



Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Statement of Case on behalf of the Local Planning Authority

Appeal by Wates Developments Ltd

Site Address: Land South of Green Lane, Chesterton

Appeal Ref: APP/C3105/W/23/3331122

LPA Ref: 23/00173/OUT

Date: December 2023

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1.0 INTRODUCTION

1.1 Cherwell District Council (‘CDC’ or ‘The Council’) are the relevant Local Planning Authority (LPA) for the consideration of this Appeal. Oxfordshire County Council are the relevant Local Highway Authority and Education Authority.

1.2 Planning Permission was sought for residential development of the Site.

1.3 The Planning Application was refused by the Council for three reasons. We will set out why these should be sustained.

1.4 This Statement addresses the requirements of the Practice Guidance.

1.5 In respect of the appeal the Local Planning Authority will expect to call witnesses in relation to the following topics:

- Planning
- Housing land supply (if not agreed as Common Ground)
- Landscape and Settlement Character

1.6 It also sets out further responses to other matters which may be of interest.

1.7 It further addresses other relevant cases and guidance that the Appellant may rely on when providing its full evidence.

1.8 The LPA has reviewed the submitted Draft Statement of Common Ground provided by the Appellant and will be making a number of alterations. The final Statement of Common Ground will be provided in appropriate time for the appeal.

1.9 The Local Planning Authority has provided Appendices and referenced appeal decisions where appropriate to amplify its case. All documents are in the public domain and it has not relied on links to websites.

2.0 THE APPLICATION THE SUBJECT OF THE APPEAL

2.1 The key elements of the application will be described within the Statement of Common Ground and have been set out in the Officer's Report to Committee including the consideration of representations received to the application.

2.2 It is noted that the pre-application submission was submitted on 22/10/2021 with the application the subject of this appeal being submitted on 23/01/2023.

2.3 The Local Planning Authority will set out that the application was considered in the context of the most up to date information and the most recent planning policy position in a manner that provided comprehensive and balanced assessment of the appeal proposals and consultee responses.

2.4 The application was refused for the following reasons:

1. The proposals would result in a disproportionate development when considered against the scale of the existing village and the cumulative impact of growth already carried out in village within the plan period and available facilities within the village and would be predominantly reliant on the private car to carry out day-to-day activity and the application site is not

well located to existing services and facilities. The proposals would cause significant adverse landscape and impacts to the settlement character which could not be avoided or mitigated by the proposed development. Further the delivery of infrastructure necessary to make the development acceptable would not be capable of being accommodated within the village and instead would need to be provided elsewhere which would be predominantly reliant by private car and would be contrary to the aims of sustainable growth of housing across the District set out in the Local Plan and sustainable travel initiatives to use sustainable modes of transport. The proposals would be harmful development to the village of Chesterton and the wider aims of Policies Villages 1 and Villages 2 and result in unsustainable growth that would not be capable of mitigation. The proposals would therefore be contrary to Policies PSD1, BSC1, ESD1, ESD13, ESD15, Villages 1 and Villages 2 of the Cherwell Local Plan 2011-2031 Part 1; saved Policies C28 and C30 of the Cherwell Local Plan 1996 and the aims and objectives of the National Planning Policy Framework.

2. The proposals, by reason of the scale and impact on the overall landscape and settlement character would cause harm to the approaches along Green Lane and the unnamed lane to Little Chesterton, and to the overall character of the settlement of Chesterton and its relationship to the surrounding countryside resulting in significant extension and harm to open countryside in particular to the south and west of the existing village. This combined with developments of the Bicester Sports Association in particular would result in a potential negative impact on the individual identity of Chesterton and Little Chesterton. The proposals would therefore be contrary to Policies PSD1, ESD1, ESD13, ESD15, Villages 1 and Villages 2 of the Cherwell Local Plan 2011-2031 Part 1; saved Policies C28 and C30 of the Cherwell Local Plan 1996 and the aims and objectives of the National Planning Policy Framework.
3. 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. As such, the proposal is 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.

3.0 THE COUNCIL'S CASE

- 3.1 The Local Planning Authority will set out the key documents including policy and Local Planning Policy background including how the Planning Inspectorate has interpreted and applied Policy Villages 2 and how this relates to the overall housing strategy across the District to meet its housing needs.

Category A Village Assessment – Chesterton

- 3.2 The Local Planning Authority will set out that not all Category A settlements will accommodate the same level of growth under Policy Villages 2, hence the requirements of the policy to take account of whether sites are well located to services and facilities.
- 3.3 The Local Planning Authority will set out that there are 24 Category A settlements listed in Policy Villages 1 and that there is significant variation in the size of the villages covered by this policy, from Kidlington as the largest at one end (population 13,720 from the Census 2011) to Finmere, as the smallest at the other (population 466 from the Census 2011). Chesterton is at the lower end of the list of the Category A villages.
- 3.4 The Local Planning Authority will draw reference to the recent appeal decision at Finmere (APP/C3105/W/22/3309489 (dated 31 October 2023)) which recognises the relatively small size of Finmere and its limited facilities. Paragraph 6 of the decision letter states that:

“Despite Finmere being included as a Category A village, it is still relevant to consider the relationship between the scale of development proposed and the range of available services and facilities, and Finmere has very few facilities for a development of this size. The village possesses a primary school, a playing field, a church and a village hall, as well as a public house which is currently closed. But the nearest shop is in the next village, Tingewick, which realistically is too far to walk. There is no certainty as to when the nearby A421 roadside services will be delivered and it may be necessary to drive there. The main employment facilities are in the nearest towns, and the bus service is infrequent.”

3.5 Chesterton, as noted above, is, like Finmere, a settlement at the lower end of the spectrum in terms of sustainability considerations, taking account of facilities and settlement size. The Census data, and how this relates to the anticipated distribution of the proposed 750 housing, is set out below.

CATEGORY A VILLAGES RANKED BY PARISH POPULATION SIZE (2011 CENSUS)

Parish	Population Size	No. of dwellings (pro rata – minimum 10)
1. Kidlington	13723	235
2. Bloxham	3374	58
3. Adderbury	2819	48
4. Yarnton	2545	44
5. Ambrosden	2248	39
6. Deddington	2146	37
7. Bodicote	2126	36
8. Hook Norton	2117	36
9. Arncott	1738	30
10. Launton	1204	21
11. Kirtlington	988	17
12. Sibford Ferris/Gower	984	17
13. Steeple Aston	947	16
14. Bletchingdon	910	16
15. Chesterton	850	15
16. Begbrooke	783	13
17. Fritwell	736	13
18. Cropredy	717	12
19. Milcombe	613	10
20. Fringford	602	10
21. Wroxton	546	10*
22. Weston on the Green	523	10*
23. Finmere	466	10*
TOTAL	43705	752

*The actual pro-rata figure is less than 10

- 3.6 The Local Planning Authority will refer to previous decisions dealing with similar issues in appeals relating to land in Chesterton, Weston on the Green, Finmere, Cropredy, Launton, and Fringford; and the weight they gave to the relative sustainability of the settlement and the appropriateness of growth in these locations under Policy Villages 2 in coming to their decisions.

Parish Profile – Chesterton

- 3.7 The Local Planning Authority will set out the limited facilities within the Village of Chesterton, how there has been recent and significant growth within the Village through planning permissions already granted. The proposals will also set out how the limited nature of facilities informed the Local Plan through the Category A Village Assessment (**Appendix 1 and 2**). The Local Planning Authority will also set out the significant number of sites being proposed within the Local Plan Review and its Parish Profile from September 2021 (**Appendix 3**).
- 3.8 The Local Plan Review is at an early stage with the Regulation 18 consultation having recently ended. Following this, the Council's Planning Policy Team will assess the representations including those raising comments and concerns from the community to the Regulation 18 Draft Local Plan. Whilst it is noted that a site at Chesterton is identified in that Regulation 18 draft Plan, the site is not allocated and further work, including through further Local Plan consultation is required to determine the most suitable sites to be allocated. Should this site be pursued, this will consider various evidence to assess the suitability of the site and the wider needs of the District through a masterplan approach and seek to mitigate the issues of sustainability including enhancing the relationship to public transport and seek to provide new education facilities. The opportunity to include day-to-day facilities will also be explored. The site is not allocated and no weight can be attached to this at this stage.

Council's Housing Land Supply Position Update

- 3.9 The Cherwell Local Plan (Part 1) (adopted July 2015) is more than five years old and the housing requirement within its adopted strategic policies requires updating for the purposes of NPPF2023 paragraph 74 and footnote 39. Therefore, the five-year supply is to be assessed against the Local

Housing Need for Cherwell District, calculated in accordance with the Standard Method.

3.10 In February 2023, Cherwell District Council approved a review of their adopted planning policies, carried out under regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council's Reports and Appendices to the Executive Committee in February 2023 are attached to this Statement at **Appendix 4**.

3.11 The Council's position is that there is in excess of five years' supply and this informs its approach towards Reason for Refusal 1. In particular, it means that the most important policies for determining the application are not deemed to be out of date by virtue of NPPF 2023 footnote 8 and the application should be determined in accordance with the development plan, without the need to apply the 'tilted balance' in NPPF 2023 paragraph 11(d).

3.12 In this instance, the development plan comprises the Cherwell Local Plan 2011-2031 Part 1 (the CLP 2015) and the saved policies of the Cherwell Local Plan (1996) (the CLP 1996). The policies of the Development Plan are the starting point for decision making and are afforded full weight apart from where indicated elsewhere (i.e. the 10A review). However, it is recognised that the delivery of homes across the district remains an important material consideration in the planning balance.

3.13 Since the determination of the Appeal proposals the Council has compiled its 2023 Annual Monitoring Report ('AMR') which includes an up-to-date statement of housing land supply at its Appendix 1. This was considered by the Council's Executive on 4 December 2023. A copy of the report and draft Annual Monitoring Report is appended at Appendix 6. The key findings of the AMR are as follows:

- i. There is a 5.5 years' housing land supply for Cherwell District for the five-year period 1st April 2023– 31st March 2028 against an annual

local housing need of 710 dwellings per annum¹ together with provision for an appropriate buffer

- ii. A total of 1,318 (net) housing completions were recorded in 2022/23. Since 2015 the level of housing completions in the district remains high, with six of the last seven years exceeding the annualised Local Plan requirement of 1,142 per annum. Total completions for 2011 to 2023 are 12,312. However, this includes a four-year period before adoption of the Cherwell Local Plan in 2015. Completions from 2015 to 2023 have been 10,247, an average of 1,281 per annum;
- iii. There were 181 net affordable housing completions in 2022/23;
- iv. 34% of all housing completions were at Bicester, 36% at Banbury and 30% elsewhere. 32% of the 1,318 homes delivered during the monitoring year were on previously developed land.

3.14 This position is subject to scrutiny at a Public Inquiry commencing on the 5 December 2023. The Council is confident that it can demonstrate a housing land supply in excess of the minimum 5-year requirement and will further expand on this through a statement of common ground and in its proof of evidence relating to this Inquiry.

3.15 Paragraph 12 of the NPPF explains that development plans are the starting point for decision making and, where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. For the reasons outlined in this statement, the proposal is considered to conflict with the Council's up-to-date development plan and should therefore be dismissed.

Oxford's Unmet Housing Needs

3.16 The Council considers that Oxford's unmet housing needs have no bearing on the assessment of the five-year supply in this case.

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

3.17 Paragraph 74 of the NPPF2023 requires authorities to identify and update a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against the housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old (unless, per footnote 39, they have been reviewed and found not to require updating).

3.18 The housing requirement for Cherwell is set out in Policy BSC 1 of CLP 2015. As explained above, this policy has been reviewed and found to have required updating. Therefore, paragraph 74 requires the five-year supply to be judged against the Council's Local Housing Need, calculated in accordance with the standard method.

3.19 Neither NPPF paragraph 74 and footnote 39 nor the guidance in the PPG on the standard method require, or make any provision for, the calculation of Local Housing Need to take account of unmet needs from other districts.

3.20 Furthermore, although the Council has adopted policies which aim to make a contribution towards meeting Oxford's unmet housing needs within the district, they are set out separately in the 'Cherwell Local Plan 2011-2031 (Part 1) Partial Review- Oxford's Unmet Housing Need' or "Partial Review". Policies PR1 and PR12a respectively specify the contribution towards unmet needs (4,400 dwellings) and arrangements for maintaining housing land supply to meet these needs for the period 2021-2031.

3.21 Relevant strategic Policy PR12a of the Partial Review states *"The Council will manage the supply of housing land for the purpose of constructing 4,400 homes to meet Oxford's needs. A separate five-year housing land supply will be maintained for meeting Oxford's needs"*

3.22 Paragraph 1.4 of the Partial Review states: "The Partial Review provides a vision, objectives and specific policies for delivering additional development to meet Oxford's housing needs. It seeks to do this in a way that will best serve

Oxford's needs and provide benefits for existing communities in Cherwell and adjoining areas. The Partial Review is a positively prepared Plan. It avoids undermining the existing Local Plan's development strategy for meeting Cherwell's needs and detracting from the delivery of growth at Bicester, Banbury and former RAF Upper Heyford. The Plan aims to achieve sustainable development which will be deliverable by 2031."

3.23 The separation of Cherwell's housing needs from Oxford's unmet needs was assessed by the Inspector who examined the Partial Review. Paragraph 148 of the examination (Appendix 17) states "I can see the sense of the Council wanting to separate out their commitment to meeting Oxford's unmet needs from their own commitments in the Local Plan 2015". The Inspector deemed this plan to be sound, which subsequently led to its adoption.

3.24 The Local Planning Authority contend therefore that the proposals would not contribute to the delivery of or meeting Oxford's Housing Need.

3.25 The Council has worked proactively on the sites and highlights the following in relation to the allocations:

- PR6a following a revised and updated submission is expected December 2023 with presentation to a committee expected to follow in early 2024.
- PR7a (South) secured a resolution to grant outline planning permission at Planning Committee on 5 October 2023 for 370 dwellings (Reference 22/00747/OUT) and its s106 Agreement is in draft form between parties.
- PR7a (North) will be presented to Planning Committee on 7 December 2023 for 96 dwellings (Reference 22/03883/F) with a resolution for approval and its s106 Agreement will soon after be prepared.

- PR7b secured a resolution to grant outline planning permission at Planning Committee on 5 October 2023 for 118 dwellings (Reference 22/01611/OUT) and its s106 Agreement is in draft form between parties.
- PR8 (main site) (outline planning application by OUD for c.1800 homes, Science Park extension and other development) has been submitted under reference 23/02098/OUT and is expected to be reported to Planning Committee in early 2024.
- PR8 (southern site) has been recently submitted to the Local Planning Authority for up to 300 dwellings.
- PR8 (Yarnton Garden and Home) a negative screening opinion has been issued and it is expected that an application will be submitted in 2024 for approximately 130 dwellings (including a retirement complex) and associated development including retention of the garden centre.
- PR9 is currently at appeal following submission of a non-determination appeal. It is noted that this is a matter of assessment of a technical highway assessment and the assessment of viability. The Inquiry will follow the first four days of this appeal in February 2024.

3.26 The allocations require a contribution of 50% affordable housing plus further infrastructure contributions towards mitigating the impact of the developments, specifically designed to address the relationship between the sites and Oxford are set out.

3.27 The Council's latest Housing and Economic Needs Assessment (HENA) was published in December 2022 and will inform the preparation of the emerging Cherwell Local Plan Review 2040.

3.28 Oxfordshire's HENA was considered when the Council took the 'Regulation 10A' Planning Policy Review and Housing Land Supply Statement to the Executive board for approval on 6th February 2023 (Appendix 4).

4.0 THE REASONS FOR REFUSAL

The Development Plan

4.1 The Council's Development Plan comprises:

- Cherwell Local Plan 2011-2031 (Adopted July 2015) (CLP 2015) Policies:
- PSD1 – Presumption in Favour of Sustainable Development
- BSC1 – District Wide Housing Distribution
- ESD1 – Mitigating and Adapting to Climate Change
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 – The Character of the Built and Historic Environment
- Villages 1 – Village Categorisation
- Villages 2 – Distributing Growth Across the Rural Areas
- INF1 - Infrastructure
- Cherwell Local Plan 2011-2031 (Part 1) - Partial Review – Oxford's Unmet Need (Adopted September 2020) (the Partial Review)
- Saved Policies of the Cherwell Local Plan 1996 (CLP 1996) Policies
- C28 – Layout, design and external appearance of new development
- C30 – Design Control

4.2 There are no Neighbourhood Plans affecting the Appeal Site.

Reason 1 – Sustainability of Settlement

4.3 The Local Planning Authority will set out with the aid of the planning history and assessment of cumulative growth how further significant development of the scale proposed would be harmful to the character and identity of the Village and how the limited facilities are being impacted.

4.4 The Local Planning Authority will highlight that the local primary school is over-subscribed and that there is no public transport to support sustainable transport. In addition, the village has no medical facilities or shop to provide for local or day to day needs.

4.5 The Local Planning Authority will highlight how the extension to the village by in excess of 30% will change the character and form of the settlement, which would result in significant harm. Cumulatively when considering the approved developments within the settlement this would be in excess of a 50% increase.

4.6 The Local Planning Authority will set out, and supplement how the effects upon landscape and visual receptors and settlement character cannot be avoided or mitigated by the Appeal Scheme due to its scale.

Reason 2 – Landscape Setting and Character

4.7 Drawing on the evidence of Landscape professionals and consultee responses, the Local Planning Authority will set out, and supplement, the case in respect of the Landscape harm to the countryside, through the appeal proposals which would extend beyond natural boundaries of the village.

4.8 The Local Planning Authority will set out that the Appeal Scheme would cause harm to the landscape and visual receptors, landscape character and settlement character of Chesterton. It will set out how such harm extends to the open countryside surrounding Chesterton and associated landscape and visual receptors. It will set out how the Appeal Scheme, due to its scale would contribute to such harm and as such would be considered inappropriate development in open countryside in this location. It will set out how the LVA assessment understates the effects of the development and does not comply with best practice guidance contained within GLVIA 3 and therefore cannot be relied upon to accurately assess the effects of the Appeal Scheme. It will also identify areas within the Illustrative Landscape Strategy that would neither mitigate the effects nor give rise to beneficial or neutral effects. It will set out why such residual effects remain after year 15 contrary to the conclusions of the LVA.

4.9 It will also set out that the Appeal Scheme assessed alongside cumulative sites including recent approved developments in the vicinity further erode the landscape character causing harm.

4.10 Being an extension beyond existing boundaries, the development will alter the interpretation and approach from the rural landscape and into the village which will have a detrimental impact on the settlement and landscape character.

4.11 A combined plan, provided by the Appellant during the application process, is attached at **Appendix 5**. This plan reinforces the point that the committed development proposes a significant extension beyond the boundaries of the village materially harming the settlement character.

Reason 3 – Infrastructure Delivery and completed s106.

4.12 As part of the Local Planning Authority's reporting, the s106s contributions, including on site facilities were set out. The Local Planning Authority will work with the Appellant to secure an appropriate s106 Agreement without prejudice to its overall position with respect to this appeal.

5.0 COMMENTS ON THE APPELLANT'S STATEMENT OF CASE

The Local Plan Review 2040

- 5.1 The Local Planning Authority has commenced work on a Local Plan Review ('LPR') with a Regulation 18 consultation which ran from September 2023 to November 2023. The Local Plan Review is at an early stage and carries very limited weight.
- 5.2 It is the Local Planning Authority's position that the Local Plan Review is at an early stage and that further work considering the responses to the consultation which inevitably identify a number of sites, would need to be assessed as part of the next stages of the Local Plan. The status of this appeal as a s78 appeal will mean that no material weight can be applied to the appellant's submissions to the Local Plan Review.

The District Housing Land Supply

- 5.7 Paragraphs earlier in this Statement of Case set out the District's position with respect to Housing Land Supply. Further to the submission of the Appellant's Statement of Case it is anticipated that based on the preceding information outlined by the Council the parties will agree that the most recent assessment of supply is contained within the December 2023 Authority Monitoring Report.
- 5.8 While details within the Appellant's Statement of Case indicate that the parties do not agree in relation to the requirement against which supply should be assessed and the assessment of deliverable supply from specific sites, and thus disagree on the extent of supply with reference to the published position, it is anticipated that the parties will agree that:
- a. the Cherwell Local Plan (Part 1) (adopted July 2015) is more than five years old.

b. following the latest review in accordance with Regulation 10A (February 2023) the housing requirement within its adopted strategic policies requires updating for the purposes of NPPF2023 paragraph 74 and footnote 39.

c. the application of the latest inputs for the standard method for Cherwell District provides for calculation of local housing need of 710dpa.

d. a buffer of 5% must be applied to the requirement against which deliverable supply is assessed.

e. the 'Cherwell Local Plan 2011-2031 (Part 1) Partial Review- Oxford's Unmet Housing Need' or "Partial Review" was adopted on 7 September 2020 and is less than five years old.

f. The site would not contribute to Oxford's Unmet Housing Need in accordance with the adopted strategic policies of the Cherwell Local Plan (Part 1) Partial Review and the Council is progressing the Partial Review sites in a proactive manner.

g. there have been no previous Appeals to-date where the Council's case for the requirement against which supply should be assessed using local housing need for the district has been successfully challenged and several where the Council's position was agreed or uncontested.

5.9 As the LPA has done in other cases, it intends to engage with the Appellant on preparation of a SoCG on land supply matters, including the requirement against which supply should be assessed and the assessment of deliverable supply including any disputed sites.

Landscape

5.10 The Local Planning Authority will set out how the settlement character, landscape character and the gateway to the settlement will be harmed. It will set out how effects on landscape and visual receptors overall has been understated

in the LVA with adverse residual effects present beyond year 15 and that the mitigation proposed is insufficient to mitigate the effects of the Appeal Scheme due to its scale affirming the above harm.

6.0 SUMMARY AND CONCLUSIONS

6.1 The Local Planning Authority will set out that it has appropriately assessed the impacts of the proposals and that the planning balance set out in its Report to Committee have been appropriately laid out.

6.2 The Appellant's submission that the harm has been inflated is considered to be erroneous.

6.3 The Local Planning Authority will respectfully request that the appeal be dismissed and demonstrate that the planning reasons for refusal set out, are sound.