing residents neighbouring the Appeal Site and future occupiers, subject to acceptable details to be provided at Reserved Matters stage. More specifically, this could be through providing suitable separation distances with minimum back to back distances, to preserve the existing amenity of dwellings along Briar Furlong and West Hawthorne Road.
  2. It is agreed that the proposals compliance with Policy ESD15, Saved Policy C30 of the adopted Development Plan and the NPPF.

**Noise, Contamination and Air Quality**

* 1. Both parties agree that the Environmental Protection Officer had no objection subject to the imposition of the following conditions:
* Pre-commencement condition relating to noise (Construction Environmental Management Plan), to ensure works do not adversely affect residential properties on, adjacent to or surrounding the Appeal Site or air quality.
* Condition which was recommended in relation to contaminated land, ensuring that appropriate measures are put in place in the event of contamination risk.
  1. Furthermore, it is agreed that the Environmental Protection Officer raised no comment/objection in relation to odour or light.
  2. It is therefore agreed that subject to conditions, the proposals comply with Saved Policy ENV1 and the NPPF.

**Sustainable Construction and Energy Efficiency**

* 1. Both parties agree that the provision of EV charging infrastructure in line with the Council’s Infrastructure Delivery Plan and the Count Council’s Electric Vehicle Infrastructure Strategy (2021) can be secured by condition.
  2. It is agreed that the proposals accord with Policies ESD1, ESD2, ESD3, subject to the agreement of suitably worded conditions around sustainable construction, energy efficient and water usage.

**Heritage and Archaeology**

* 1. Both parties agree that the Appeal Site does not fall within a Conservation Area, and does not contain any designated heritage assets.
  2. The outline application was accompanied by an Archaeological and Heritage Assessment, which confirmed that the proposals would not result in any adverse impact on, harm to, or loss of significance from any identified designated heritage assets, either in terms of an effect on their physical fabric or through changes to their wider setting.
  3. Regarding archaeology, the assessment concluded that whilst there would be potential remains of low value, this would be unlikely to preclude development subject to the implementation of an appropriate mitigation strategy, if required. It is agreed that the Oxfordshire County Council Archaeologist commented on the application, and had no objection subject to conditions.
  4. Both parties agree that there is no conflict with Policy ESD15 of the adopted Development Plan or the NPPF.

**Arboriculture**

* 1. No comments were received from CDC’s Aboricultural Officer, and matters of arboriculture did not form part of the Reasons for Refusal.
  2. The outline application was accompanied by an Arboricultural Statement and Arboricultural Statement Addendum. The Arboricultural Addendum concluded that the adverse effects on the retained trees are not expected and will further be avoided by detailed design progressing and tree protection measures being implemented during construction.
  3. It is agreed that an Arboricultural Method Statement can be provided by way of a suitably worded planning condition.
  4. Both parties agree that proposals accord with Policy ESD13, ESD17 of the adopted Development Plan and Paragraph 174 of the NPPF.

**Agricultural Land Quality**

* 1. Both parties agree 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.
  2. It is agreed that CDC did not raise any objection to the application on the grounds of agricultural land quality.

**Benefits of the Proposal**

* 1. The benefits of the Proposed Development are as follows:
* Provision of **construction jobs.**
* **Support to existing services and facilities**, through businesses, shops and local services within the area.
* Contribution to the **delivery of market housing** at a local level.
* **Provision of affordable housing (35%),** at a tenure to provide for those in need.
* **Section 106 Contributions** – providing support for a range of community-based infrastructure, including on-site recreation and play facilities.
* Provision of a **Locally Equipped Play Area** which would benefit existing and future residents.
* Provision of a **Biodiversity Net Gain** of over 10% gain in habitat and hedgerow units.
* Commitment to the provision of **sustainable construction methods**.

1. The Matters not Agreed
   1. The following matters are not agreed:

* Whether the Proposed Development would accord with Policy Villages 2, which allow for development outside of the built form of Ambrosden, in open countryside;
* Whether the development would have a poor and incongruous relationship with the existing settlement appearing prominent in the open countryside;
* Whether development would have an adverse effect on the landscape on the approach to Ambrosden, to the detriment of the character and appearance of the countryside;
* Whether the presumption in favour of sustainable development is engaged, due to CDC’s inability to demonstrate a five year housing land supply, including the following matters:
* Separate calculations should not be made for Cherwell excluding Oxford’s unmet needs and Oxford’s unmet needs.
* The figure the 5YHLS should be measured against. This should be the local housing need for Cherwell plus the requirement for Oxford’s unmet needs which is to be met in Cherwell.
* The extent of the deliverable 5YHLS. As above, the Council claims that the 5YHLS at 1st April 2022 is 4,244 dwellings.
* Whether there is conflict with the adopted policies in the Local Plan when read as a whole, and if this should be afforded substantial weight.

*[to be expanded in dialogue with CDC]*

1. Conditions
   1. The Appellant and CDC intend to liaise and agree draft conditions and reasons for each condition, in line with the appeal timetable.
2. Section 106 Agreement
   1. The Appellant and CDC intend to co-operate in the preparation and completion of the S106 Agreement in the event that the appeal is allowed. It is the intention to submit a draft of the S106 Agreement prior to the Hearing. It is agreed that this addresses Reason for Refusal 2.
   2. The Appellant agrees with the heads of terms considered during the determination of the application and these relate to:

* Open Space Maintenance and provision of Local Equipped Area of Plan
* Waste
* Affordable Housing
* Public Transport – Bus Services
* Travel Plan Monitoring
* Public Rights of Way
* Highway Works
* Secondary Education and towards Land Contribution
* Special Education
* Oxfordshire Clinical Commissioning Group
* Appropriate Legal Costs
* Appropriate Monitoring Costs
  1. Both parties agree that subject to the completion of the S106 Agreement, compliance will be demonstrated with Policy INF1 of the adopted Development Plan, Cherwell District Council’s Planning Obligations SPD 2018 and the NPPF.

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

|  |  |
| --- | --- |
| **Declaration** | **Declaration** |
| Signed and dated on the behalf of the Appellant: | Signed and dated on behalf of Cherwell District Council |

Date…………………………….