



Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Proof of Evidence on behalf of Cherwell District Council as the Local Planning Authority

Appeal by Wates Developments Ltd

Site Address: Land South of Green Lane, Chesterton

Evidence Prepared by Andrew Thompson BSc (Hons) MPhil MRTPI

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

LPA Ref: 23/00173/OUT

Date: January 2024

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1.0 INTRODUCTION

- 1.1 My name is Andrew Thompson, I am an Interim Principal Planning Officer in the South Area Major Projects Team at Cherwell District Council.
- 1.2 I have a Bachelor of Science (Hons) degree in Environmental Science from Wye Imperial College, University of London, and a Masters in Philosophy in Environmental Planning and Development from the University of Reading which is accredited by Royal Town Planning Institute (RTPI). I have also been a member of the RTPI since November 2002.
- 1.3 My role at Cherwell District Council includes providing pre-application advice for major planning applications in the district, particularly in, and around, Kidlington and working on the Partial Review Sites and acting as Lead Planning Officer for various major planning applications.
- 1.4 In recent previous planning roles, I have been the Interim Development Management Service Manager at Worcester City Council managing all aspects of the Development Management Service. Prior to this I worked for Greater Cambridge Shared Planning Service in particular on the delivery of permissions relating to 10,000 homes across the allocation of Northstowe New Town which included the outline planning applications for 5,000 homes on Phase 3 of the development, approval of a number of Reserved Matters on Phases 1 and 2 and the approval of the town centre strategy. Work also included the Design Code and pre-application advice to initial Reserved Matters to 2,350 homes at the allocation Cambourne West. I have also worked previously in principal planning roles with Walsall Borough Council, Charnwood Borough Council, Warwick District Council and Warrington Borough Council amongst others.
- 1.5 I am familiar with the appeal site and the surrounding area. I consider the Council's position to be well founded, and I agree with the Council's reasons for refusal.

- 1.6 The evidence which I have prepared and provide for this appeal is true: it has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.
- 1.7 This Proof of Evidence sets out my evidence on behalf of Cherwell District Council (“**the Council**”) in respect of the appeal submitted by Wates Developments Limited (“**the Appellants**”) under Section 78(1) of the Town and Country Planning Act 1990 against the Council’s decision to refuse Planning Application ref 23/00173/OUT pertaining to Land South of Green Lane, Chesterton (“**the Site**”).
- 1.8 The application, the subject of this appeal, was submitted to the Council on 23 January 2023. The agreed Development Description was:
- “Outline planning application for up to 147 homes, public open space, flexible recreational playing field area and sports pitches with associated car parking, alongside landscaping, ecological enhancements, SuDs, green/blue and hard infrastructure, with vehicular and pedestrian/cycle accesses, and all associated works (all matters reserved except for means of access)”*
- 1.9 The application was made valid on 25 January 2023 under planning reference 23/00173/OUT. The application was publicised and consulted on. Following the receipt of consultation responses and the Council’s Regulation 10a Review in February 2023, the applicant provided further information and responses to the application in March, April, May and June 2023. Further consultation was carried out in March and June 2023 with the relevant consultees as new information was submitted in relation to comments received.
- 1.10 As part of the amended information, the Appellant updated the submission to move to a net zero carbon development with an updated Energy Statement and Planning Statement (**Core Document 1.10**). submitted in May 2023.

- 1.11 A total of 99 responses in objection were received with 1 written in support (two objections being received after the publication of the main Officer's report). It is also noted that the other promoter of the draft allocation which includes the appeal site wrote in objection. This is set out in Paragraph 6.3 of the Officer's Report (**Core Document 2.1**).
- 1.12 It is noted that the Local Parish Council, Chesterton Parish Council, strongly objected to the application proposals. Their comments are set out in a detailed response outlining concerns relating to the scale of development, lack of public transport, transport impacts and the availability of walking and cycling alternative, water and sewage issues, landscape and heritage issues. In its conclusion, the Parish Council states that "The proposed development is not an allocated development in the local plan and cannot be considered as yet in the emerging Local Plan. The proposed development does not appear to meet any existing needs in the village. Nor is it required to meet any shortfall in Cherwell's housing land supply. Chesterton Parish Council believes that the proposed housing development will cause considerable harm to the village, outweighing any possible benefits, and should therefore be refused. This is set out at Paragraph 7.2 of the Officer's Report (**Core Document 2.1**).
- 1.13 The neighbouring Parish Councils also objected to the proposals, as explained in at Paragraphs 7.3 and 7.4 of the Officer's Report (**Core Document 2.1**).
- 1.14 The application proposals were reported to Planning Committee on 13 July 2023 (**Report and Update Paper: Core Document 2.1 and 2.2**) with a recommendation for refusal on three grounds:
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 visual 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, CDC's Planning Obligations SPD 2018 and Government guidance within the National Planning Policy Framework.

1.15 The Members upheld the officer's recommendation, and the application was refused on 14 July 2023. (**Decision Notice: Core Document 2.3**)

1.16 My evidence addresses main issues a) and d) identified in paragraph 6 of the Inspector's Case Management Conference Summary (i.e. "whether the location of the development is appropriate having regard to the facilities present in the village and other facilities accessible by sustainable means and the policies of the development plan" and "whether any other adverse effects of the appeal proposal are capable of being dealt with through a legal agreement secured by

way of a planning obligation/s in accordance with s106 of the Town and Country Planning Act 1990”) as well as relevant policies and the overall planning balance.

1.17 Further evidence is provided by Mark Topping of Lanpro and Jon Goodall of DLP Planning. Mr. Topping’s evidence addresses main issues b) and c) identified in paragraph 6 of the Inspector’s Case Management Conference Summary and Mr. Goodall’s evidence deals with the housing land supply position, which the Appellant has put in issue.

2.0 APPEAL PROPOSAL

2.1 The application is in outline considering the matter of access (**Core Documents 1.1-1.19**). The principal parameters of the outline planning permission are set out by the application as:

- Up to 147 homes;
- Net zero carbon development;
- 35% affordable housing (including First Homes);
- Homes limited to two storeys in height;
- Development density of approximately 30 dwellings per hectare (net);
- A new priority junction on Green Lane;
- Parking provision in accordance with relevant standards;
- Additional points of pedestrian access to Green Lane and Little Chesterton Lane;
- Green infrastructure and biodiversity enhancements, achieving a positive biodiversity net gain;
- Public open space with recreational walking paths and trim trails
- Provision of Local Areas of Play (LAPs), a Locally Equipped Area for Play (LEAP) and a Neighbourhood Equipped Area for Plan (NEAP);
- A recreational playing field area which, could include formal sports pitches with associated parking, within the eastern parcel of the site;
- Sustainable Drainage systems including swales throughout the site, as a part of the green infrastructure;
- A permeable layout with a clearly defined street pattern, separating the public and private realms; and,
- Retaining existing trees along the boundary of the site and integrating existing landscaping features.

2.2 The proposed access is shown on drawings ITB14377-GA-001 Rev G (**Core Document 1.15**), ITB14377-GA-006 Rev B (**Core Document 1.16**) and ITB14377-GA-007 Rev B (**Core Document 1.17**) which shows a T-junction forming the principal vehicle access onto Green Lane and a 3m footway/cycleway access to the western boundary on the unnamed road to

Little Chesterton and another 3m footway/cycleway access to the north-eastern boundary onto Green Lane.

3.0 SITE AND SURROUNDINGS

- 3.1 The appeal site is approximately 14.9 hectares in size and is comprised of two field parcels, which are currently used for agricultural purposes designated as Class 3a (or Best and Most Versatile Land). The site is accessed via an opening at the northern boundary off Green Lane and is bounded by unnamed roads both to the west and east.
- 3.2 The site immediately adjoins, but lies outside of, the adopted settlement boundary for Chesterton, and is therefore located within the 'countryside'.
- 3.3 The site is irregularly shaped and is predominantly flat with a small, narrow ditch running from north to south separating the two fields down the centre of the site. The site's boundaries are defined by trees and hedgerows to the east and south, and to the north along Green Lane.
- 3.4 There are no trees which are subject to Tree Preservation Orders (TPOs). Hedgerows would be protected under Hedgerow Regulations.
- 3.5 There are no on-site Public Rights of Way (PROWs), but three footpaths (refs. 161-5-10; 161-4- 10 and 161-3-10) abut the site's boundary, at its western and eastern edges respectively.
- 3.6 With respect to ecology, there are known species and habitats in the vicinity of the site in relation to great crested newts, badgers, swifts, brown hairstreak butterfly. There are at least two ponds located on-site and two are within the vicinity.
- 3.7 Ground levels within the site range between 74.4m and 71.3m AOD, falling with a gentle slope from the north to the south.

- 3.8 To the east / north of the site lies a recent residential development, on Vespasian Way, alongside Chesterton Community Centre and a playing field and football pitches.
- 3.9 To the east of the sports pitches, beyond an unnamed road, lies the Chesterton Conservation Area. Several Grade II and II* Listed Buildings are located around the centre of the village including Chesterton Lodge located approximately 250m from the site. Chesterton Lodge is occupied by Bruern Abbey School which is an independent school.
- 3.10 Along the section of northern boundary with the existing community centre and playing pitches off Gemini Road, there is a wooden rail and post fence with parking spaces immediately behind. There is no vegetation. There is a storage building associated with the pitches at the north-eastern corner. Planting at the western boundary is more sporadic to the south-west.
- 3.11 To the north of the site, beyond Green Lane, lies an agricultural field and areas of existing residential development. To the west, on the other side of the unnamed road, lies the Bicester Sports Association site. This land benefits from planning permission (Ref: 19/00934/F) (**Core Document 4.2**), for the extension of facilities including a variety of new pitches and a clubhouse with event space.
- 3.12 Bicester Golf Club is located northwest of the site (north of Green Lane). This site benefits from planning permission (Ref: 19/02550/F) for the development of a new water park resort, entitled 'Great Wolf Lodge' (**Core Document 4.1**). Facilities at the Great Wolf site will include a 498-bedroom hotel, indoor water park and adventure park, conference facilities, restaurants and cafes, and a newly designed golf course.
- 3.13 The application site benefits from an existing pedestrian connection along Green Lane which runs along the northern boundary of the Site which has been implemented since determination in respect of the Great Wolf planning permission. From this point, the site has access to a limited range of amenities

within Chesterton such as a Primary School, public house, church, village hall (which includes community facilities), village green and allotments. This is in addition to the Bruern Abbey Preparatory School. There is however no shop, healthcare facilities and there is limited public transport in the village to Bicester.

3.14 Public rights of way in the vicinity are designed for countryside recreation with no lighting and the local roads have no adjacent public footpath and are rural in nature.

3.15 The site connects to a footpath/cycle route leading to Bicester (albeit in a truncated manner). The closest railway stations are Bicester Village and Bicester North, both located approximately 4.8km away. Bicester Park and Ride is located circa 1.8km to the east of the site (which represents a 5-minute cycle ride). Considering the nature of the routes, the limited access and pedestrian and cycle facilities it is the realistic option that the people would choose to utilise the private car over alternative modes of transportation.

3.16 In addition, the site is situated approximately 1km from the approved 'Siemens Healthineers' facility which is to be built at Little Chesterton.

3.17 The site is in Flood Zone 1 however surface water flood maps indicate that there is a low to high risk of surface water flooding in the low-lying southern areas of both fields. As such there may be a risk of ground water flooding in the lower lying areas of the site.

4.0 SITE HISTORY

- 4.1 The site history is set out at Section 4 of the Officer's Report (**Core Document 2.1**) highlighting the previous planning history of the site and immediate surroundings including the recent growth of Chesterton and housing permissions and appeal decision dismissing further housing in 2016 on land opposite (**Core Document 4.3**)

5.0 PLANNING POLICIES

5.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

5.2 The Cherwell Local Plan 2011-2031 - Part 1 ('CLP 2015') (**Core Document 3.1**) was formally adopted by Cherwell District Council on 20th July 2015 and provides the Strategic Planning Policy Framework for the District to 2031 alongside the Cherwell Local Plan 2011- 2031 Part 1 Partial Review – Oxford's Unmet Housing Need (**Core Document 3.5**).

5.3 The CLP 2015 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996, although many of its policies are retained and remain part of the development plan (**Core Document 3.2**).

5.4 The CLP 2015 sets out the spatial strategy and strategic policies for the district to deliver sustainable development. It identifies the number of new homes required up to 2031 and the number of jobs to be provided in the area. It also makes provision for retail, leisure and commercial development, and the infrastructure needed to support them.

5.5 The 'Cherwell Local Plan 2011-2031 (Part 1) Partial Review, which was adopted on the 7 September 2020, sets out the housing requirement, in adopted strategic policies, for part of Oxford's 'unmet' needs.

5.6 The reasons for refusal identify conflict with the following CLP 2015 policies, and 'saved' policy of the Cherwell Local Plan 1996 ('CLP 1996'):

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2015)

- PSD1: Presumption in Favour of Sustainable Development
- BSC1: District Wide Housing Distribution
- ESD13: Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- Villages 1: Village Categorisation
- Villages 2: Distribution Growth Across the Rural Areas
- Policy INF1: Infrastructure

CHERWELL LOCAL PLAN 1996

- C28 – Layout, design and external appearance of new development
- C30 – Design control

Consistency of planning policies with the NPPF

5.7 In 2022, the Council undertook a Regulation 10A review. Five-year reviews of local plans are required in accordance with Regulation 10A of the Town and Country (Local Planning) (England) Regulations 2012 (as amended) as well as paragraph 33 of the NPPF. Since publication of the review in February 2023 there has been no legal challenge to its findings and recommendations.

5.8 The review evaluated Local Plan policies for their consistency with National Policy, considering current evidence and any relevant changes in local circumstances. For the ease of reference, I have set out the policies listed in the reasons for refusal to demonstrate their consistency with the NPPF (both as it was in February 2023 and as it is since the publication of the latest version in December 2023):

Policy	Regulation 10a Assessment (Feb 2023)	My Assessment of Consistency with December 2023 NPPF
PSD1	The 2021 NPPF wording is somewhat different but overall, the aims remain the same. The policy is generally consistent with the NPPF. There is no longer a requirement for Plans to include such a policy (see the PPG at 61-036).	The policy continues to be generally consistent with the NPPF and local circumstances do not indicate that the policy needs updating at this time. The emerging Local Plan Review will consider the approach to 2040.
BSC1	The 2022 AMR reports (Theme Two: Building Sustainable Communities para 5.23 – Housing Completions) that the Council has met this policy's yearly target with 1,188 housing completions during 2021/2022. There are extant planning permissions for 7,626 dwellings and there were 8,614 completions between 2011 and 2022. The AMR explains how the district is experiencing a high level of growth	The 2023 AMR reports that there were 1,318 completions during 2022/2023. Paragraph 76 now states that local planning authorities are not required to identify and update annually a five-year supply of deliverable sites if their adopted plan is less than five years old and it identified at least a five-year supply at the time its examination concluded.

	<p>and the policy continues to provide a supply of development land.</p> <p>Cherwell continues to cooperate with all Oxfordshire councils and other key partners on cross boundary strategic matters. The AMR reports on this duty. The housing requirement figure in the Local Plan derives from the Oxfordshire Strategic Housing Market Assessment 2014. In December 2022 the Council completed the Housing and Economic Needs Assessment (HENA). It has been commissioned by Cherwell and Oxford City to identify the housing needs for Oxfordshire as the Housing Market Area and Functional Economic Market area. This is new evidence to inform the emerging Cherwell Local Plan 2040. It is new up to date evidence of housing need, which provides an assessment materially different to that in the 2014 SHMA. It indicates that the 2014 SHMA is now out of date. As the housing requirement in the adopted strategic policies in the 2015 Local Plan is based on the 2014 SHMA, it further indicates that strategic policy BSC1 does, in the words of NPPF para 74 and footnote 39, require updating.</p>	<p>Paragraph 77 states that in all other circumstances, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing (outlined in footnote 41), or a minimum of four years' worth of housing if the provisions in paragraph 226 apply. The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old (outlined in footnote 42). Where there has been significant under delivery of housing over the previous three years (outlined in footnote 43), the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the plan period).</p> <p>Whilst these changes do not affect the conclusions reached regarding BSC1 and the need to standard method/local housing need to assess the adequacy of the housing supply, they reduce the number of years supply which the Council is required to demonstrate from five years to four.</p>
ESD13	<p>The policy sets out the approach to protecting and enhancing the landscape. NPPF paragraph 174 states that policies should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services. This policy is generally consistent with the NPPF.</p>	<p>Paragraph 180 (replacement for Paragraph 174) continues to state that policies should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services. This policy remains generally consistent with the NPPF.</p>

ESD15	<p>The Policy sets out requirements in relation to design and the historic environment. In Chapter 12 the NPPF states that the creation of high-quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Chapter 16 of the NPPF requires that heritage assets should be conserved in a manner appropriate to their significance. The policy is generally consistent with the NPPF.</p>	<p>There are no significant changes in the NPPF 2023 which affect this policy or compliance with the NPPF. The policy remains generally consistent with the NPPF.</p>
Villages 1	<p>The policy categorises villages in the District and sets out the requirements for development within the built-up limits. The NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. The policy is generally consistent with the NPPF.</p>	<p>The Policy remains generally consistent with the NPPF.</p>
Villages 2	<p>The policy indicates 750 homes will be delivered to Cherwell's Category A villages with sites to be identified through the preparation of Local Plan Part 2. Criteria are included to guide identification of sites. The NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will</p>	<p>According to the 2023 AMR, Between 1 April 2014 and 31 March 2023 there have been a total of 792 completions, with a further 100 dwellings under construction but not completed at 31 March 2023, totalling 892 dwellings. There are an additional 303 dwellings with planning permission on sites with planning permission but construction has not yet started.</p> <p>In addition to this a further outline planning permission for up to 75 dwellings (Land at OS Parcel 3489 Adjoining And South West Of B4011,</p>

	support local services. The policy is generally consistent with the NPPF.	Allectus Avenue, Ambrosden) was granted on 20 December 2023 following completion of its s106. The policy therefore continues to be applied appropriately and is generally consistent with the NPPF 2023.
INF1	The Policy explains that the Council's approach to infrastructure will identify the infrastructure to meet the District's growth, to support the strategic sites and ensure delivery. The NPPF sets out how Plans should make provision for infrastructure and work with infrastructure providers. The policy is generally consistent with the NPPF.	The policy is consistent with Paragraphs 55-58 of the new NPPF and supports the delivery of infrastructure through the s106 process.
C28	The policy is concerned with the layout, design and external appearance of new development. In Chapter 12 the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. The policy is generally consistent with the NPPF	There are no significant changes in the NPPF 2023 which affect this policy or compliance with the NPPF. The policy remains generally consistent with the NPPF.
C30	This policy seeks to protect the character of a residential area by controlling design and layout. The policy is generally consistent with the NPPF.	There are no significant changes in the NPPF 2023 which affect this policy or compliance with the NPPF. The policy remains generally consistent with the NPPF.

5.9 The review shows that, almost eight years on, the Local Plan Part 1 continues to provide a suitable framework for development in the Cherwell District that is in general conformity with National Policy.

5.10 However, the review concluded that the housing requirement in the Local Plan requires updating. In December 2022 the Council published a Housing and Economic Needs Assessment (HENA) produced jointly with Oxford City Council to inform their respective Local Plan processes. This document provides an assessment materially different to that in the 2014 Strategic Housing Market Assessment (SHMA). It indicates that the 2014 SHMA is now out of date. As the housing requirement in the adopted strategic policies in the 2015 Local Plan is based on the 2014 SHMA, it further indicates that strategic policy BSC1 does, in the words of NPPF para 74 and footnote 39, require updating.

5.11 Paragraphs 16, 17 and 18 of the Council's Housing Land Supply update (February 2023) explain why it is appropriate to apply the standard methodology for the assessment of local housing need for Cherwell for the purpose of calculating the five year housing land supply:

“16. Since the publication of the 2021 AMR, there has been a material change in circumstances to warrant a change to the standard method for the purpose of assessing housing land supply for Cherwell.

17. In December 2022 the Council published a Housing and Economic Needs Assessment (HENA) produced jointly with Oxford City Council to inform their respective Local Plan processes. THE HENA considers the Oxfordshire's Functional Economic Market Area (FEMA) and the Oxfordshire Housing Market Area (HMA).

18. The HENA is new up to date evidence of housing need, which provides an assessment of housing need which is materially different to that in the 2014 SHMA. It indicates that the 2014 SHMA is now out of date. This is the conclusion of a new 'Regulation 10A' review of the strategic policies in the Cherwell Local Plan 2011- 2031 presented to the Council's Executive on 6 February 2022. As the housing requirement in the adopted strategic policies in the 2015 Local Plan is based on the 2014 SHMA, it further indicates that these strategic policies do, in the words of NPPF para 74 and footnote 39, require updating.

19. In view of these circumstances, it is appropriate to apply the standard methodology for the assessment of local housing need for Cherwell for the purpose of calculating the five-year housing land supply.”

5.12 However, policy BSC1 is generally consistent with the NPPF and its objectives in paragraph 60 of significantly boosting the supply of homes and ensuring sufficient land comes forward in sustainable locations where it is needed. The Local Housing Need, to follow the Standard Methodology, as set out in the Housing Land Supply Proof by John Goodall and the Council’s Regulation 10a Assessment, the requirement requires updating. However, the Policy through the Annual Monitoring evidence demonstrates that the plan has been successful in meeting housing needs, however they are assessed. The direction of growth to larger settlements (e.g., Bicester and Banbury) as part of the growth strategy and in this respect is a distinction between the requirement (which requires updating) and the distribution of housing (which is reflected in this policy as well as Villages 1 and 2) which is considered to be up-to-date. Therefore, significant weight should be attached. This is also a requirement of policy ESD1 (Mitigating and Adapting to Climate Change) which relates to mitigating climate change distributing growth to the most sustainable locations as defined in this Local Plan.

5.13 The Council’s latest Annual Monitoring Report (AMR) shows how the Local Plan, as a whole, is continuing to deliver a high level of growth consistent with the overall plan trajectory. The Council continues to deliver against the NPPF aim of significantly boosting the supply of homes. A significant number of planning permissions have been granted on the Council’s allocated sites and development continues to be delivered.

5.14 The Council’s latest AMR shows that the Council has surpassed the annual housing requirement with 1,398 housing completions during 2022/23. The district is experiencing a high level of growth, and the Local Plan continues to provide a supply of development land. In terms of Affordable Housing the AMR highlights that 3,238 units have been delivered in the plan period which equates to 269.83per annum against the target of 190 per year.

- 5.15 The Council has exceeded the housing delivery test published by the government (latest DLUHC publication, 14 January 2022).
- 5.16 A new housing requirement will be set through the emerging Local Plan Review 2040 which will consider the distribution and mix of housing across the District. The Regulation 18 consultation process for the 'Local Plan Review 2040 (LPR)' took place during the Autumn of 2023. Paragraph 48 of the NPPF states that:
- “Local planning authorities may give weight to relevant policies in emerging plans according to:
- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
 - b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
 - c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).”
- 5.17 The weight afforded to different policies is always a matter for the decision maker, and in the case of the Draft Cherwell Local Plan Review, this weight should be determined in line with NPPF para 48, as set out above. Policies will generally gain weight as they progress through the process of consultation and examination, particularly where they do not attract objections. Given the relatively early stage of preparation of the Draft Cherwell Local Plan Review (LPR), it is considered that no significant weight can be given to the policies therein.
- 5.18 In short, the development plan is up-to-date and contains a clear strategy identifying where housing should go. Overall, the policies in the plan are sound and consistent with National Planning policy and the CLP 2015 and the saved

Policies of the CLP 1996 are considered to be up to date, notwithstanding the need for the housing requirement to be updated.

Supplementary Planning Documents

5.19 The Council has set out detailed guidance of its approach to planning obligations in the Developer Contributions Supplementary Planning Document (SPD) which was formally adopted in February 2018, in accordance with the tests set out in the CIL Regulations and the NPPF. Further information will be set out in the Council's CIL Reg Compliance Statement.

5.20 The Cherwell Residential Design Guide SPD 2018 seeks to ensure that the quality of design across the district is raised, ensuring a legacy of successful places for future generations to enjoy.

The National Planning Policy Framework (The Framework) (December 2023)

5.21 The NPPF defines “sustainable development” in paragraphs 7 to 10 and is clear that achieving such development has three overarching objectives: economic, social, and environmental to deliver the provision of homes, commercial development, and supporting infrastructure in a sustainable manner.

5.22 These objectives are:

a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect

current and future needs and support communities' health, social and cultural well-being; and

c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

5.23 Paragraph 9 confirms that these objectives:

“... should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.”

5.24 Paragraph 10 states: “So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11)”.

5.25 Paragraph 11 sets out the presumption in favour of sustainable development. For decision-taking this means:

“c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

5.26 Footnote 8 of the NPPF advises housing policies can be considered out of date where (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 77) and does not benefit from the provisions of paragraph 76; or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years

5.27 Paragraph 12 of the NPPF clarifies that the presumption in favour of sustainable development set out in paragraph 11 does not change the statutory status of the Development Plan as the starting point for decision making.

5.28 Paragraph 12 also clarifies that, if a planning application conflicts with an up-to-date Development Plan (including any neighbourhood plans that form part of the Development Plan), permission should not usually be granted. It confirms that local planning authorities may take decisions that depart from an up-to-date Development Plan but only if material considerations in a case indicate otherwise.

5.29 As explained in Mr. Goodall's Proof of Evidence and the Council's Housing Land Supply update (February 2023), the Council can demonstrate an adequate supply of deliverable housing sites in the district. As such, the tilted balance as set out at paragraph 11 is not engaged by virtue of footnote 8.

5.30 As discussed above at Paragraph 5.8 and the associated Table the policies of the Development Plan that are most important to the determination of the appeal are considered to be in general conformity with the NPPF and therefore are considered to be up to date.

5.31 Paragraph 15 confirms that the planning system should genuinely be plan led, where up to date plans should provide a positive vision for the future of each

area through a framework for meeting housing needs and addressing other economic, social, and environmental priorities.

- 5.32 Paragraph 20 confirms strategic policies should set out an overall strategy for the pattern, scale, and design quality of places (to ensure outcomes support beauty and placemaking), and to make sufficient provision for housing, infrastructure, community facilities and conservation and enhancement of the natural, built, and historic environment.
- 5.33 Paragraph 33 confirms the requirement for plans to be reviewed at least once every five years and be updated as necessary, taking account of changing circumstances affecting the area, or any relevant changes in national policy.
- 5.34 Paragraph 34 advises that: “Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure”.
- 5.35 Paragraph 47 acknowledges the legal requirement for applications for planning permission to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 5.36 Paragraph 60 states that to support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed. The overall aim should be to meet as much of an area’s identified housing need as possible, including with an appropriate mix of housing types for the local community.
- 5.37 Paragraph 61 sets out that to determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance. The outcome of the standard method is an advisory starting-point for establishing a housing requirement for the area. There may be exceptional circumstances, including relating to the particular demographic characteristics of an area which justify an alternative approach to assessing housing need; in which case the alternative approach should also reflect current and future

demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.

5.38 Paragraph 76 highlights that Local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:

a) their adopted plan is less than five years old; and

b) that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded.

5.39 Paragraph 77 provides that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 apply.

5.40 Paragraph 96 confirms planning decisions should aim to achieve healthy, inclusive, and safe places and beautiful buildings which promote social interaction, are safe and accessible, and enable and support healthy lifestyles including access to local shops and sports facilities and layouts that encourage walking and cycling.

5.41 Paragraph 97 sets out the approach to providing social, recreational, and cultural facilities and services and that planning decisions should ensure an integrated approach to considering the location of housing.

5.42 A section of the NPPF (paragraphs 108 to 117) is concerned with promoting sustainable transport. Transport issues should be considered from the earliest stages of development proposals (paragraph 108) and development should only be prevented or refused if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe (Paragraph 115).

- 5.43 Parts a) and c) of Paragraph 135 require planning policies and decisions to ensure that developments: a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)
- 5.44 Paragraph 180 confirms planning decisions should contribute to and enhance the natural and local environment by: a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- 5.45 Paragraph 139 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 5.46 Paragraph 226 highlights that from the date of publication of this revision of the Framework, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old, instead of a minimum of five years as set out in paragraph 77 of this Framework. This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need. This provision does not apply to

authorities who are not required to demonstrate a housing land supply, as set out in paragraph 76. These arrangements will apply for a period of two years from the publication date of this revision of the Framework.

6.0 EVALUATION

6.1 In my opinion, the main planning issues relevant to this appeal (arising from the reasons for refusal and case management conference) are:

- 1) The Key Matters set out in the Inspector's Case Management Conference Note
 - a. whether the location of the development is appropriate having regard to the facilities present in the village and other facilities accessible by sustainable means and the policies of the development plan;
 - b. the effect of the proposed development on the character and appearance of the village and the surrounding landscape, including whether the additional housing would constitute a disproportionate extension to the village and whether any alleged adverse effects are capable of being mitigated;
 - c. whether the cumulative effects of the appeal proposal and other developments in and around the village would lead to the loss of its identity by closing the gap between Chesterton and Little Chesterton;
- 2) The Regulation 18 Consultation Draft of the Local Plan
- 3) The Council's Housing Land Supply;
- 4) Oxford's Unmet Housing Need
- 5) The provision of infrastructure contributions required as a result of development and whether they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
- 6) The overall planning balance.

6.2 My proof of evidence sets out background information relevant to these matters and refers to the evidence of the Council's Consultant's on specific topics. I then

go on to set out the council's detailed evidence in relation to the balance of planning considerations relevant to this appeal.

1) Issue 1: The Key Matters set out in the Inspector's Case Management Conference Note

a. whether the location of the development is appropriate having regard to the facilities present in the village and other facilities accessible by sustainable means and the policies of the development plan;

- 6.3 As the CLP 2015 covers the period 2011 - 2031 a proportion of the overall growth proposed for the area has already taken place. There remain significant commitments to a wide variety of development within the District, including new housing.
- 6.4 This plan takes account of existing commitments, proposes where new development should take place and sets criteria against which proposals for developments should be judged.
- 6.5 The Local Plan proposes an approach of generally concentrating housing growth in the most sustainable locations to mitigate development within the District on climate change, as opposed to spreading growth out too thinly across the whole district. It therefore has an urban focus. The most sustainable locations are considered to be Bicester and then Banbury, although this does not mean that no growth will take place elsewhere. The Council recognises the role larger villages play (with a higher level of services than the smaller villages), and some limited growth is planned for within these communities and at a former military base at Upper Heyford.
- 6.6 The Council's spatial strategy on the distribution of housing in accordance with a sustainable settlement hierarchy is set out in policies BSC1, Villages 1 and Villages 2 of the CLP 2015. And policies ESD13 and ESD 15 protect the Council's Landscape and the character and appearance of the built environment.

- 6.7 Policy BSC1 seeks to deliver a wide choice of high-quality homes by providing for 22,840 additional dwellings between 1 April 2011 and 31 March 2031 based upon the SHMA. As set out above, the requirement itself is now considered to be out of date. At the time of adoption, of the 22,840 houses to be delivered across the plan period, the majority (17,448) are to be directed to Banbury and Bicester as the most sustainable locations. The remaining 5,392 dwellings are to be distributed across the rest of the district. This further explains the Council's approach as set out above. Notwithstanding the requirement needing updating, the approach to distribution/settlement hierarchy is not out of date with recent appeal decisions also supporting the settlement hierarchy (e.g. Banbury Road, Finmere – **Core Document 4.17**)
- 6.8 Policy Villages 1 is a Policy which categorises villages to guide the consideration of small scale developments within the built up limits of settlements and helps to categorise which villages are best placed to sustain different levels of residential development. This policy then categorises the villages into Category A (service villages), Category B (Satellite Villages) and Category C (All Other Villages). Category A and B villages both allows for 'Minor developments' in addition to infilling and conversions.
- 6.9 Chesterton is identified in Category A, as a service village. Since the appeal site falls outside of the settlement boundary and thus, by definition, is in the countryside, and it has not been allocated, its development would not accord with Policy Villages 1.
- 6.10 Policy Villages 2 is, subject to stringent criteria being met, a permissible policy and relates to the distribution of growth across the rural areas. It states that a total of 750 homes will be delivered at the Category A villages on new sites of 10 or more dwellings (in addition to the rural allowances for small site 'windfalls and planning permissions as at 31 March 2014).
- 6.11 The 750 dwellings allocated under Policy Villages 2 is not a ceiling or maximum, but neither is it a minimum and it is described in the policy as a "total" and is therefore a reflection of the distribution of housing across the district. The 750

figure is embedded in the policy, and it has an important strategic purpose (the “strong urban focus”), otherwise no figure would have been used in the Plan. Building significantly more than 750 houses on Policy Villages 2 sites in the plan period, in an uneven and disproportionate way, would undermine the sustainable growth strategy in the Development Plan and conflict with policies BSC1 and Policy Villages 2. As noted by the Planning Inspectors in the Chesterton (**Core Document 4.3**), Finmere (**Core Documents 4.13, 4.16 and 4.17**), Launton (**Core Document 4.12**) and Weston on the Green (**Core Document 4.9**) appeals, the corollary of that is to avoid unconstrained growth in less sustainable locations.

6.12 Chesterton has already provided 45 dwellings identified as The Paddocks in the 2016 Chesterton Appeal (**Core Document 4.3**). The development at The Paddocks is in addition to 44 dwellings approved on appeal on land off Green Lane in 2013, which do not count towards the 750 number in Policy Villages 2.

6.13 Furthermore, the 2016 Chesterton Appeal Decision (**Core Document 4.3**) noted the cumulative growth within the settlement and the impact of further housing growth over the approved growth (in particular Paragraphs 17 and 18).

6.14 The Inspector Noted that Chesterton was already committed to provide 45 dwellings, which have now been completed. The Inspector noted that if the approval of the appeal in 2016 (51 dwellings) was allowed 12% of the 750 district wide total would be provided in one relatively small village. If this appeal were to succeed this figure would be 25.6% of the 750 figure would be delivered in the one relatively small village. There is no reason to disagree with the previous Inspector that this would be disproportionate.

6.15 In its consultation response, the County Council Education Authority notes the proposed development is located in the designated area for Chesterton CE Primary School. The school has already expanded to 1 form of entry in 2020. Numbers are growing rapidly, with 182 pupils on roll as of October 2022 (the Reception – Year 3 year groups are all at full capacity) and the school is over-

subscribed for the 2023 Reception intake. The school does not have sufficient site area to expand further.

6.16 There are limited bus facilities in the village and the Appellant seeks to rely on the proposed bus service which forms part of the Great Wolf approved development. This service is not designed for residential use and would be a shuttle bus service to Great Wolf. However this has yet to be implemented and delivered. The reliance on this service therefore would be misplaced given the detail, frequency or location of stops have yet to be defined. Further the long-term success of the service has yet to be determined and patronage within the village may not be sufficient with residents not capable of accessing the service.

6.17 The site has no other services to meet the day to day needs of the Village, other than a local public house. The connections and roads are rural in nature with no footpaths on the highway. Public rights of way are rural in nature and designed to meet countryside recreation rather than commuting purpose. Routes are unlit. Connections therefore to Bicester and other villages are therefore limited in terms of alternative modes of transportation for school transport or commuting or to meet day-to-day shopping needs, for example.

6.18 Policy Villages 2 states that sites will be identified through the preparation of the Local Plan Part 2, through the preparation of Neighbourhood Plans where applicable, and through the determination of applications for planning permission. As explained in paragraph 6.10 above, this Policy also lists a number of criteria that the Council will have regard to in determining applications for planning permission in Category A villages. For completeness, I have set out the full list of criteria below with supporting commentary explaining whether each of the criteria has been met.

Policy Villages 2 Criteria	My Assessment
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<p>Whether the land has been previously developed land or is of lesser environmental value</p>	<p>The site is greenfield and is not of lesser environmental value</p> <p>Not in compliance</p>
<p>Whether significant adverse impact on heritage or wildlife assets could be avoided</p>	<p>There would be an impact on farmland bird habitats however the proposals would deliver an enhanced provision through the mitigation.</p> <p>Could be in compliance if delivered appropriately through the recommendations of the Biodiversity Matrix.</p>
<p>Whether development would contribute to enhancing the built environment</p>	<p>Whilst the final design of the scheme is not being considered at this stage, a development of this scale, in this location, would result in an adverse effect on the character and appearance of the area which would not enhance the built environment: the proposal would amount to an urban estate outside the settlement boundary changing the interpretation of the settlement and its approaches.</p> <p>Not in compliance</p>
<p>Whether best and most versatile agricultural land could be avoided</p>	<p>The site is within the open countryside with agricultural land designated as Class 3a (or Best and Most Versatile Land).</p> <p>Not in compliance</p>

<p>Whether significant adverse landscape and impacts could be avoided</p>	<p>The appeal scheme substantially breaches criterion 5 because the scale and siting of the development would result in unavoidable material harm to the existing landscape, as identified by the Council's Landscape Consultant (Mark Topping), and the Council's Landscape Officer.</p> <p>Not in compliance</p>
<p>Whether satisfactory vehicular and pedestrian access/egress could be provided</p>	<p>The Highway Authority are satisfied that access to the site could be provided.</p> <p>Complies</p>
<p>Whether the site is well located for services and facilities</p>	<p>There are limited facilities in the area to meet day to day needs and the local school is over-subscribed.</p> <p>Not in compliance</p>
<p>Whether necessary infrastructure could be provided</p>	<p>There are no infrastructure elements which are proposed to meet day-to-day needs.</p> <p>Not in compliance</p>
<p>Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period</p>	<p>There is no evidence that the development could not be delivered within the plan period</p> <p>Complies</p>
<p>Whether land the subject of an application for planning permission could be delivered within the next five years</p>	<p>The development could be delivered within the next five years</p> <p>Complies</p>

<p>Whether the development would have an adverse impact on flood risk.</p>	<p>There are areas of the site which are subject to surface water flooding however the development proposals could include appropriate sustainable drainage to manage and mitigate flooding from the development.</p> <p>Complies</p>
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6.19 Whilst not a limit on housing growth, in substantially exceeding the 750 figure the villages continue to contribute to a level of growth over and above the level planned for in the Plan. There is therefore no shortfall in planned growth to the villages. As highlighted in the recent Fimere appeal decision (31 October 2023 – **Core Document 4.17**, Paragraphs 11 and 12) the direction of significant further growth therefore needs to be managed to larger settlements which can provide a full range of services and employment opportunities which are accessible through appropriate infrastructure.

6.20 Overall, therefore, the village of Chesterton has already accommodated significant growth within the plan period and the proposals would not meet the criteria of Policy Villages 2.

b. the effect of the proposed development on the character and appearance of the village and the surrounding landscape, including whether the additional housing would constitute a disproportionate extension to the village and whether any alleged adverse effects are capable of being mitigated

6.21 Landscape evidence by Mark Topping has highlighted how this impacts negatively on the settlement and landscape character of the village.

6.22 The figures submitted by the Appellant titled 'Committed Development and Proposed Development at Chesterton - Sites Location Plan' (**Core Document 2.9**), and on page 14 of the DAS (**Core Document 1.2**) titled 'Diagram of

Chesterton showing the historical context from which the site can take precedents and illustrates recent consented planning applications and past development evolution.

6.23 The context of recent planning decisions in relation to Penrose Gardens (to the north), Vespasian Way and The Green (to the east); together with the Bicester Sports Association (BSA) development adjacent to Site (to the west) shown on the Committed Development and Proposed Development at Chesterton - Sites Location Plan -v6 submitted by the Appellant as part of the Application (**Core Document 2.9**).

6.24 The development at Great Wolf (to the northwest) and shown on the abovementioned plan is approximately 0.58 km from the Site; however, the offsite footpath creation associated with its consent has an urbanising effect on the streetscape of Green Lane and has impacted existing trees beyond the Sites northern boundary through the raising of levels and associated earth works. The BSA site in particular although only partially constructed now creates a defining character of recreation and no longer has a rural character although heavily treed along its perimeter. This is due to the management of the trees creating intervisibility to the extensive sports fields beyond and the impacts of lighting from buildings and flood lights. To the north of the BSA the intensification of the existing golf course associated with the Great Wolf development has a similar effect with recreation defining this wide landscape area and recreational signage appearing on fencing.

6.25 As stated by Mr Topping, the Council's Landscape Officer provided comprehensive comments in relation to the Application, dated 27th April 2023 (**Core Document 2.8**), titled 'Settlement Character' where they state the following:

The inter-relationship between the landscape and newly built form would be seen as a significant change, certainly when receptors approach the village. The land of the proposed development forms the landscape setting for the gateway into

the village from the western end. Additional screening is proposed for this development and this in itself suggests that if this is necessary then the development will not fit easily into the landscape. And as is clearly apparent, building on this site invariably pushes development further out into open countryside, whilst adding another relatively busy access point off Green Lane and two further access points for pedestrians.

Being an extension beyond existing boundaries will alter the interpretation and approach from the open landscape and into the village which will have a detrimental impact on the settlement and landscape character but will also add further pressure onto existing facilities and infrastructure.

6.26 Mr Topping further highlights that the difference between substantial or moderate adverse as commonly assessed at year 1 and substantial or moderate beneficial as commonly assessed at year 15 is vast. Without a clear narrative explanation, it is difficult to understand how such conclusions have been reached. The reliance on cross reference with methodology (LVA Appendix A) fails to inform the reader on how the assessment has arrived at beneficial effects especially substantial ones. The LVA's own methodology states that adverse effects conflict with local/national planning policies or guidance to protect an area's character or a view.

6.27 This conflict, as highlighted by Mr Topping, is directly relevant to the reason for refusal as the council asserts that the effects of the development will cause harm to the settlement and landscape character of Chesterton contrary to Policy ESD 13 and the Council disagrees with the assessment of findings in the LVA accordingly. As such Policy Villages 2 also states that; 'In identifying and considering sites, particular regard will be given to the following criteria: Whether significant adverse landscape and impacts could be avoided.

6.28 The extension of Chesterton, individually by c.34% as a result of these proposals and by in excess of 50% when considered cumulatively with previous recent completed development and is a significant extension which is not capable of being mitigated and as supported by the evidence of Mr Topping and of the

Landscape Officers at the determination of the application, the impacts cannot be mitigated. The proposals would also be deliver 25.6% of the anticipated Policy Village 2 figure of 750 dwellings in one relatively small village with limited facilities.

c. whether the cumulative effects of the appeal proposal and other developments in and around the village would lead to the loss of its identity by closing the gap between Chesterton and Little Chesterton

6.29 Mr Topping's evidence highlights that an important component of the case relates to the gateway to the village of Chesterton when approaching from the west along Green Lane; alongside approaches from the unnamed roads to Little Chesterton (to the south of Green Lane) and linking to Bignall View (A4095) to the north east of Green Lane and from the village itself travelling west. At present both the Site and the land to the north represent a rural/countryside character synonymous with the setting of this rural village. This character is also prevalent at the other side of the village when entering Chesterton from north to south along Bignall View off Vendee Drive.

6.30 The Site and land to the north of Green Lane also represents a working countryside in agricultural land use, which together wraps around the village to the west, south and east, albeit this has been eroded further north with the building of the development at Penrose Gardens. The combination of wooded vegetation along the three main entrances to Chesterton (Green Lane and unnamed roads) provides enclosure and a rural character; together with glimpsed views across open countryside and the wider landscape creating a rural character to the village when viewed by users along these roads and users of PRow footpath 161-5-10.

6.31 As highlighted by Mr Topping receptors from viewpoint 4 of table 4 of the LVA currently experience views across the open, agricultural Site of the existing settlement edge from the unnamed road to Little Chesterton travelling north and south by motorists, cyclist, horse riders' and walkers; together with receptors using PRow footpath 161-5-10 directly opposite the current gap in existing

vegetation along the Sites western boundary. From this viewpoint these receptors can appreciate the existing setting of Chesterton and the settlement and landscape character of Chesterton across open countryside. The existing vegetation along the unnamed road and Green Lane would lie outside the red line.

6.32 Evidence also states that the LVA relies heavily upon proposed boundary planting along the western and northern boundary along the unnamed road to Little Chesterton and Green Lane respectively. This planting is proposed to supplement gaps in the existing vegetation (which lies outside the planning boundary and therefore cannot at this stage be improved or wholly relied upon for screening).

6.33 Due to the size and scale of the Development and its location at the gateway to the village and village edge the Application would significantly harm the setting and landscape character of Chesterton. The introduction of further recreational space and the nature of facilities proposed (such as large-scale play facilities) given the quantum available in the landscape and planned landscape also effects the character and setting of the village.

6.34 As concluded by Mr Topping, this proposal creates both a disproportionate development when considered against the scale of the existing village causing significant adverse landscape and visual harm; together with harm to the approaches to the village with incongruous urban form still visible at year 15 and in proximity to cumulative sites resulting in a negative impact on the individual identity of Chesterton and little Chesterton.

Issue 2: The Regulation 18 Consultation Draft of the Local Plan 2040 (Core Document 3.3)

6.35 The Council commenced consultation and preparation on the new Local Plan and carried out a Regulation 18 Consultation in the Autumn of 2023. For the purposes of Paragraph 226 of the Framework this is an appropriate consultation

which therefore results in the Council being required to demonstrate a four-year housing land supply.

6.36 The Consultation identifies a proposal for 500 dwellings to the south of Chesterton and Northwest of the A41 which includes the appeal site. Notwithstanding this the Local Plan is at an early stage and as such can only be attributed very limited weight in accordance with Paragraph 48 of the NPPF.

6.37 Paragraph 34 of the NPPF states that Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). A site allocated through a Local Plan would undergo full consideration as to how to meet its infrastructure requirements on this basis in a strategic sense in comparison to a speculative proposal.

6.38 The comments made by University College in response to the application and this appeal should be noted in this respect (**Core Document 2.10**). Their representations highlight that the proposed allocation would be capable, through a masterplan approach, of delivering in accordance with the key requirements set out in the Infrastructure Delivery Plan of the emerging plan:

- The main access road(s) through this site needs to be wide enough to accommodate bus access.
- High quality, LTN 1/20-compliant walking and cycling improvements and bus priority should be provided along A41 into Bicester Centre.
- A local modal interchange hub (e.g. park and change site) at the new A41 junction is likely to be necessary, based on the existing Park and Ride site.
- Delivery of other LCWIP schemes relevant to site.

- Expected to significantly contribute towards the changing future role of a South East Peripheral Road and its complementary measures along the A41.

6.39 There is also potential to explore facilities for day-to-day needs (e.g. small-scale retail, health and leisure opportunities) and explore matters such as the provision of additional education facilities as well as improved connections to nearby employment facilities.

6.40 In addition access would be more likely to be from the A41 rather than rely on rural and unsustainable infrastructure in Chesterton village. Further appropriate connections could be established to support Chesterton and provide connections to meet day-to-day needs.

6.41 The potential allocation therefore, unlike the appeal proposal, would, if pursued further, be planned to require a plan-led masterplan approach to the area for the delivery of homes in a sustainable manner with the appropriate level of planned infrastructure.

6.42 The proposed draft allocation therefore does not alter the position of the Council in the assessment of the appeal proposal particularly because its identification in the Regulation 18 Consultation Draft Plan carries limited weight and will require further consideration in light of responses received through this consultation process as the Plan moves through its formal stages.

Issue 3 - The Council's Housing Land Supply

6.43 As set out in evidence by John Goodall and in previous appeal decisions over recent months, the Council's Housing Land Supply has been tested and assessed.

6.44 The overall conclusion of Mr Goodall's evidence is that the Council demonstrates 5.69 years' supply with no 5% buffer against the relevant housing requirement.

- 6.45 The calculation reflects a surplus in excess of the relevant requirement and indicates that the policies most important for determining the Appeal proposals remain up-to-date. Paragraph 11(d) is therefore not engaged for the purposes of decision-taking on the basis of footnote 8.
- 6.46 The Evidence of Mr Goodall provides an overview of the Appellant's case on the matter of housing land supply establishing that there is a substantial level of disagreement between the parties in relation to the calculation of the requirement against which supply should be assessed.
- 6.47 On the Council's case – that the requirement is provided by local housing need calculated for Cherwell District – the Appellant's own position on supply (which the Council does not accept) at the point of exchanging evidence would result in 4.82 years' supply.
- 6.48 The implications of the most recent changes to national policy in revised National Planning Policy Framework first published 19 December 2023 ('NPPF(Dec)2023') confirm that this results in no changes to the annual requirement against which supply should be assessed, save no buffer being applied and forecast deliverable supply should continue to be considered for the five year period.
- 6.49 The policy in paragraph 226 to the NPPF (Dec 2023) applies and under the provisions of paragraph 77 the extent of deliverable supply identified must provide for a minimum 4 years' supply.
- 6.50 The contents of the Cherwell Local Plan Review 2040 – Regulation 18 Consultation Draft published for consultation between 22 September 2023 and 3 November 2023 identify sites for housing and satisfy the requirement for the inclusion of a policies map for the purposes of a Local Plan under preparation (prior to its submission) under regulation 5(a) of The Town and Country Planning (Local Planning) (England) Regulations 2012 and any accompanying maps as specified in regulation 5(b).

6.51 Mr Goodall's evidence highlights that the Appellant's details of disputed supply amount to a deficit against the relevant requirement and does not consider that the Appellant's approach to disputing supply is consistent or objective, having regard to national policy and guidance. With appropriate caveats for further evidence, it is highlighted that each site identified within the disputed supply is capable of satisfying the central test of a realistic prospect for completions beginning within five years.

6.52 Therefore, having regard to the evidence of Mr Goodall, the Council's case remains that it can demonstrate an appropriate supply of housing having regard to the alterations of the NPPF 2023, of which a substantial and significant number has been delivered under Policy Villages 2 and that the tilted balance should not be engaged.

Issue 4 - Oxford's Unmet Housing Need

6.53 The appellant suggests that the appeal proposals would support the delivery of housing to meet Oxford's Unmet Housing Need. It should be noted that a key aspect of these Policies is to deliver 50% affordable housing which is not proposed by this development.

6.54 Firstly, the Council adopted its Local Plan Partial Review (Part 1) in September 2020 (**Core Document 3.5**), and as such the plan is less than five years old and as such represents an up-to-date Local Plan.

6.55 In reaching this agreed position, the Council prepared the Partial Review of the Local Plan which, having explored and assessed 147 sites around the district, including Bicester and its surrounding area, concluded that the best 'unmet need' sites that would support Oxford whilst not undermining Cherwell's own Spatial Strategy, would be in Kidlington, Yarnton, and parts of the Green Belt on the edge of Oxford. These sites are known as PR sites. Policy PR12a of that Plan sets out the approach.

6.56 This Partial Review 2031 has been through the rigour of an Examination in Public whereby it was supported by the Inspector, and then formally adopted on the 7 September 2020. The Inspector, in his Report on the Examination of the Cherwell Local Plan 2011 - 2031 (Part 1) Partial Review – Oxford’s Unmet Housing Need (See Core Document xx), endorsed the Council’s strategy in helping Oxford deliver its unmet need whilst not undermining Cherwell’s own spatial strategy. In paragraphs 33 and 34, the Inspector commented:

“Informed by the evidence base, including the SA, and a consultation process, Options C to I (inclusive) were ruled out on the basis that they are too remote from Oxford to accommodate communities associated with the city; they are too far away from Oxford to be well-connected by public transport or walking or cycling, and therefore likely to result in increased use of the private car; more dispersed options provide less potential for infrastructure investment in terms, for example, of transport and education; and significant additional housing could not be built at Bicester, Banbury and RAF Upper Heyford before 2031 alongside major commitments already made in the adopted Local Plan 2015. On top of that, it was concluded that Options C to I (inclusive) would have a greater detrimental impact on the development strategy for the District set out in the Local Plan 2015.

Notwithstanding that they are largely located in the Oxford Green Belt, Options A and B were considered by the Council to be much better solutions to meeting the unmet need. They were identified as such largely because of their proximity to Oxford with public transport links already available and ready potential to maximise its use, alongside cycling and walking, thereby creating travel patterns that are not reliant on the private car. Moreover, these areas already have a social and economic relationship with the city that can be bolstered. Importantly too, these options would allow affordable homes to be provided to meet Oxford’s needs close to the source of that need. Finally, the proximity to Oxford and separation from other centres of population in Cherwell means that Options A and B would be unlikely to significantly undermine the development strategy in the Local Plan 2015.”

6.57 In paragraph 43, the Inspector concluded: “Taking all these points together, the vision and spatial strategy of the Plan have been positively prepared; they are justified; and likely to be effective.

6.58 In terms of delivery the Council and developers have been working on delivery of planning applications and housing. In October 2023 planning applications for two sites were granted a resolution to grant planning permission subject to the completion of a s106 agreement (reference: 22/01611/OUT – 118 dwellings and 22/00747/OUT – 370 dwellings) and further in December 2023 a further 96 dwellings were granted a resolution to grant planning permission subject to the completion of a s106 agreement under reference 22/03883/F. Full planning permission has been granted for 5 dwellings under 22/01756/F and 22/01757/LB which relate to the conversion of the listed farmhouse and its associated farm buildings. These sites are related to allocations PR7a and PR7b. This totals 589 dwellings with a resolution to grant planning permission demonstrating progress towards delivery of the allocations in the Local Plan. Work on these s106 Agreements are instructed and being progressed.

6.59 Planning applications for the allocation of PR8 (reference: 23/02098/OUT and 23/03307/OUT) have been submitted totalling c.2,100 dwellings and are under consultation and a planning application has been made for the PR6a site (reference 23/01233/OUT) for 800 dwellings.

6.60 It is also noted that allocation reference PR9 is also under consideration at a non-determination appeal (reference: 21/03522/OUT and APP/C3105/W/23/3329587). It is expected that the decision for this will be issued in Spring 2024.

6.61 The appeal site would not deliver the level of affordable housing (50%) that other Partial Review sites would deliver and would not contribute towards infrastructure as part of the Partial Review. However it is noted that through increased housing

numbers on this site and others the number of affordable dwellings would planned for in the Partial Review could still be achieved.

6.62 As such, the conclusions of the Inspector into the Partial Review are salient and material in that the appeal site would not support the delivery of housing to meet Oxford's Unmet Housing Need and the Local Plan is in the early stages of delivery with the Council proactively progressing the allocations within the Cherwell Local Plan 2011-2031 (Part 1) Partial Review - Oxford's Unmet Housing Need. At three years old, is an up-to-date Plan and strategy document and is a material consideration and, with the recent resolutions to grant permission, 13.4% of the supply set out in the Partial Review, is deliverable.

Issue 5 - The provision of infrastructure contributions required as a result of development and whether they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.

6.63 The use of planning obligations to address the impact of development and ensure they are acceptable in planning terms is well established in legislation and national, regional and local planning policy. The NPPF and the CLP 2015 both recognise the importance of addressing the impacts of development and having effective mitigation in place to ensure that development can be accommodated sustainably.

6.64 The Council is keen to ensure that new development continues, as detailed in the CLP 2015. However, new development which adds to the residential population, and on such a large-scale, places significant additional pressure on the local environment, infrastructure and public facilities. The Local Plan not only sets out plans for the delivery of development but also provides the basis on which development can be delivered sustainably, and in a way that respects environmental limits and resident's quality of life.

- 6.65 During the course of the application process Oxfordshire County Council, Cherwell District Council Leisure and strategic housing departments and the NHS identified a number of vital capacity improvement works needed to absorb the residents from the new development, if permitted including the on site provision of affordable housing.
- 6.66 Full justification for the contributions, demonstrating how they are required as a result of development and whether they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development, will be provided in Oxfordshire County Council's and Cherwell District Council's CIL Compliance Statements.
- 6.67 At the time of preparing this Proof of Evidence, a legal undertaking or a Section 106 agreement has not been completed, which means the proposal currently conflicts with the policies listed above.
- 6.68 Discussions will continue between the Council and the Appellants on the Heads of Terms (and the appropriate wording for the Section 106 agreement). I intend to update the Inspector (prior to or at the Inquiry) regarding Section 106 matters but, at present, the proposal represents an unsustainable development that will not mitigate its own impacts.

Issue 6 - The overall planning balance.

- 6.69 Below I set out the planning balance and the weight to be given to benefits and the harm or some such, then go on to consider and apply the appropriate balance in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004.

Positive benefits - Economic

- 6.70 The proposals would contribute to the creation of construction jobs and also support the local public house in the village and shopping facilities and

employment in the wider Bicester area. This is afforded significant weight taking into account the scale of the proposed development.

Positive benefits - Social

- 6.71 The contribution to the Council's Housing Land Supply proposals would create the opportunity for affordable housing provision, however whilst this is likely to be beyond the local need as set out in the 2016 Chesterton Appeal (**Core Document 4.3**) and having regard to the overall supply of Affordable Housing is above the plan target as set out in the Council's latest AMR and at Paragraph 5.14 above. This should still attract significant positive weight. The benefits of new recreational routes, sports pitches and woodland should also be afforded moderate positive weight. Other s106 contributions should also be afforded moderate positive weight.

Positive benefits - Environmental

- 6.72 Environmentally the proposals would offer a net zero carbon development and biodiversity net gain are significant benefits but only if delivered to the level proposed and providing these matters are secured by planning condition/obligation, indeed the delivery of net zero carbon may be a matter which may be considered at the heart of acceptability of the development proposals.
- 6.73 Other green space and sustainable drainage networks would also be given moderate weight as they are required to make the development acceptable and are not significantly above the expected policy levels. The Biodiversity Net Gain if delivered in accordance with the submitted Matrix should be given significant positive weight.

Negative Impacts – Economic

- 6.74 Negative economic impacts include the increased pressure on local services and the area and without additional facilities being provided in the village the proposals would result in a loss of economic capability of the village to adapt and sustain the local economy with increased queuing and car based activity likely.

This impact, however, taking on board the comments of consultees, can only be afforded limited weight.

6.75 The proposals would increase the level of housing in an unplanned manner beyond that of the Local Plan figure in Policy Villages 1 and Policy Villages 2 by a significant proportion and undermine the growth strategy for the District which is a fundamental criteria for delivering economic growth. This is a significant negative economic consideration.

Negative Impacts – Social

6.76 The proposals would impact on the identity and character of the village with the development extending significantly beyond the existing boundaries and creating a scale of development that would change the character of the village which carries significant negative consideration. Further the development would have a negative impact on existing residents who value and seek a village lifestyle. In the absence of facilities, the integration of new residents and to create a cohesive village community would also have a negative consideration.

6.77 Whilst s106 contributions are noted, and provide an element of positive contribution, on the negative side the spend of education contributions in southwest Bicester and would not provide infrastructure to support the village itself. This would also undermine the village identity and benefits surrounding the development. Overall this would be a significant negative social impact.

6.78 The proposals would have a negative impact on the amenity to neighbouring residents particularly during the construction of development. This would be a moderate negative consideration on the social well-being of residents.

Negative Impacts – Environmental

6.79 As stated above, the proposals would significantly change the character of the village and extend beyond the existing boundaries and the harm to the character and identity of the village in an unplanned manner and beyond organic or normal

levels of growth that would otherwise be expected for a village akin to Chesterton. This would be a significant negative impact on the village and environment.

6.80 The proposals would be predominantly car based in accessing the vital day-to-day facilities, this combined with the scale of development in comparison to the village. As set out in Evidence above and in the Evidence of Mr Topping the proposals would extend the settlement by over 34% individually and by over 50% when considered with other recent completions.

6.81 The proposals would result in 25.6% of the 750 Policy Villages 2 figure in a relatively small village. Due to the size and scale and its location at the gateway to the village and village edge the proposed n would significantly harm the setting and landscape character of Chesterton. The introduction of further recreational space and the nature of facilities proposed (such as largescale play facilities) given the quantum available in the landscape and planned landscape also effects the character and setting of the village. The proposals would deviate from the settlement pattern of Chesterton and as such would create an incongruous development and as such would cause significant adverse landscape and visual impacts to the settlement character which could not be avoided or mitigated by the proposed development by way of local vernacular materials or planting.

6.82 Considering the limited public transport and cycling and walking facilities have a significant negative impact on the environmental aspirations and mitigating climate change and reducing the need to travel.

6.83 During the construction of development there would be disturbance and impacts arising from the implementation of the development this would be a moderate negative consideration on the local environment.

6.84 The proposals would also have a negative impact in terms of the use of land, resources, materials and other impacts arising from the development. This impact is considered to be moderate.

6.85 In application of s38(6) the conclusion of the Council is that the negative impacts and harm arising from the appeal proposals would be such that they significantly and demonstrably outweigh the benefits of approving the development.

6.86 The Council also conclude that in the event that the Inspector concludes that the tilted balance applies, it is the view of the Council that the identified harm set out above and in the evidence of Mr Topping to the character and appearance of the locality significantly and demonstrably outweighs the benefits of the scheme.

7.0 CONCLUSION

- 7.1 The final adopted CLP 2015 is up to date. As is the Local Plan Partial Review 2031. They must be accorded full weight. The saved policies of the CLP1996 relevant to this appeal are considered to be in general conformity with the Framework
- 7.2 The appeal proposal would result in the unnecessary urbanisation of attractive, rural landscape and adversely impact the settlement character of Chesterton which has limited facilities. Chesterton has already delivered significant growth within the plan period. As set out in evidence by Mr Topping, the proposals would irrevocably alter the character of the village to its detriment, and does not accord with the Local Plan.
- 7.3 I have considered whether there are material considerations which should be applied which might outweigh the conflict identified with the Development Plan. Notwithstanding the modest benefits which could flow from the proposed development, in my view, the overall balance is firmly against the appeal proposal, and the Development Plan should prevail.
- 7.4 The Council considers that its Housing Land position is robust and has been substantively tested on appeal. This is set out in the evidence of Mr Goodall. Even if the contrary view is taken about the Council's published Five-Year Housing Land Supply position, the NPPF guides at Paragraph 226 that with the progression of the Local Plan Review through Regulation 18 a four year supply should be applied.
- 7.5 The appeal proposals would not be related to Oxford's Unmet Housing Need with the adopted development plan being less than 5years old and progression occurring through applications for a significant number of the proposed housing and resolutions in place for c.13.4% of the planned housing need. Geographically the proposals would not be related to Oxford and would not deliver infrastructure related to the delivery of housing in the adopted Development Plan relating to Oxford's Unmet Housing Needs.

- 7.6 It is therefore considered that the “tilted balance” is not applicable.
- 7.7 However, even if the tilted balance were applicable, I contend that the same conclusion flows. The harms remain permanent and enduring whilst many of the benefits are essentially short term. The harm would therefore significantly and demonstrably outweigh the benefits.
- 7.8 The proposed allocation in the Local Plan Review 2040 carries very limited weight as the Local Plan is not at an advanced stage and irrespective of the infrastructure and plan-led co-ordination with the neighbouring elements of the proposed allocation and the co-ordination and infrastructure capability of the allocation should be considered, particularly in respect of access. The comments of the University College should be noted in this regard.
- 7.9 The breach of the relevant paragraphs of the NPPF (in particular Paragraphs 8, 96, 97, 108, 135, 139 and 180) and Policies Villages 2, ESD 1, ESD 13, ESD 15 and INF 1 of the Cherwell Local Plan 2015 and saved policies C28 and C30 of the Cherwell Local Plan 1996 is a key aspect of that harm.
- 7.10 For the reasons set out in my Proof of Evidence, and those of Mr. Goodall and Mr. Topping, I respectfully request that the appeal be dismissed.

DECLARATION

- 7.11 The evidence which I have prepared and provided for this appeal is true to the best of my knowledge. I confirm that the points and arguments expressed in this proof of evidence are my true and professional opinion.