

**LAND SOUTH OF GREEN  
LAND, CHESTERTON**

**FULL STATEMENT OF CASE**

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# 1 INTRODUCTION

1.1 Wates Developments ('The Appellant') is seeking to appeal the decision of Cherwell District Council ('CDC' or 'The Council') to refuse planning permission for development of Land south of Green Lane, Chesterton ('The Site').

1.2 Planning Permission was sought for residential development of the Site, providing much-needed housing in the area.

1.3 The Planning Application was refused by the Council for three reasons. We will set out why these should not be sustained and why planning permission should be granted subject to appropriate conditions and obligations.

1.4 This Statement addresses the three reasons for refusal and sets out the Appellant's case that it will be making at the inquiry.

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

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

1.7 This Statement is set out as following:

- Section two addresses the background to the Application;
- Section three addresses the application and the consultation responses;
- Section four considers the reasons for refusal;
- Section five addresses other matters including the development plan position;
- Section six provides some administrative matters; and
- Section seven provides a summary and conclusions.

1.8 This Statement should be read in conjunction with the Draft Statement of Common Ground provided by the Appellant as well as the Planning Application documents provided with the Application.

1.9 The Planning Inspectorate guidance is that Statements of Case should not exceed 3,000 words and we have sought to keep within this limit, albeit, it has slightly been exceeded in order to ensure that the Appellant's case is clear.

## 2 BACKGROUND

### 2.1 The Appellant

2.1 The Appellant is Wates Developments Ltd. Wates is a large family-owned business operating mainly across the south-east of England seeking to promote land for development, including many residential schemes.

2.2 Wates has been promoting the Site since 2018 and considers that the use of the site for residential is compatible with neighbouring uses, including consented schemes to be built put, and the wider spatial strategy to accommodate housing development in Cherwell.

### 2.2 Pre Application

2.3 The Appellant sought pre-application advice from the Council prior to the submission of the Application. A Vision Document as well as several plans and documents were provided to the Council. A site visit was undertaken with the planning officer, however, despite numerous requests for a formal written response, one was never received from the Council.

2.4 The Appellant also engaged with the Parish Council to set out the proposals and carried out a public consultation event in the village. The Appellant also met with local stakeholders including, as an example, the chair of Chesterton Football Club.

2.5 Following the pre-application process, the Appellant refined the proposals to ensure that they addressed (so long as possible) any comments received.

### 3 THE APPLICATION

#### Application Documents

3.1 The Application was submitted by Boyer on behalf of Wates on 16 January 2023 and was formally validated by the Council on 23 January 2023.

3.2 The Application was accompanied by these key documents:

- Planning Statement – CD1.1
- Landscape and Visual Impact Assessment – CD1.2
- Design and Access Statement - CD1.3
- Transport Assessment - CD1.4
- Ecological Appraisal – CD1.5
- Flood Risk Assessment – CD1.6
- Arboricultural Impact Assessment – CD1.7
- Framework Travel Plan – CD1.8
- Energy Statement – CD1.9

3.3 In terms of plans, the Application was accompanied by several plans for determination as part of the Application and illustrative material:

- Site Location Plan
- Illustrative Masterplan
- Illustrative Landscape Masterplan

3.4 During the determination of the Application, several updates and amendments were submitted to the Council, including:

- Applicant Response to Transport Comments – CD1.10
- Planning Statement Addendum – CD1.11
- Landscape Strategy – CD1.12
- Addendum to Landscape and Visual Appraisal – CD1.13

3.5 In addition, the Appellant responded to several other consultees responses.

#### Consultation Responses

3.6 99 local residents objected to the grant of consent with one supporting comment. In terms of statutory responses, the following would be relevant to the Appeal:

- National Highways (2 March 2023) – CD2.1
- Sport England (7 February 2023) CD2.2
- Thames Water (11 April 2023) – CD2.3
- Oxfordshire County Council (16 February 2023) – CD2.4
- Middleton Stoney Parish Council – CD2.5
- Chesterton Parish Council – CD2.6
- Weston on the Green Parish Council – CD2.7
- Ecology (11 April 2023) – CD2.8
- Landscape (27 April 2023) – CD2.9

- Strategic Housing (28 April 2023) – CD2.10

3.7 In addition, responses from non-statutory consultees were received including:

- Stagecoach – CD2.11
- CPRE - CD2.12

3.8 The Application was refused planning permission on 14 July 2023 for three reasons. The Decision Notice ('DN') can be found at CD 2.13, the Officer Report ('OR') can be found at CD 2.14 and Written Updates to the Committee at CD2.15.

## 4 REASONS FOR REFUSAL

### Reason for Refusal 1

4.1 Reason for refusal 1 ('RFR1') states: *"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"*

4.2 The first RfR covers a significant amount of ground, however, it would appear that this can be synthesised to two main concerns: the first is the allegation that the location of the Site is unsustainable whilst the second is that there would be significant landscape impacts to the character of the settlement that cannot be mitigated.

4.3 Nine policies are set out in the RfR that the Council alleges would be breached by the proposals, as well as the NPPF.

4.4 The Statement of Common Ground ('SoCG') will address the development plan for the Appeal. In terms of the relevant development plan, this consists of two documents:

- The Cherwell Local Plan 2011 – 2031 (adopted 20 July 2015); and
- Saved Policies of the Cherwell Local Plan (adopted November 1996)

4.5 There is no Neighbourhood Plan for the area.

4.6 An emerging Local Plan Review ('LPR') Regulation 18 consultation which runs from September 2023 to November 2023 seeks to allocate the Site for residential development as part of a wider allocation.

4.7 Policy PSD1 reflects the now out-of-date definition of sustainable development that existed in the 2012 version of the NPPF. However, the incorporation of the NPPF within the Local Plan, affords its statutory status. In this case, the Appellant's (and the Council's) view is that the Local Plan is out-of-date and that there are

limited adverse impacts that are outweighed by the significant public benefits. As such, accordance with this Policy can be secured.

4.8 Policy BSC1 sets out the District Wide housing distribution. The Appellant will set out that the Appeal Scheme accords with the overall requirements set out for the relevant area. In addition, as the Council accepts that this Policy is out-of-date, any conflict (if one exists) would be afforded more limited weight. In any case, the figures set out in the Policy are not maxima or capped. The overall effect of granting consent for 147 homes is unlikely to have a material effect on the overall strategy, especially when considering the overall figure of 22,840.

4.9 Policy ESD1 seeks to provide a context to mitigating and adapting to climate change. Given the date of the Policy it is clearly not up-to-date and does not reflect changes to private cars such as the advent and growth of electric cars. The Appeal Scheme would assist in the transition of net zero carbon and will provide zero carbon ready homes. It would provide electric vehicle charging points and will encourage the use of modes of transport other than the car. Improvements in the surrounding area associated both with this Appeal Scheme and other consented schemes currently being implemented will make the use of public transport, cycling and walking more attractive and ensure that opportunities for sustainable travel are taken up, and the highway authority (Oxfordshire County Council) has not objected to the application subject to mitigation. Overall, compliance with this Policy can be secured.

4.9 Policy ESD13 addresses local landscape and protection. The Appeal Scheme would have limited effects on the wider landscape character and views with the majority of the landscape and visual effects being localised. It is accepted that the character of the Site itself will change (as would be the case with every greenfield development) and the issue for the Appeal is whether wider landscape character would be affected in such an adverse way to the effect that this would be material to the determination of the Appeal. In the Appellant's view (and the view of the Council's own landscape adviser) that answer is clearly no. The Appeal Scheme would have localised impact on landscape character of medium/low sensitivity to the proposals. The Appellant will refer to the evidence base that underpins the Local Plan Review and the fact that the Council is seeking to allocate the Site in the emerging Local Plan Review. The Appellant will conclude that whilst there are adverse effects on landscape character these effects are limited, and that mitigation proposed can further limited such effects.

4.10 As to Policy ESD15, there are no heritage objections to the grant of consent and the majority of this Policy addresses matter of design which would be more relevant at reserved matters stage. It is the Appellant's view that the illustrative information as well as the information in the Design and Access Statements indicates that the Appeal Scheme is capable of being a very high-quality scheme which is well-designed and reflects and respects the local built environment character. The distribution of uses within the Site can deliver high-quality connections to the existing facilities, prioritising active travel. The composition of the built form and green infrastructure



can provide a more coherent and sympathetic settlement edge reflecting local characteristics.

4.11 In terms of policies Villages 1 and Villages 2, Chesterton is identified as a Category A service village. Policy Villages 2 sets out that housing will be allowed at such settlements. Several criteria are included within the Policy. It is recognised that the Appeal Scheme would be mostly located on Best and Most Versatile Agricultural Land ('BMV') however this land is prevalent in the area and the development avoids the highest grading of land. In terms of deliverability, Wates has got an exemplar track record in delivering sites and the entirety of the Site can come forward within five years. As to sustainability, the Appellant will set out that the Appeal Scheme secures measures that will improve sustainability in the area and which support further measures already locally secured to reduce private car reliance. The Appellant will set out that the 750-unit number is not a cap on housing numbers and that Chesterton is capable of accommodating further sustainable development.

4.12 The Appellant will set out that Policy C28 of the 1996 Local Plan is not relevant to the determination of this Appeal. As to Policy C30, there is no objection from the Council to the density of the Appeal Scheme and would be similar to densities in the surrounding area. Reserved matters can address the requirements of the Policy. As such, the Appellant will set out the compliance with this Policy can be secured.

4.13 As to the NPPF, the Appellant will set out that it provides significant support for the grant of consent in terms of the benefits of housing delivery and economic development. In landscape terms, the Site is not protected and is not valued landscape in NPPF terms. It is not Green Belt and does not suffer from any other constraints.

4.14 As such, in terms of RfR1, the Appellant will set out that the Appeal Scheme is capable in according with the provisions of the development plan and guidance in the NPPF and, therefore, that RfR1 cannot be sustained.

#### Reason for Refusal 2

4.15 The Council's second reason for refusal ('RfR') sets out *"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"*.

4.16 The Council duplicates the same policies in this RfR as RfR1 and does not offer any additional policies that would be breached in this RfR.

4.17 However, the Council does provide more specific elements which the Appellant will address in evidence. In particular, the Appellant will provide evidence on the landscape character and settlement character, noting that they require different character assessments.

4.18 The first issue appears to be the impact to the approaches along Green Lane and unnamed lane to Little Chesterton. The Appellant will provide comparison between the existing situation and the situation once the development has been completed (including mitigation) and will conclude that the impacts are limited in nature.

4.19 The second issue appears to be the extension of the settlement of Chesterton and the impact on its character. The Appellant will assess the character of Chesterton and effects that granting consent will have. The Appellant will note that the Appeal Scheme will lead to a change in the character of Chesterton in the immediate vicinity of the Appeal Site, but that this will not have a significant adverse effect on the character of Chesterton as a whole and that the settlement will still have similar character to that existing currently.

4.20 The third issue is the cumulative effects with the development of the Bicester Sports Association ('BSA') allowed appeal upon the separate identities of Chesterton and Little Chesterton. The Appellant will set out that the BSA allowed appeal has had an impact on the character of the area, together with the allowed appeal at Great Wolf as well as other recent consents in the area. The Appellant will therefore set out that the character of the area is transitioning and that the Appeal Scheme sits within this character without having a significant adverse effect on the wider character. Reference will also be made to the Regulation 18 Local Plan consultation and the associated evidence base, which seeks to allocate the site for residential development as part of a wider allocation.

4.21 Finally, the fourth issue appears to be an assertion that there could be potential impact on the separate identity of the settlements of Chesterton and Little Chesterton. In response to this allegation, the Appellant notes that even the Council is not sure that there would be such negative impact. The Appellant will provide evidence to demonstrate that the separate identities of the two settlements would be preserved.

4.22 Overall, the Appellant will conclude that the Appeal Scheme complies with the policies set out and that RfR2 cannot be sustained.

### Reason for refusal 3

4.23 The third reason for refusal relates to the lack of a unilateral undertaking or an agreed S106. The Appellant is confident that this matter can be addressed prior to the Inquiry and will work with the Council to address this matter.

### Conclusions

4.24 The Appellant considers that the Council's reasons for refusal cannot be sustained and that the overall balance weighs in favour of the grant of consent.

## 5 OTHER MATTERS

### 5.1 Development Plan

5.1 The Appellant will set out the relevant documents that form the basis of the development plan for the determination of this Appeal.

5.2 The Appellant will address the development plan and consider whether the Appeal Scheme accords with the development plan (when considered as a whole). The Appellant will address whether the development plan is up-to-date, having regard to the Council assessment(s) under Regulation 10A of the Regulations.

5.3 The Appellant will note that the Council has commenced a review of the Local Plan and that Regulation 18 consultation is currently being undertaken. The Appellant will also refer to the evidence base that underpins the Local Plan Review.

5.4 The weight to be afforded to the Local Plan will accord with the provisions of the NPPF.

### 5.2 Housing Land Supply

5.5 The Appellant will provide evidence of the housing land supply position in Cherwell having regard to the date of the development plan, the Standard Methodology and the Council's evidence on housing need.

5.6 The Appellant will argue that the Council cannot demonstrate a policy compliant housing land supply position when having regard to the overall needs for the District as well as the needs for Oxford City.

### 5.3 Planning Balance

5.7 The Appellant will consider whether paragraph 11 of the NPPF applies to the determination (i.e. the so-called 'tilted balance'). The Appellant will provide evidence on both the need and demand for the Development. The Appellant will refer to its representations in favour of the allocation of the site in the emerging Local Plan as well as the Council's proposed allocation of the Site. The Appellant will refer to local need for both market and affordable housing.

5.7 The Appellant reserves the right to provide further evidence on matters that may be raised by any third parties and also reserves the right to call witnesses to address such matters.

5.8 The Appellant will set out that **substantial** weight should be afforded to the benefits of the scheme and that any harm is more limited in scale. The Appellant will also set out that the location of the development is sustainable and that further benefits will emerge from the grant of consent.

5.9 The Appellant will conclude that the benefits of the Scheme outweigh the harms and that consent should be granted subject to appropriate conditions and obligations.

## 6 ADMINISTRATION

6.1 The Appellant has set out in a separate note why it considers that the only method of determining this Appeal is through a public inquiry (Annexe K Statement).

6.2 The Appellant considers that it would need to call as a minimum five witnesses covering matters:

- Landscape
- Settlement character
- Sustainable location
- Housing land supply
- Planning balance

6.3 The Appellant reserves the right to call other witnesses should other matters emerge.

6.4 In terms of length of inquiry, the Appellant considers that eight days would suffice, however this may require further consideration should any third parties seek Rule 6 status.

## 7 SUMMARY AND CONCLUSIONS

7.1 The Appellant considers that the decision of the Council to refuse consent for housing development at Land south of Green Lane, Chesterton cannot be sustained in light of the significant and numerous benefits compared to the more limited adverse effects.

7.2 The Appellant will set out that the Council has inflated the impacts of the Development on the wider landscape and the character of the settlement, whilst, in reality, these impacts are limited and localised and no more than the development of comparable greenfield development. The Appellant will set out that the Council's approach to development of the Site does not reflect the position with surrounding developments consented and the emerging approach in the Local Plan.

7.3 The Appellant will set out that the approach of the Council to the Appeal Scheme cannot be sustained in light of these recent developments.

7.4 The Appellant will further set out that there is immediate need and demand for developments such as the Appeal Scheme which the existing development plan cannot address.

7.5 The Appellant will conclude that the significant and numerous benefits outweigh the more limited harm.

7.6 As such, the Appellant will request that the Appeal is allowed subject to the imposition of appropriate conditions and obligations.