

**LAND SOUTH OF GREEN LANE,
CHESTERTON**

**APPEAL REFERENCE
APP/C3105/W/23/3331122**

PROOF OF EVIDENCE OF ASHER ROSS MRTPI

Contents

Introduction – Page 3

Background – Page 5

The Appeal Scheme – Page 7

Planning History – Page 8

Planning Policy – Page 13

Appeal Scheme Assessment – Page 23

Weight – Page 34

The Benefits – Page 39

The Planning Balance – Page 47

Summary and Conclusions – Page 51

Appendices

Appendix A – Summary of Experience

Appendix B – APP/V0510/W/21/3282449 Decision

Appendix C - APP/D0121/W/21/3286677 Decision

Appendix D - APP/L3815/W/22/3291160 Decision

Appendix E – Turley Economic Infographic

Appendix F – Note from BSG regarding BNG

Appendix G – Plan of decisions in Chesterton

1. INTRODUCTION

1.1 My name is Asher Ross. I am Director of Planning at Wates Developments Ltd ('The Appellant'). I am a chartered member of the Royal Town Planning Institute.

1.2 My role involves providing strategic overview on planning matters and assisting in the day-to-day management of planning projects.

1.3 I have significant experience of giving evidence at public inquiries, including on behalf of Wates – I have given the planning evidence at several such inquiries in the past three years, all of which have been granted planning permission.

1.4 I joined Wates from JLL where I was a Planning Director. I have also worked at GL Hearn (now WSP) and Boyer as well as Indigo Planning (now also WSP) and Ove Arup and Partners. I started my planning career at the London Borough of Enfield as a planning officer, rising to the position of head of planning enforcement. A summary of my recent and relevant experience is attached as **[Appendix A]**.

1.5 I have significant experience in projects in Oxfordshire, including appearing at public inquiries and examinations in public. I have been aware of this project since around 2021 and have had greater involvement since the application had been submitted to the Council.

1.6 This Proof of Evidence ('PoE') has been prepared to address the matter of compliance with relevant planning policies, accordance with the provisions of the development plan when considered as a whole, the relevant material considerations and the overall planning balance.

1.7 The evidence which I have prepared and provide for this appeal reference APP/C3105/W/23/3331122 is true and has been prepared and is given in accordance with the guidance of the Royal Town Planning Institute's Professional Code of Conduct (2023) and I confirm that the opinions expressed are my true and professional opinions, irrespective of by whom I am instructed.

1.8 This Proof of Evidence is set out as following:

- Section 2 sets out the background to the Application / Appeal;
- Section 3 describes the Appeal Scheme;
- Section 4 provides commentary on the relevant planning history;
- Section 5 sets out the relevant planning policy and guidance;
- Section 6 assesses the Appeal Scheme against such policy;
- Section 7 considers the matter of weight;
- Section 8 considers the benefits that would arise from the grant of consent;
- Section 9 provides the planning balance; and
- Section 10 provides a summary and conclusions.

GLOSSARY

1.9 In this Proof, I use the following terms:

'The Council' or 'CDC' – Cherwell District Council

'The County Council' or 'OCC' – Oxfordshire County Council

'The Appeal Scheme' – the scheme as submitted to the Council

'The Appellant' or 'Wates' – Wates Developments Ltd

'The Site' – the area of land shown to fall within the red line plan

'The 1990 Act' – The Town and Country Planning Act 1990 (as amended)

2. BACKGROUND

Introduction

2.1 This Section of my Proof of Evidence sets out the background to the Appeal. It should be read together with the Statement of Common Ground. As required by the PINS Guidance, it focuses on the reasons for refusal and does not repeat matters which are not contentious as between the parties, and which are addressed in other documentation before the Inquiry.

2.2 A planning application for development of the Site residential use was submitted to the Council in January 2023 following discussions with both the Council and the Parish Council.

2.3 Further information in relation to the application was submitted throughout the determination period. The Application was recommended for refusal by officers [CD2.1].

2.4 The Council set out three reasons for refusal ('RfR')¹. It is anticipated that RfR3 which relates to the lack of a S.106 agreement will be overcome.

2.5 The Appellant's view is that neither of the remaining two reasons for refusal stand up to scrutiny when considering the overall planning balance; and in particular the significant and weighty benefits that would be forthcoming should consent be granted, which in my view significantly outweighs the more limited level of harm.

2.6 My Proof of Evidence addresses matters of planning policy, compliance with such policy and the overall planning balance.

2.7 In addition, my colleagues provide evidence of specific matters and I rely on their evidence:

- Mr Jeremy Smith – Landscape and visual impact
- Mr Richard Burton – Urban design and settlement character
- Mr James Bevis – Locational sustainability
- Mr Christopher Roberts – Housing land supply

2.8 An Overarching Statement of Common Ground ('SoCG')² has been agreed with the Council and I refer to this as required. I do not replicate any matters that have been agreed elsewhere.

CDC's Position

2.9 I have set out that RfR3 is likely to be overcome with the submission of a S.106 agreement.

2.10 In terms of the remaining two RfR, they address several separate matters including the scale of development, the sustainability of the Site, adverse landscape impacts as well as effects on settlement character.

¹ CD2.3

² CD6.4

2.11 The Council also considers that it can demonstrate the requisite supply of deliverable sites in accordance with the requirements of the NPPF and that the so-called 'tilted balance' does not apply to the determination.

2.12 In terms of the planning policy, the Council considers that full weight should be afforded to the policies of the Cherwell Local Plan 2011-2031 Part 1 ('CLP 2015') and the Cherwell Local Plan 1996 ('CLP 1996') other than where indicated in the review carried out under Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulation 2012 (paragraph 3.12 of the Council's SoC).

2.13 As to the Local Plan Review ('LPR') the position of the Council as articulated in the SoC is confusing ranging from no weight in paragraph 3.8 of the Council's SoC, very limited weight in paragraph 5.1 and no weight to Appellant's submissions (paragraph 5.2). This position has now changed in the SoCG where the agreed position in relation to the policies and allocations is that limited weight should be afforded to them (paragraph 7.1).

Conclusions

2.14 Wates has been promoting this Site for inclusion in the LPR. Indeed, the Council accepted Wates' submissions and included the Site in the LPR. The evidence base supporting the inclusion of the Site has been produced by independent consultants to the Council.

2.15 The evidence base demonstrates that far from being unacceptable – the Appeal Site is a logical and sensible site to bring development forward in light of the evidence, including the Council's own evidence.

2.16 The next Section of this Proof sets out the key aspects of the Appeal Scheme.

3. THE APPEAL SCHEME

3.1 The Planning Application submitted by the Appellant was in outline format with access to be determined at this stage, and all other matters reserved for future determination.

3.2 The description of the development is:

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)

3.3 Whilst indicative, a masterplan and landscape layout has been prepared that sets out a way that the reserved matters for the Site could come forward. I recall that the Site has no landscape or other designations that would affect the way in which further development could come forward. Furthermore, the area indicated for built development is located well away from any designated heritage assets, again, proving that there is significant flexibility in how a future scheme could come forward.

3.4 The Site would be accessed off Green Lane. The access has been designed and approved by OCC.

3.5 The Appeal Scheme envisages the provision of up to 147 new homes of which 35% would be affordable. The Appeal Scheme would provide net zero ready homes, a significant improvement over the current policy requirements.

3.6 The Appeal Scheme would also provide a significant amount of open space that would be linked to the current playing fields (66% of the gross area). This open space will be able to provide further facilities for both existing and new residents. Additional parking for the facilities and the open space would also be accommodated.

3.7 Furthermore, the Appeal Scheme would provide off-site highway enhancements to better facilitate walking and cycling.

3.8 Full detail of what is proposed is in Section three of the SoCG.

3.9 The Appeal Site does not sit in isolation and there is recent planning history that is relevant to the determination, and I turn to this next.

4. PLANNING HISTORY

Introduction

4.1 Each appeal has to be determined on its own merit. However, planning history and relevant similar planning and / or appeal decision, can be material to the determination.

4.2 The Council has referred to a significant number of appeal decisions. Most of these are relevant to the housing land supply position and Mr Roberts addresses them. In addition, there are appeal decisions that relate to other settlements and the settlement hierarchy / sustainability. These are addressed by Mr Bevis and myself later in my evidence.

4.3 As such, in this Section, I address decisions specifically in Chesterton as set out in the table below³:

| Date of decision | CD Ref | Site | Proposal | Decision |
|--------------------|--------|---|-------------------|------------------|
| 21 Feb 2013 | CD4.4 | Land to the west and south of nos 7 – 26 The Green, Chesterton | 44 Homes | Appeal allowed |
| 2 Feb 2016 | CD4.8 | The Paddocks, Chesterton | 45 Homes | Allowed locally |
| 11 Feb 2016 | CD4.3 | Land north of Green Lane and east of The Hale, Chesterton | 51 Homes | Appeal dismissed |
| 11 May 2021 | CD4.1 | Land to the east of M40 and south of A4095, Chesterton, Bicester, Oxfordshire | Great Wolf Resort | Appeal allowed |
| 27 Aug 2021 | CD4.2 | The Tudor Jones Building, Bicester Sports Association, Akeman Street, | BSA Development | Appeal allowed |

³ A plan showing the sites can be found at Appendix G

| | | | | |
|--------------------|-------|---|------------------------|--------------------|
| | | Chesterton OX26 1TH | | |
| 16 Feb 2023 | CD4.6 | OS Parcel 5700 South West Of Grange Farm Street Through Little Chesterton Chesterton | Siemens development | Allowed locally |

Land to the west and south of nos. 7-26 The Green, Chesterton, Oxfordshire (February 2013)

4.4 This appeal decision (APP/C3105/A/12/2183183) is for the development that has been built out and is immediately adjacent to the Appeal Site (LPA Reference 12/00305/OUT). The appeal decision is dated 21 February 2013.

4.5 In Paragraph 12, the Inspector notes that *“despite the current absence of a shop/post office and noting especially the easy access to facilities in nearby Bicester and the scope for contributions in the submitted Section 106 agreement to maintain and/or improve bus services, I find insufficient grounds to conclude that Chesterton is not a sustainable location for the appeal scheme”*.

4.6 In terms of character and landscape effects, the Inspector noted that *“having viewed the site from key locations and bearing in mind that, in most views, the new development would be seen in association with existing development, especially the adjacent housing. It would therefore appear as a contiguous extension of the existing built-up area rather than an isolated development”*.

4.7 The appeal was allowed and has been built out and the Inspector will see the scheme when he visits the site. The significance of this appeal decision is the acceptance of housing development in this area and the notion that housing forms an extension of the existing settlement and that the housing will be seen in the context of the existing housing, something which is similar to that would be experienced with the Appeal Scheme. In addition, the Inspector attributes significant weight to the provision of affordable housing and delivery of the site (paragraph 32) as well as social benefits. The Inspector concluded that the location was sustainable.

4.8 I note that further consent for six homes was allowed by the Council under reference 15/01165/F [CD4.5] with the decision issued on 5 August 2016.

The Paddocks, Chesterton (February 2016)

4.9 Local permission was granted for development of up to 45 homes. The development has been completed.

4.10 The Officer Report [CD4.8] confirms that there was not policy or landscape objection to the grant of consent for development outside the settlement boundary on this greenfield site. In terms of locational sustainability, the Report states “*Whilst it is acknowledged that the site, being on the edge of a village is less sustainable than in urban areas of Banbury and Bicester, Chesterton [sic] has been assessed as being one of the districts more sustainable villages because of the range of services available. Having regard to this, emerging policy anticipates that villages will take some of the housing growth and that Chesterton is sufficiently sustainable to accommodate some new development. The Highway Authority have questioned the sustainability of Chesterton and the efforts made by the applicant to improve accessibility to the site. In doing so, the Highway Authority have made several recommendations, including improvements to footpaths and rights of ways. It is considered that these matters can be adequately addressed through the imposition of appropriate conditions and obligations*” (paragraph 5.51).

Land north of Green Lane and east of The Hale, Chesterton, Oxfordshire
(February 2016)

4.11 This appeal for development on land to the north of the Appeal Site was refused. The Inspector considered the recently made Local Plan and interpretation of Policy and considered that providing 12% of the minimum requirement of 750 homes at Category A settlements would be disproportionate (paragraph 17) whilst noting that “*if the appeal proposal were to be allowed there would be a significant increase in the population of the village over a short timescale*” (paragraph 18).

4.12 The Inspector concluded “*that Chesterton would not be a sustainable location for the scale of new development being proposed in this appeal, which of course is additional to that approved at Green Lane, as well as The Paddocks*” (paragraph 25).

4.13 The Inspector considered that The Hale was very rural in character (paragraph 30) and that the development would lead to a major change to its character. In terms of visual effects, the Inspector concludes that “*The harm would be limited to short or medium distance views, as there are no long-distance views of the site, but nonetheless in those short to medium views the harm would be noticeable and material*” (paragraph 34).

Land to the east of M40 and south of A4095, Chesterton, Bicester, Oxfordshire
(May 2021)

4.14 This appeal decision, for the development known as Great Wolf Lodge, was granted consent in May 2021. The development would consist of a water park based family resort. The Inspector will note the main matters set out in paragraph five of the decision and the similarity of two of them to the matters before this Inquiry including the landscape effects and the sustainability of the site.

4.15 The Inspector at the Great Wolf appeal considered that site has a medium landscape value and was not valued landscape in NPPF terms. The Inspector considered that the scheme would have significant landscape effects, but even with these, compliance with the development plan as a whole can be secured.

4.16 As to sustainability, the Inspector notes that *“The LP identifies sites in and around Bicester and Banbury as being amongst the most sustainable locations”* (paragraph 66) and he concludes that *“Taken in the round, with the package of transport measure proposed, the proposed development would, given its nature, be in a location that can be made locationally sustainable. In this context the proposal would not conflict with the objectives of Policy SLE 3 or the Framework”*.

4.17 A significant package of highway improvements are associated with the Great Wolf consent, some of which have already been carried out. In addition, contributions towards further enhancements are associated with that scheme, all of which are set out in the evidence of Mr Bevis. These are also part of the baseline for assessing the character of the area in the vicinity of the appeal site, and this the effect of the Appeal Scheme on character, as set out in Mr Burton’s and Mr Smith’s evidence.

4.18 Whilst of different nature to the Appeal Scheme, this appeal decision demonstrates that significant development can be accommodated in the wider landscape and that this area is sustainable and will be even more sustainable with the advent of the Great Wolf scheme.

The Tudor Jones Building, Bicester Sports Association, Akeman Street, Chesterton OX26 1TH (August 2021)

4.19 This appeal scheme, on the site known as the BSA, is immediately to the west of the Appeal Site. Consent was granted for at appeal for *“Change of use of Agricultural land and extension of the existing Bicester Sports Association facilities for enhanced sports facilities including relocation and reorientation of existing pitches and archery zone, 2 no. training pitches with floodlighting, 2 no. match pitches, new flexible sports pitch, new rugby training grids,, new clubhouse with events space, new rifle and shooting range, cricket scorers building, storage and maintenance buildings and provision of associated car parking, amended access, landscaping and other associated works”*.

4.20 As the Inspector will note, the main matters at paragraph six are similar to the main matters at this Appeal. The Inspector noted the location of the site was *“beyond the western periphery of Chesterton, a medium sized village assessed as being one of the Districts more sustainable villages because of the range of services available”* (paragraph 9).

4.21 In terms of the sustainability of the location, the Inspector noted that *“However, there is currently no public transport to or near the site in the form of a bus service and no suggestion from the Council that one could be provided. It is agreed however that, if or when implemented, the measures to be delivered as part of the Great Wolf scheme, including a bus service, will significantly improve the accessibility of Chesterton village by public transport”* (paragraph 14) and that *“I therefore consider that cycling has some opportunities here to encourage modal shift”* (paragraph 16). Overall, the Inspector concluded that the development would not be contrary to the provisions of the development plan in relation to the sustainable location of the development.

4.22 In terms of landscape character, the Inspector set out in relation to the BSA site that *“The NCA profile is a high-level landscape character assessment covering an extensive area, including the Cotswolds Area of Outstanding Natural Beauty. Located on the eastern edge I share the view of my colleague in the Great Wolf appeal that this is an area of transition where many of the key characteristics of the NCA are either absent or heavily diluted. The appeal site and its locality are materially influenced by a substantial variety and type of buildings, uses, activity and lighting. These affect the physical fabric and character of the LCAs and locality and on both of my visits I did not find the field or surrounding area to be ‘deeply rural’ as the Council contend”*. In terms of landscape character, the Inspector concluded that the grant of consent would not have “unacceptable harm to the key characteristics of the landscape at a national, county or local level” (paragraph 52) whilst in terms of visual effects the Inspector concludes that these would *“at no point unacceptably harmful or detrimental to the visual interests of the site’s surroundings”* (paragraph 60). The Inspector’s conclusions in paragraphs 66 to 69 confirm that the scheme would accord with local policy and the NPPF.

OS Parcel 5700 South West Of Grange Farm Street Through Little Chesterton, Chesterton (February 2023)

4.23 This decision allows the creation of a significant research building for Siemens. It was assessed against the policy context for employment developments and officers concluded that the scheme would comply with the provisions of the development plan when considered as a whole (notwithstanding some conflict with policy).

Conclusions

4.24 The planning history for the immediate area the Appeal Site is located within demonstrates that, in most cases, appeal inspectors and the Council have recognised that Chesterton is, or can be, a sustainable location for delivering major development⁴. In addition, most inspectors have concluded that the landscape in this area is of lower value and certainly not valued landscape in NPPF terms. As such, significant development can be accommodated (with associated mitigation measures) without breaching the policies of either the development plan or the NPPF.

4.25 Having come to such a conclusion, I now address these relevant policies.

⁴ The outlier in the appeal inspector in the decision on land north of Green Lane and east of The Hale. However, circumstances have significantly changed since that appeal decision in that a cumulation of significant housing development is not occurring in Chesterton and the appeal decisions in Great Wolf and BSA have been decided contrary to that appeal inspector’s view. In addition, the nature of the landscape and built environment is materially different due to the grant of later consents and well as the early implementation works. I note that the Council has accepted that Chesterton is sustainable and / or can be made more sustainable as part of the LPR.

5. PLANNING POLICY

Introduction

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) set out that planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise.

5.2 It is agreed that the most relevant development plan documents for this Appeal are:

- The Cherwell Local Plan 2011 – 2031 Part 1
- The Cherwell Local Plan 2011 – 2031 Part 1 (Partial Review)
- Saved Policies from the Cherwell Local Plan 1996

5.3 The Council has highlighted seven policies in the Local Plan 2015 and two in the Local Plan 1996 that would, in its opinion, be breached. However, there are numerous other policies that are relevant in the development plan and that are material to the determination, and which, presumably are accepted to be either complied with or not breached.

5.4 In addition, the requirement is to come to a view on accordance with the development plan when considered as a whole and a breach of some policies (or even partial breach) does not automatically mean that the entire development plan is not accorded with.

5.5 Therefore, I first set out the relevant development plan policies. I also set out the relevant material considerations against which the Appeal has to be judged.

The Cherwell Local Plan 2011 – 2031 Part 1 [CD3.1]

5.6 The Cherwell Local Plan 2011 – 2031 Part 1 (the CLP 2015) was adopted in 2015 and covers the period up to 2031. It was supposed to be accompanied by a Part 2 Local Plan and relied on that Plan to provide additional allocations and development management policies, however, the Council has not developed a Part 2 plan and is now seeking to bring forward a comprehensive plan that would supersede all existing plans.

5.7 Policy PSD1 embeds the presumption in favour of sustainable development in the development plan albeit the version in the NPPF has been amended since then.

5.8 Policy SLE4 considers improved transport and connections and sets out that *“All development where reasonable to do so, should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling”*. The Council does not consider that this policy is breached.

5.9 Policy BSC1 sets out the distribution of homes across the District and that at least 22,840 new homes would be accommodated in the period 2011 to 2031. The Appeal Site is located in the ‘rest of the District’ where at least 5,392 new homes need to be delivered. Inspector Bore in the Finmere⁵ decision noted that:

⁵ APP/C3105/W/22/3309489 [CD4.17]

“Notwithstanding the existence of a 5 year housing land supply based on LHN, the submitted evidence indicates that, on current projections, housing delivery in Cherwell District by the end of the plan period in 2031 will fall short of the Local Plan’s housing requirement by around 10%, with potential implications for the delivery of the Plan’s employment growth strategy”. As such, it is likely that the overall requirement set out in the Plan will not be met. The evidence of Mr Roberts sets out the extent to which, on the Council’s own evidence, the Local Plan will fall short of meeting the housing requirements established in Policy BSC1.

5.10 Policy BSC3 addresses the need for affordable housing. Paragraph B104 confirms the high level of need for affordable housing, whilst paragraph B105 confirms that the net need for affordable housing is 407 new homes per annum.

5.11 The Policy itself requires the provision of at least 35% of the new housing as affordable with a relevant split between rented and low ownership housing.

5.12 Policy BSC10 addresses opens space, outdoor sport and recreation provision and requires proposals to meet the need through evidence base and discussion with organisations such as parish councils whilst Policy BSC11 sets out the minimum standards for outdoor recreation provision.

5.13 Policy ESD1 addresses the need to mitigate and adapt to climate change. It sets out several ‘strategic’ objectives such as distributing growth to most sustainable locations, encouraging sustainable travel options and designing developments to reduce carbon emissions.

5.14 Policy ESD3 draws on the strategic policy and sets out that developments should aim to achieve zero carbon developments whilst Policy ESD7 addresses the need for SuDS.

5.15 Policy ESD10 addresses protection an enhancement of biodiversity and natural environment and requires net gain in biodiversity (although no specific figure is required).

5.16 Policy ESD13 considers local landscape protection and enhancement. Paragraph B.250 sets out that *“The relationship between the District’s towns and the adjoining countryside and the avoidance of an abrupt transition from built development to open farmland requires special attention to the landscaping of existing and proposed development. This interface is important in determining the relationship between the urban areas and on the character of the countryside. Where new development will extend the built up limits of the towns the Council will seek a masterplan and well-designed approach to the urban edge. This could incorporate the enhancement of existing hedgerows and woodlands and new areas of woodland planting and hedgerows to be incorporated as part of the development, to ensure the satisfactory transition between town and country. These considerations can equally be applied where extensions to villages are required.”*

5.17 The Policy sets out that *“Development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local*

landscape character cannot be avoided". As such, the Policy accepts that there may be some harm to local landscape character, but that mitigation measures may reduce this level of harm. The Policy also provide six criteria against which proposals need to be assessed:

- Cause undue visual intrusion into the open countryside;
- Cause undue harm to important natural landscape features and topography;
- Be inconsistent with local character;
- Impact on areas judged to have a high level of tranquillity;
- Harm the setting of settlements, buildings, structures or other landmark features; or
- Harm the historic value of the landscape.

5.18 Policy ESD15 deals with the character of the built and historic environment. It is agreed between the parties that the Appeal Scheme would not have any adverse impact on either listed buildings or conservation areas and therefore, these elements of the Policy are not relevant to the Appeal, and I have not referred to them. As to the relevant elements of the Policy, it sets out that *"New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design"*. It sets out several criteria against which schemes would be assessed and these are addressed by Mr Smith and Mr Burton in their evidence, and I summarise that later in my evidence.

5.19 Paragraph B.271 considers that *"Our rural areas will need to accommodate new development which reinforces the locally distinctive character by being sensitive in its location, scale, materials and design, reflecting the traditional pattern of development within the settlement, balancing making best use of land with respect for the established character and respecting open features that make a positive contribution"*.

5.20 Policy ESD17 considers Green Infrastructure including *"Ensuring that green infrastructure network considerations are integral to the planning of new development. Proposals should maximise the opportunity to maintain and extend green infrastructure links to form a multi-functional network of open space, providing opportunities for walking and cycling, and connecting the towns to the urban fringe and the wider countryside beyond"*.

5.21 Policy Villages 1 identifies Chesterton as a Category A settlement (i.e. the highest category settlement in the rural areas). Policy Villages 2 sets out that a total of 750 homes will be delivered at Category A villages. It is agreed (and has been confirmed at appeals) that this 750 homes figure is not a cap and is the minimum figure. The Policy sets out that sites would be identified through the preparation of Local Plan Part 2 (which has not taken place), neighbourhood plans (which, for Chesterton, does not exist) and through determination of applications. 11 criteria are identified which particular regard has to be had to and I consider each of these later in my evidence.

5.22 In terms of monitoring the Local Plan, Section E sets out the process for doing this as well as several indicators that would be monitored. Furthermore, as set out in E1.5 the Local Plan Part 2 formed part of the wider implementation of the strategy in the CLP 2015.

Cherwell Local Plan Part 1 Partial Review [CD3.5]

5.23 The CLP PR was adopted in September 2020 and seeks to address some of Oxford's unmet needs in the period up to 2031. Bicester and the surrounding area were considered as one of the options to meet the overall need (Option E) this option was discounted for several reasons including the likelihood that significant additional development could not be built at Bicester (paragraph 2.14).

5.24 The Sustainability Appraisal⁶ that accompanied the submission version of the CLP PR states that the primary reason why Bicester was not chosen as an alternative to be taken forward was that *“Additional significant development in the Bicester area would provide unwarranted competition for private and public investment potentially hindering the delivery of existing Local Plan policies by 2031”* (paragraph 7.80). I address deliverability in the Bicester area later in my evidence, with reference to the latest data in the Annual Monitoring Report ('AMR 2023')[CD5.26].

5.25 I note that the SA commented on Bicester and its surrounding area in terms of sustainability *“Areas of search A, B and E scored ‘Green’ in ITP’s assessment of proximity to current sustainable transport links to Oxford and therefore scored a significant positive effect in relation to access to services and facilities in Oxford. This is because areas A and B are in close proximity to the City and Area E, containing Bicester and the surrounding area, has strong public transport connections with the City, including a railway line and bus routes”* (paragraph 7.35) and in relation to air quality an reducing congestion *“Areas of search A, B and E scored ‘Green’ in ITP’s assessment of proximity to current sustainable transport links to Oxford and therefore scored a significant positive effect in relation to air pollution. This is because areas A and B are in close proximity to the City and accessible via more sustainable transport modes and Area E, containing Bicester and the surrounding area, has strong public transport connections with City, including a railway line and bus routes”* (paragraph 7.38). To my mind, this supports the notion that Bicester and its surrounding are suitable, in sustainable transport terms, to meet the needs of Oxford.

5.25 The Inspector in examining the plan⁷ set out the reason for accepting that there are exceptional circumstances to release Green Belt land set out that *“Chief amongst these is the obvious and pressing need to provide open-market and affordable homes for Oxford; a need that Oxford cannot meet itself”* (paragraph 46). The deliverability of the sites in the LPR PR is addressed by Mr Roberts. The Council accepts that there has been no housing delivery against the requirement thus far; is unlikely to be by 2026 (despite the commitment in PR12a) and that the first houses are unlikely to be

⁶ <https://www.cherwell.gov.uk/download/downloads/id/9707/sustainability-appraisal-report-and-non-technical-summary---june-2017.pdf> [CD3.21]

⁷ CD3.18

delivered until 2028 (and then only 80); and that the Partial Review will fail by a large margin to provide the housing requirement by 2031.

5.26 Policy PR12a sets out that a separate housing land supply will be maintained for meeting Oxford's needs with 1,700 new homes being delivered by 2026. Policy PR12b sets out the process for bringing forward sites not allocated. The Inspector noted in relation to Policy PR12a that *"Policy PR12a is concerned with delivery and the maintenance of housing supply. I can see the sense of the Council wanting to separate out their commitment to meeting Oxford's unmet needs from their own commitments in the Local Plan 2015, as set out in the first paragraph of the policy. That would avoid the situation where meeting Oxford's unmet needs could be disregarded because of better than expected performance on the Local Plan 2015 Cherwell commitments, or vice versa"* (paragraph 148).

Saved Policies of Cherwell Local Plan 1996 [CD3.2]

5.27 This Plan was adopted in 1996 and is of a significant vintage. The Council has referred to two policies being breached: C28 and C30.

5.28 Policy C28 sets out that control will be exercised over all new development relating to matters such as layout, design and external appearance. The Policy also refers to controls within sensitive areas, however, the Appeal Site is not located within any of these. It is my view that this Policy is not applicable to the determination of the Appeal Scheme as it relates to matters that are subject of future reserved matters.

5.29 Policy C30 has three elements, however, if this Policy is applicable to the Appeal Scheme (something which I disagree with) then only the first bullet point is relevant, and within that scale and density could be considered as being relevant. The Policy sets out that the new housing development needs to be compatible with the existing dwellings in the vicinity.

Development Plan: Conclusion

5.30 My assessment of the Appeal Scheme against s.38(6) of the Planning and Compulsory Purchase Act 2004 is set out in Section nine below. At this stage of my proof, I flag that my conclusion is that the Appeal Scheme is in accordance with the development plan when considered as a whole. In any event, if the Inspector were to disagree with me, material considerations could justify the grant of permission anyway, and I now turn to those material considerations.

Material Considerations

5.31 Any planning assessment has to have regard to material considerations. In this case, it is my opinion that there are two significant material considerations, notably:

- The National Planning Policy Framework December 2023; and
- The Cherwell Local Plan Review 2040.

The NPPF

5.32 A new version of the NPPF was issued on 20 December 2023 and all references in my evidence are to this version.

5.33 Paragraph 11c-d sets out the presumption in favour of sustainable development. In this case, if the Inspector concludes that the proposals accord with the development plan, then permission should be granted (see paragraph 11c). Further, and in any event irrespective of accordance with the development plan, if the Inspector considers that the policies most important for the determination are out-of-date, then permission should be granted unless significant and demonstrable harm that outweighs the benefits can be demonstrated (see paragraph 11d)⁸. Footnote 8 sets out the cases where the presumption would automatically apply on housing applications. In any case, as set out below, material considerations would support the grant of permission even on a 'flat balance' without the benefit of the tilted balance.

5.34 Paragraph 48 addresses the matter of weight to be afforded to emerging plans. It is common ground that there is such a plan in this case, and I address the weight to be afforded to it in the relevant Section. Paragraphs 49 and 50 address prematurity. It is not the Council's case that prematurity arises in this case.

5.35 Paragraph 60 reaffirms the Government's objective which is to significantly boost the supply of homes. Paragraph 76 relating to five-year housing land supply does not relate to Cherwell as the Local Plan is more than five years old.

5.36 Paragraph 83 sets out 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"*.

5.37 Paragraph 109 sets out that *"Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making"*. Paragraph 114 seeks to ensure that proposals appropriate opportunities to promote sustainable transport modes can be – or have been – taken up and that safe and suitable access to the site can be achieved for all users.

5.38 Paragraph 116(a) sets out that development should *"give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use"*.

5.39 Paragraph 124(a) sets out that planning decisions should *"encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access to the countryside"*.

⁸ 11d(i) is not relevant to this Appeal Site

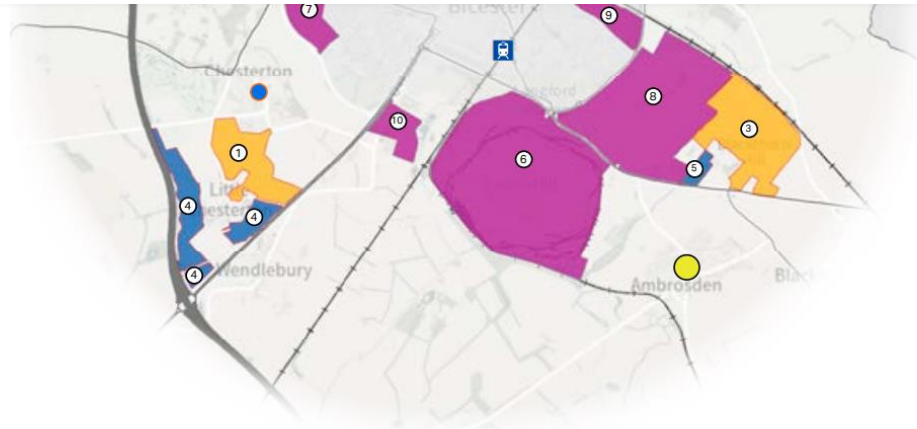
5.40 Paragraph 180(b) requires the recognition of the intrinsic character and beauty of the countryside as well economic and other benefits of best and most versatile agricultural land. The NPPF also requires net gain in biodiversity.

Cherwell Local Plan Review 2040 [CD3.3]

5.41 The Cherwell Local Plan Review has been through three stages all of which have been undertaken under Regulation 18. As such, there has been significant engagement on the Plan to date, something which affects its weight (to be addressed below).

5.42 A District-wide Issues consultation was undertaken in summer 2020 whilst a District-wide Options consultation was undertaken in October – November 2021.

5.43 The LPR considers the allocation of the Appeal Site (as part of a wider site) within the Bicester Area.



LEGEND

- **Local Plan 2040: preferred residential site allocation**
- ① South of Chesterton and North-West of A41 (LPR37a)
- ② North-West Bicester (LPR33)
- ③ South-East of Wretchwick Green - Site A (LPR21a)
- **Local Plan 2040: preferred employment site allocation**
- ④ Land East of M40 J9 and South of Green Lane (LPR38)
- ⑤ Land Adjacent to Symmetry Park, North of A41 (LPR21b)

■ Train Station

Local Plan 2040: Settlement Hierarchy

- Main Towns
- Local Service Centre
- Large Village
- Small Village

5.44 Core Policy 70 identifies that the site should deliver 500 new homes. The Plan provides text and a plan that illustrate the proposed preferred allocation:

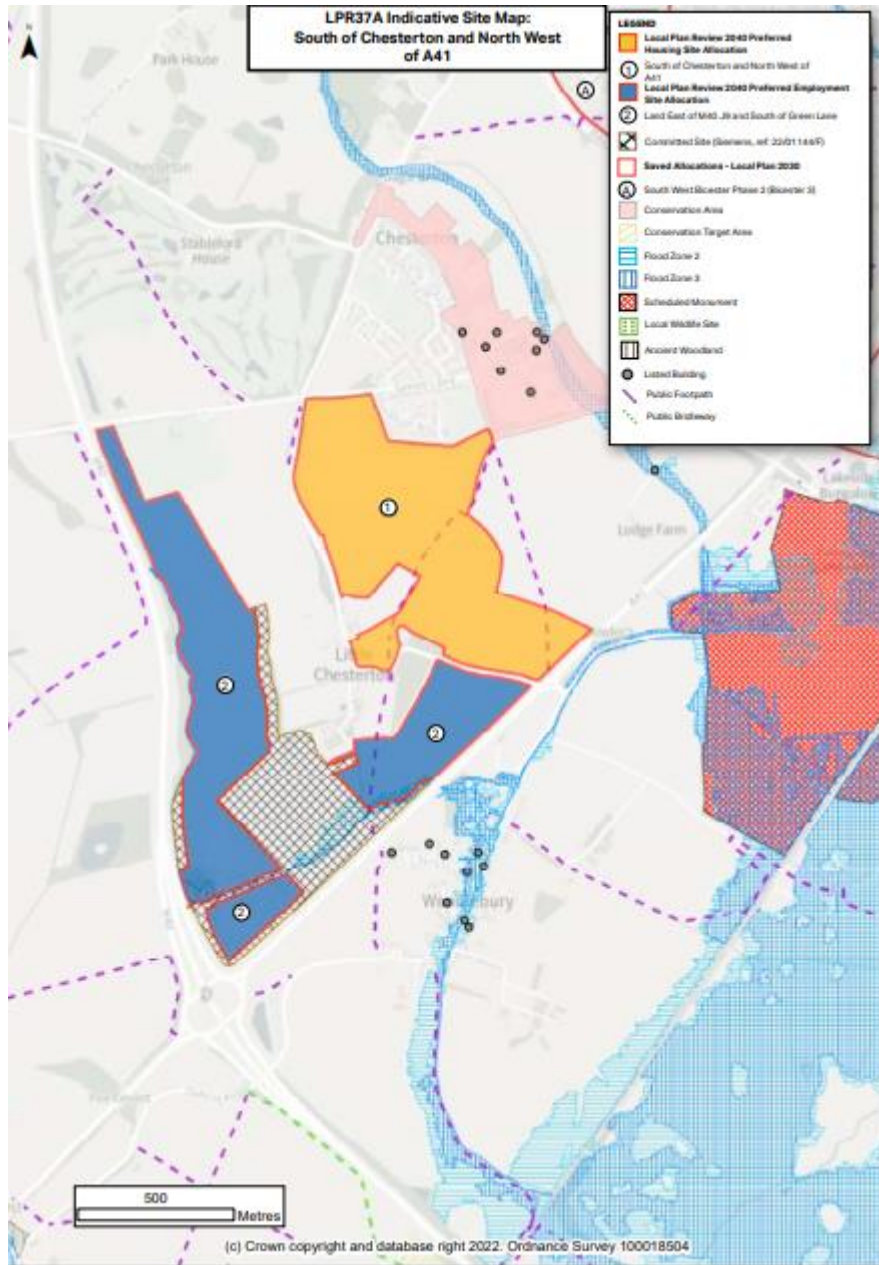
| | |
|----------------|---|
| Site Reference | LPR37A: South of Chesterton and North-West of A41 |
| Area | Chesterton |
| Site Area | 42.37ha |
| Site Capacity | 500 dwellings |
| Site Type | Greenfield |

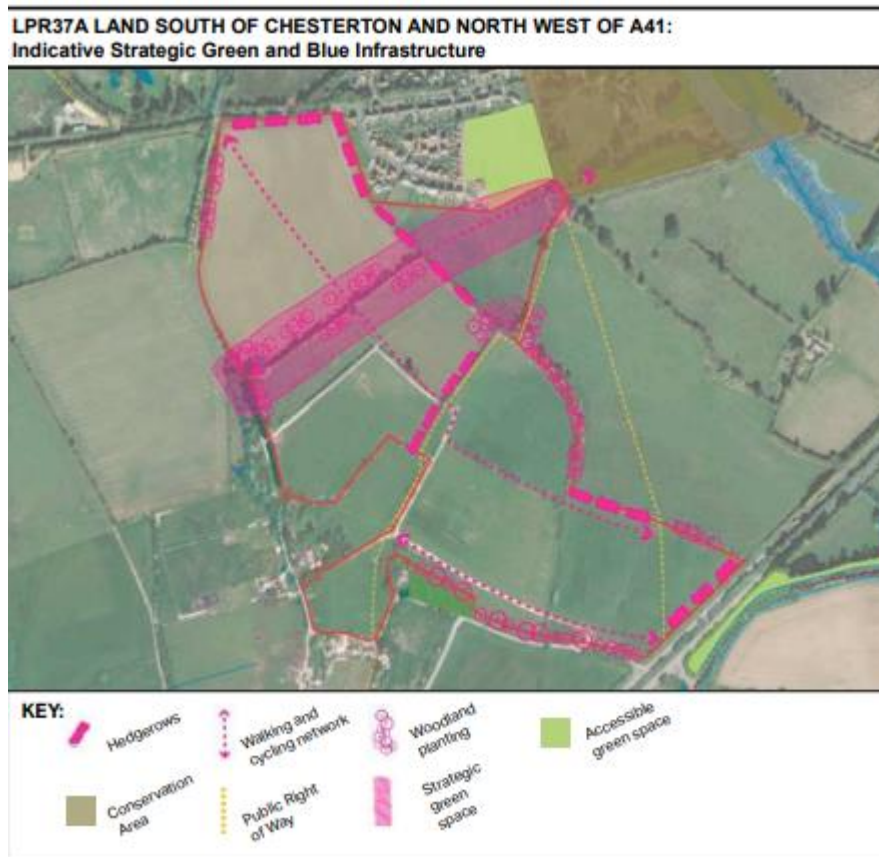
Key Constraints:

- Infrequent bus service serving Chesterton with the closest bus stop located approximately 500m to the east on Green Lane;
- The site is located within the Nature Recovery Network "Wider Landscape Zone";
- Public Rights of Way across the site;
- The village of Chesterton and the Chesterton Conservation Area are immediately to the north of the site;
- High voltage power lines cross the site.

Key Opportunities:

- Opportunity to develop a new well designed, sustainable neighbourhood of approximately 500 dwellings;
- Opportunity to provide improved public transport services for Chesterton;
- Opportunity to deliver extensive active travel improvements including enhancement of footpath and cyclepath connectivity with the town centre, employment areas and rail stations;
- Opportunity for a strategic linear green public open space which connects with Chesterton village;
- Opportunity for woodland planting, particularly along the western boundary;
- Opportunity to provide new formal sports facilities and children's play areas;
- Contributions towards expanded school provision, including special educational needs;
- Contributions to the Byrnehill community woodland and a blue and green corridor along Vendee Drive, and
- New biodiversity enhancement areas including through species-rich grassland and native woodland planting within areas of open space to achieve 20% biodiversity net gain.





5.45 Mr Smith and Mr Burton address the emerging LPR policy and the ability of the Appeal Scheme to meet the requirements of the emerging plan.

Conclusions

5.46 The Site is not allocated in the existing Local Plan and is located adjacent to a Category A settlement, which are the most sustainable settlements in the rural areas. There is no cap on the number of homes to be delivered in these settlements, however, I accept that significant deviation could lead to development not according with the overall spatial strategy. This is not the case in Chesterton where limited development has occurred since the adoption of the Plan and very limited consents exist for further development in Chesterton (with no affordable housing being consented).

5.47 The development plan seeks to ensure that a five-year housing land supply is maintained across the District including meeting Oxford's needs.

5.48 The Council has recognised that the existing Local Plan is out-of-date and does not meet existing housing and employment needs which is why it has developed the Local Plan Review which has been subject of three rounds of consultation. The LPR allocates the Appeal Site (as part of a wider allocation) for delivery of 500 homes.

5.49 It is against the policy context that the Appeal Scheme has to be assessed and I turn to that next.

6. APPEAL SCHEME ASSESSMENT

Introduction

6.1 In this Section of my Proof of Evidence, I assess whether the Appeal Scheme complies with relevant policies of the development plan and whether the scheme accords with the provisions of the development plan as a whole.

6.2 I also consider the material considerations that are relevant to the Appeal Scheme.

6.3 I carry out the overall planning balance in Section nine, below.

The Development Plan

6.4 The Council has set out that in its view the Appeal Scheme does not comply with several policies of the Local Plan. The OR⁹ does not come to a conclusion as to compliance with the development plan overall. Whilst the OR considers that the Council can demonstrate a five-year housing land supply and paragraph 11d of the NPPF is not applicable due to that position, the OR does assess the scheme under the tilted balance of the NPPF (paragraph 10.19). Therefore, it is assumed that the Council considered at the time of the planning application determination that the most important policies for determination were out of date.

6.5 I can only assume, from the application of the tilted balance, that the Council did consider that the Appeal Scheme did not accord with the provisions of the development plan when considered as a whole.

6.6 I have set out above why I consider that Policies C28 and C30 of the CLP 1996 not relevant to the Appeal determination. Even if the Inspector disagrees with me, the inclusion of these policies does not add much as they generally replicate existing policies in the CLP 2015.

6.7 In coming to a view as to whether the Appeal Scheme complies with relevant development plan policies, I rely on the evidence of my colleagues in relation to landscape and visual impact, impact on character of the settlement and the sustainability of the Site.

6.8 The table below sets out my assessment against the policies that the Council considers to be breached. Later in my evidence I assess the Appeal Scheme against all relevant policies. I also set out which are the most important policies for the purpose of determining this Appeal.

| Policy | Assessment | Compliance |
|-------------|--|------------|
| PSD1 | This Policy reflects the 2012 version of the presumption in favour of sustainable development. It sets out the process under which applications should be determined, but is not a development management policy per se. As such, this Policy cannot be regarded as a specific policy that can or cannot be breached as it | N/A |

⁹ CD2.1

| | | |
|-------------|--|-----|
| | set out the framework for the determination. As such, whilst relevant to the determination, compliance or not will be satisfied on the basis of the determination and the weight to be afforded to the benefits and harms | |
| BSC1 | <p>This Policy sets out the requirement to deliver 22,840 new homes in the period 2011 to 2031 and also provides a breakdown of locations for development with Bicester delivering circa 44.4% of the new housing, Banbury circa 32% and the circa 23.6% in the rest of the District. The 2023 AMR sets out the up to 31 March 2023, circa 37.4% of housing completions have been at Banbury, nearly 30% at Bicester and 32.7% in the rest of the District. With existing commitments (Table 18 of the AMR) the overall requirements of the CLP 2015 for rest of the District will be exceeded (6,039 units compared to 5,392 dwellings in the adopted plan). The approval of a further 147 units will further increase the number of homes provided in the rest of the District (outside of Bicester and Banbury). However, the overall impact of the grant of consent would be minimal consisting of circa 0.65% of the total requirement across the plan period and 2.7% of the requirement for the rest of the District (I note that whilst the Site is technically within the rest of the District area, it is closely located and well-connected to Bicester and can take the advantage of the facilities in, and transport options from, Bicester). The delivery of homes in the rest of the District has been the only way in which the Council has been able to continue to deliver housing growth. Overall, my view is that the grant of consent would not breach this Policy as: a. the numbers set out in the Policy are not maxima; and b. it would not lead either individually or cumulatively to a material deviation from the spatial strategy.</p> | Yes |
| ESD1 | <p>This Policy has several criteria that have to be addressed. The first requires distribution of growth to the most sustainable locations. Chesterton is identified as a Category A settlement, i.e. within the most sustainable categories of locations outside of Bicester and Banbury. As such, in principle, this is a location that could accommodate housing growth. Chesterton is in the middle of the settlements identified as Category A settlements¹⁰. In considering this, it is very different to Finmere (an appeal referred to by the</p> | Yes |

¹⁰ I note that Mr Bevis addresses this in his evidence and criticises the approach to sustainability based on settlement size.

Council) which is at the bottom of the settlement hierarchy. In terms of facilities within Chesterton, the two highlighted by the Council as not being located in the settlement are a shop and medical facilities. I do not consider that the lack of medical facilities is material as such facilities are generally located at much higher tier settlements and the majority of smaller settlements now do not have such facilities. As to a shop, I agree that this is a facility that is lacking. However, Chesterton is located in very close proximity to Bicester and significant shopping facilities are located within easy access. In addition, a significant percentage of shopping is now carried out online (indeed, when I have visited Chesterton, I have seen a prevalence of home shopping delivery vans serving the settlement). As such, I do not consider that this is fatal to the sustainability of the settlement. All other facilities are within the settlement and there are significant employment opportunities also within the immediate area. As such, I consider that Chesterton and the area within which the Site is located can be regarded as one of the more sustainable locations that can accommodate growth. In coming to my view, I am assisted by the LPR which seeks to allocate the Site and the wider area for significant housing development. The second criterion is the delivery of development that seeks to reduce the need to travel, and which encourages sustainable travel options. This is principally addressed by Mr Bevis who concludes the both the location of the development and the ease of access to facilities both in Chesterton and the wider area lead to the development meeting this requirement. The package of sustainable transport measures associated with the Appeal Scheme as well as the Great Wolf and BSA schemes all assist in enhancing the sustainability credentials of both Chesterton and the Site. As such, I am of the view that this criterion is met. The third relevant criterion relates to carbon emissions and reducing resources. The Appeal Scheme has been designed to be net zero ready and can be conditioned to ensure that resource use is minimised (such as a restriction on water use). As such, this criterion is met. As to the adaptation measures, all of these are proposed (including SuDS, open space planting etc) and would be subject of detailed design. As such, I conclude that the Appeal Scheme wholly complies with this Policy

| | | |
|---------------------|--|------------|
| <p>ESD13</p> | <p>Policy ESD13 addresses landscape character. The policy encourages the planting of trees, woodland and hedgerows, all of which would be supported by the Appeal Scheme. The Policy accepts that some harm can be created but that appropriate mitigation needs to be secured. The evidence of Mr Smith is that such mitigation is proposed as part of the Appeal Scheme.</p> <p>In terms of the six criteria that are set out in the Policy. The first relates to <u>undue</u> visual intrusion into the open countryside. It is accepted that the site is regarded as countryside, however, it is highly influenced by both the existing development and will be further influenced by consented development. Whilst the development will lead to change in the visual impacts, this would be limited and would be mitigated against. As such, whilst there would be some impact, it would not be undue.</p> <p>The second criterion relates to important natural landscape features and topography. None of these exist on Site.</p> <p>The third criterion relates to consistency with local character. The development is adjacent to existing housing development and will be seen in the context of this. Other new housing development is located wider in the area. Mr Burton addresses matters of local character and concludes that the appeal scheme (subject to matters of design to be agreed at reserved matters stage) could be consistent with local character.</p> <p>The fourth criterion addresses areas of high level of tranquillity. The Appeal Site does not fall within such an area as it is affected by levels of noise from the surrounding roads such as the M40, lighting from the settlement and future development.</p> <p>The fifth criterion considers harm to the setting of settlements etc. It is agreed that there is no heritage harm from the Appeal Scheme and no impact on setting of the conservation area or listed buildings. Both Mr Smith and Mr Burton address the setting of the settlement and consider that the overall setting of the settlement would not be significantly harmed. Indeed, Mr Burton's evidence is that delivery of the Appeal Scheme could be beneficial.</p> | <p>Yes</p> |
|---------------------|--|------------|

| | | |
|-------------------|---|-----|
| | <p>Finally, the sixth criterion relates to the historic value of the landscape, something which is not significantly reflected at the Appeal Site.</p> <p>Overall, the evidence of Mr Smith and Mr Burton demonstrates that compliance with this Policy can be secured</p> | |
| ESD15 | <p>This Policy addresses the built and historic environment. It is agreed that there are no designated or non-designated heritage assets that are affected by the Appeal Scheme. As such, this Policy has limited consequences to the determination of the Appeal. Secondly, the Policy relates to matters of design, which are subject of future determination. I accept that the Policy requires a positive contribution towards the area's character and identity. Mr Burton addresses this matter and sets out the detailed design could lead to enhancements to the character of the area and the settlement edge, thus complying with the Policy</p> | Yes |
| Villages 1 | <p>This Policy sets out the categorisation of the villages including Chesterton as a Category A settlement. However, it relates to developments within the settlement limits and therefore is not relevant to the determination of this Appeal</p> | N/A |
| Villages 2 | <p>This Policy sets out that an additional <u>minimum</u> of 750 homes will be delivered at Category A settlements. The Policy sets out 11 criteria to which particular regard to and I address each of these below (only ten of these are relevant to determination of applications):</p> <ol style="list-style-type: none"> 1. Whether the land has been previously developed land or is of lesser environmental value – the land is not previously developed, however, has no environmental designations and has very limited existing biodiversity value as well. 2. Whether significant adverse impact on heritage or wildlife assets could be avoided – no impact on heritage assets and limited adverse impact on wildlife assets. Indeed, significant BNG will be provided across the site. 3. Whether development would contribute in enhancing the built environment – the view of Mr Burton is that the development is capable of enhancing the built environment through creating a more | Yes |

appropriate edge to the settlement as well as delivering a high-quality scheme as well as highly energy efficient new homes.

4. Whether best and most versatile agricultural land could be avoided – the development would not avoid development of best and most versatile agricultural land however the majority of land in this area is such land and therefore development cannot avoid the use of such land. I note that the Council has not identified this factor as a reason for refusing the Scheme.

5. Whether significant adverse landscape and impacts could be avoided – this is a further matter of difference between the landscape experts. If the Inspector accepts the views of Mr Smith, then significant adverse impacts would be avoided.

6. Whether satisfactory vehicular and pedestrian access/egress could be provided – yes, this has been agreed with OCC.

7. Whether the site is well located to services and facilities – this is a further matter between the parties. If the Inspector agrees with the views of Mr Bevis, then he will conclude that the site is well located.

8. Whether necessary infrastructure could be provided – an agreed S106 obligation is provided to the Inquiry which addresses all major infrastructure requirements. In terms of educational facilities, OCC notes that the current primary school in Chesterton has students coming in from outside Chesterton thus leading to an unsustainable pattern of travel. Monies from granting consent would assist in delivering school places in Kingsmere thus releasing space within Chesterton Primary School for the future residents of the development. To address this shortage, St Edburg's CE Primary School is being expanded onto a split site within the Kingsmere development by building accommodation equivalent to a one form entry primary school. This will enable it to accommodate three forms of entry, including an expanded Nursery, with sufficient site area to expand to four forms of entry should that be required by local population growth. This will provide sufficient school places in SW Bicester for the local population, removing the need for children to

travel outside of the town to school such as Chesterton. This expansion is therefore necessary to free up sufficient school places in the local area to meet the expected demand generated by the proposed development. As to water and sewerage infrastructure, Thames Water has confirmed that sufficient infrastructure can be provided to accommodate the development.

9. Whether land the subject of an application for planning permission could be delivered within the next five years – Wates has got an enviable record of delivering once consent has been granted. Recent examples are Oakley (nr Basingstoke) where consent for 110 homes was granted on appeal on 11 August 2021 and new homes have already been completed at the end of 2023 and Leybourne (Tonbridge and Malling) where consent for 250 was granted at appeal in March 2021 and new homes are ready for occupation now. The Appellant will suggest that in order to ensure swift delivery of the homes that a reduced period for submitting reserved matters should be imposed on the development if permission is granted. In terms of timing, I would anticipate that the first homes could be delivered within two years of the grant of consent. With circa 50 homes delivered per annum, this means that all the development could be delivered within five years of the grant of consent.

10. Whether the development would have an adverse impact on flood risk – no, the development will manage flood risk on site and SuDS will be incorporated within the Site. The surface water management of the Site will incorporate an uplift to accommodate climate change thus improving the water run-off from the site.

Having considered all the ten criteria that are applicable to the consideration of sites under Policy Villages 2 and noting that the 750-unit number set out in the Policy is not a cap on numbers, it is my view that compliance with this Policy can be supported

6.9 Having reviewed the policies of the development plan that the Council considered to be breached I have concluded that several of these are not relevant to the determination of this Appeal. As to the relevant ones, I consider that compliance with each of these can be secured.

6.10 Therefore, it is my view that, when considered as a whole, accordance with the development plan can be supported.

National Planning Policy Framework (2023)

6.12 The NPPF is a significant material consideration in the determination of this Appeal. The latest version of the NPPF was issued on 20 December 2023 and it is this version that I refer to.

6.13 The NPPF confirms that it does not change the statutory test set out in S38(6).

6.14 Paragraph 60 of the NPPF confirms that the Government's objective to significantly boost the supply of housing remains. It also sets out the needs of groups with specific requirements are met.

6.15 Paragraph 66 sets out the major developments should provide 10% of the housing as affordable home ownership. The Appeal Scheme complies with this requirement.

6.16 Paragraph 81 confirms that *"To help ensure that proposals for housing development are implemented in a timely manner, local planning authorities should consider imposing a planning condition providing that development must begin within a timescale shorter than the relevant default period"*. The Appellant will invite the Inspector to impose such a condition in this case.

6.17 Paragraph 83 sets out 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"*. It is important to recognise the economic benefits of new housing, both in terms of construction spend and employment (more on this in the Section on benefits) but also in terms of local spend. As an example, more residents will support the local pub to ensure that it remains vital and viable, which is a challenge across the country with local pubs closing down. As such, I consider that paragraph 83 supports the delivery of new homes in Chesterton. Whilst the development of the Paddocks and Vespasian Way took place in the mid-2010s, no other major housing development has taken place or is proposed in Chesterton.

6.18 This is further enhanced by paragraph 85 that states *"Significant weight should be placed on the need to support economic growth and productivity"*. In this case, there would be both short-term economic benefits associated with the construction of the development whilst longer-term benefits would be associated with the local spend, assisting in maintaining and developing the vitality and viability of the settlement. Indeed, more residents will lead to further facilities being delivered in the area (such as those proposed as part of the wider allocation). Furthermore, significant employment opportunities are being promoted and brought forward in close vicinity to the Site. These include the Great Wolf Resort, the Siemens development and wider employment allocations in close proximity to the Site. All of these are within easy walking and / or cycling distances.

6.19 Paragraph 102 confirms the importance of open space and opportunities for sport and physical activity. The Appeal Scheme provides a significant extension to the existing playing fields and also includes additional car parking to alleviate pressure on existing residential occupiers who suffer on match days. The Proposal includes additional playing facilities that would complement the existing ones and provide additional opportunities for sport and recreation.

6.20 Paragraph 104 sets out that decisions should protect and enhance public rights of way. Whilst there are no such rights of way on Site, the S106 includes a significant sum to improve such rights of way in the vicinity of the Site. These improvements will benefit both the existing and new residents and is a wider benefit.

6.21 Paragraphs 114 to 117 of the NPPF address transport, highways and locational sustainability matters. Mr Bevis addresses these matters. He concludes that appropriate opportunities to take up sustainable modes of transport have or will be taken up. He notes that there is no objection to the grant of consent from the statutory highway authority. He concludes that the Site is in a sustainable location, that significant improvements to access to walking, cycling and public transport have already been secured and further enhancements would come forward if consent is granted.

6.22 Overall, he concludes that the aims and policies of the NPPF would be adhered to, and I agree with his view.

6.23 Paragraph 124(a) sets out that planning decisions should *“encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access to the countryside”*. The current Site has no public access to it and has limited biodiversity value. The grant of consent for the Appeal will allow creation of new open space and recreation space, including public access as well as a significant increase in BNG across the Site. As such, the Appeal Scheme would comply with this element of the NPPF.

6.24 Paragraph 124(b) sets out that planning decisions should *“recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production”*. Whilst the Appeal Site could be used for food production, its biodiversity value is relatively limited and given the proposal will lead to BNG increase, the resultant development would be more compatible with this part of the NPPF. This includes the significant increase in tree planting that would be associated with the Appeal Scheme.

6.25 Section 12 of the NPPF addresses matters of design and the creation of beautiful places. Both Mr Smith and Mr Burton address this matter including an assessment against the National Design Guide and conclude that the Appeal Scheme complies with the guidelines set out.

6.26 It is agreed between the parties that the Appeal Site is not valued landscape in NPPF terms, and that paragraph 180(a) does not apply to the determination. Paragraph 180(b) sets out that planning decision should be *“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". As I have noted, the Appeal Scheme will lead to the loss of a greenfield site. However, the Council's position is reliant on delivering housing growth on greenfield sites. Indeed, the Council considers that in order to meet overall need, there is a need to release Green Belt land.

6.27 As such, I consider that the NPPF supports the grant of consent for the Appeal Scheme.

Local Plan Review

6.28 I address the weight to be afforded to the LPR below. I note that the Appeal Site is proposed to be allocated in the LPR as part of a wider allocation. I also note that the promoter of the remaining part of the allocation has raised concerns about the grant of consent. I address these concerns below.

6.29 Having reviewed the draft allocation, in my view, the Appeal Scheme is capable of complying with the requirements of the Policy. It has to be recalled that the proposal is submitted in outline format with all matters other than access reserved for future determination. However, when reviewing the draft allocation, matters such as the location of the open space etc all are located in the position set out in the indicative plans accompanying the application.

6.30 In terms of the objection from the neighbouring promoters, they do not object to the scale of development proposed. Indeed, they set out that their site could *"could clearly support that site if the Inspector is minded to approve the scheme"*. As such, they do not support the Council's RfR1.

6.31 In terms of RfR2, they state that they note the concerns of the Council, however, that also the context of the emerging LPR has to taken into account (including the evidence base). There is no objection to the grant of consent on this basis.

6.32 Finally, in terms of RfR3 and the provision of infrastructure, again there is no objection to the grant of consent, whilst noting that should the Appeal be granted it would need to meet the wider sustainability and infrastructure requirements, which is something that the Appeal Scheme seeks to do.

6.33 Therefore, having fully reviewed the comments made by the neighbouring promoter, whilst couched as an 'objection' no such objection emerges in the substance of the letter. To my mind, the main concern of the neighbouring promoter is that granting consent for the Appeal Scheme could restrict the wider allocation coming forward. I cannot agree that this would occur, indeed, it is my view that the Appeal Scheme would form the first phase of the wider allocation, thus further enhancing the prospects of the wider site coming forward.

6.34 I conclude that granting consent for the Appeal Scheme would accord with the emerging policy, which should be afforded some weight in the overall planning balance.

6.35 The SA for the LPR¹¹ addresses the various development scenarios. It is notable that the proposed allocation (LPR37a) is included in each of the development scenarios and no scenario is presented that does not include the allocation (see Table 5.4 at p41). This is expressly recognised by the authors of the SA who note that the allocation of *“500 homes to the south of Chesterton... is the firm assumption here (i.e. 500 homes south of Chesterton is a ‘constant’ across the growth scenarios)”* (paragraph 6.2.31).

6.36 To my mind this supports my view that weight, can and should be afforded both to the LPR and the ability of the Appeal Scheme to comply with the policy requirements.

Conclusions

6.37 I have reviewed the relevant policies of the development plan as well as the most significant material considerations such as the NPPF and the LPR. I have concluded that the Appeal Scheme is in general accordance with the provisions of the development plan when considered as a whole.

6.38 I have also concluded that material considerations support the grant of consent.

6.39 In coming to a view as to weight to be afforded to compliance, or non-compliance with policies, the weight to be afforded to these has to be taken into account and I turn to this next.

¹¹ CD3.6

7. WEIGHT

Introduction

7.1 The matter of weight is important for the purpose of this Appeal for two principal reasons. Firstly, in relation to the Local Plan, paragraph 225 of the NPPF sets out that *“existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”*. An assessment of the Local Plan policies needs to be carried out against the policies of the NPPF to consider whether they are up-to-date and whether reduced weight should be afforded to them (and potentially any conflict with them). If the most important policies for the determination of this Appeal are considered to be out-of-date, then the so-called ‘tilted balance’ in paragraph 11d of the NPPF would apply.

7.2 Secondly, in relation to the LPR, paragraph 48 of the NPPF allows weight to be afforded to emerging plans subject to three criteria. In my mind, the LPR has reached a stage where such an assessment is required (indeed, failing to do so would lead to a relevant material consideration not being taken into account which would be unlawful).

The Local Plan

7.3 The most important policies are the ones that are key to the determination of the Appeal. Generally, they are considered to be the ones that the Council considers to be breached in relation to matters of principle. However, I have highlighted that several of the policies quoted by the Council are not materially relevant to the determination of the Appeal.

7.4 As such, I conder that the most important polices for the determination of the Appeal are: BSC1; ESD1; ESD13; ESD15; and Villages 2. I address each in turn, also having regard to the Council assessment in the second Regulation 10A review:

| Policy | Council assessment | My assessment | Conclusion |
|-------------|--|---|--|
| BSC1 | Evidence base is out-of-date, and policy requires updating | Whilst the evidence base is out-of-date and the Policy requires updating, this does not mean that the Policy can be disregarded. However, as I have indicated above, the Policy is not effective in meeting the | The Policy is out-of-date and is not in accordance with more up-to-date evidence. Only limited weight can be afforded to the Policy. |

| | | | |
|-------------------|---------------------------------------|--|--|
| | | overall housing numbers across the Plan period, not delivering housing in accordance with the distribution set out. | |
| ESD1 | Generally in accordance with the NPPF | Generally in accordance with the NPPF | Significant weight can be afforded to the Policy |
| ESD13 | Generally in accordance with the NPPF | Generally in accordance with the NPPF | Significant weight can be afforded to the Policy |
| ESD15 | Generally in accordance with the NPPF | Generally in accordance with the NPPF | Significant weight can be afforded to the Policy |
| Villages 2 | Generally in accordance with the NPPF | Generally in accordance with the NPPF. The Policy does not set out a cap in terms of housing that can be delivered in Category A settlements | Significant weight can be afforded to the Policy |

7.7 The NPPF, as clarified by case law, requires me to consider the overall ‘basket’ of development plan policies and whether these are up-to-date or not. In this case I note that the policies quoted above, other than BSC1, are development management policies rather than the strategic policy BSC1. In order to come to a view as to whether this Policy is up-to-date or not, the effectiveness of the Policy has to be considered. In coming to my view, I have had regard to the view of Inspector Boniface in the Soham¹² appeal and Inspector Edgington in the Deddington¹³ decision.

7.8 Inspector Edgington noted that “LP Policy BSC1 has also been cited in the Council’s refusal notice. This is concerned with housing allocation across the district but is based on housing need information which is now of some age”. He does not come to a firm conclusion as to the policy.

7.9 Inspector Boniface was faced by a similar situation in the Soham appeal. In that case the Council could demonstrate a five-year housing land supply (for the purpose

¹² Appeal Reference APP/V0510/W/21/3282449 and Appendix B

¹³ CD4.18

of this assessment, I have considered that the Council can demonstrate such a supply) and therefore the tilted balance was not engaged automatically.

7.10 In paragraph 13 of his decision he refers to the overall requirement figure and delivery over the plan period. In that case it was agreed that the policy was out of date due to it being over five years old and identified housing requirement cannot be relied on. This is the same case here.

7.11 In paragraph 14 he addresses the distributional element in the plan and confirms that this is also out of date as this is seeking to accommodate the out-of-date requirement and it is unknown both what the requirements in the future will be and whether the distribution / sufficient allocations exist. This is also similar to the position we find ourselves in. In that case there was balance of 1,500 homes that would not be met within adjoining authorities. In this case, we currently have 4,400 homes that need to be delivered to meet Oxford's needs. These are currently not being met and are unlikely to be met over the plan period up to 2031. In addition, as Mr Roberts sets out, the Local Plan 2015's requirements will not be met in the period up to 2031. As such, the position in relation to that element is also similar.

7.12 The Council's latest AMR notes (paragraph 4.30) that *"Since 2015 in six out of seven years housing completions in the district have remained higher than the annualised planned requirement of 1,142 per annum. Completions from 2015 to 2023 total 10,247, or an average of 1,281 per annum"*. However, the plan period runs from 2011. The requirement from 1 April 2011 to 31 March 2023 (i.e. 12 years) is 13,704 new homes. The AMR confirms that only 12,312 homes have been delivered in that period, therefore there is a shortfall against the Policy requirement of 1,392 homes. This is a significant shortfall which has persisted across the plan period. Inspector Boniface noted in paragraph 15 that *"there has been a significant shortfall against the ECLP housing requirement to date, meaning that the plan cannot be said to have been effective in delivering the anticipated housing need to date"*. That is the same position here.

7.13 Paragraph 16 of the decision states that *"Whilst there is no dispute that for the purposes of calculating housing land supply, the standard method should now be used and that this seeks to address past shortfalls, that does not make the hefty shortfalls against the ECLP requirement immaterial. It is, in my view, an important indication that the ECLP has not been effective in meeting housing needs since the beginning of the plan period and casts further doubt as to whether the Council's locational strategy can be relied upon to significantly boost housing delivery in line with the National Planning Policy Framework (the Framework)"*. Again, it is my view that this statement is relevant to the situation in Cherwell.

7.14 Paragraph 16 also addresses the HDT position. I note that this is a divergence between the position of the authorities, as Cherwell is currently meeting the HDT with 143% in 2023.

7.15 The remaining paragraphs of this section of the appeal decision address what are considered to be most important policies and other matters which are not strictly relevant to this Appeal.

7.16 Using the analysis of Inspector Boniface in relation to such policies, it is evident that Policy BSC1 is out-of-date.

7.17 The main difference, to my mind, between the Soham decision and this Appeal is that the East Cambridgeshire Local Plan provided a policy that restricted development to within defined settlement envelopes. This is not the case in this Appeal. Policy Villages 2 positively allows development outside settlement boundaries in certain criteria. Indeed, Inspector Ford in the Milcombe decision [CD4.19] addressed the point when she granted consent for 35 homes on 12 December 2023.

7.18 In paragraph 15 of that decision, the Inspector states that *“Although the Council consider that when taken as a whole the 750 has been reached and exceeded, it was acknowledged at the Hearing that the 750 identified in the policy is not a limit. Noting the findings of other appeal decisions referred to by the Council in support of their case, there is little evidence before me that there has been a material exceedance in the number of dwellings that has resulted in harm to the locational strategy of the district. As such, and given the location of the site to the adjacent built up edge of the settlement with access to services and facilities, I consider the site to be an appropriate location for development, subject to compliance with the 11 bullet points that form the second part of Policy Villages 2, the most relevant of which are covered within main issue 2 of my Decision”*.

7.19 Paragraph 16 of the decision is also relevant: *“The Council say that the development would lead to significant additional growth of the village when considered alongside other development that has occurred in the settlement since the Local Plan was adopted. However, the development has been incremental over this time and the scheme proposed would constitute a 10% increase in the size of the settlement. I do not consider this to be a significant harmful addition given the position of the village in the settlement hierarchy or the level of growth directed to the rural areas”*.

7.20 To my mind, this approach provides the flexibility that is not provided in East Cambridgeshire’s plan.

7.21 In light of that approach, so long as Policy Villages 2 is properly understood not to place a cap on the amount or location of development coming forward (so long as its criteria are met) in order to meet the housing requirements of the Local Plan (and the Partial Review) then, in my view, the ‘basket’ of most important polices is not out of date.

7.22 However, if the Inspector agrees with the view of my colleague Mr Roberts in relation to the housing land supply position, then the most important policies are automatically regarded to be out-of-date, and the tilted balance applies to the determination.

Emerging Local Plan Review

7.23 As set out, the LPR has had three consultations with the latest identifying preferred allocations. Paragraph 48 of the NPPF sets out three tests against which weight to be afforded to emerging plans has to be assessed:

| The test | Evidence |
|---|--|
| the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given) | Whilst the LPR is only at Regulation 18 stage, this is the third consultation, and the latest consultation identifies preferred allocations. As such, the weight to be afforded to this stage is greater than a plan that has only had only stage of consultation. |
| 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) | I do not have the evidence as to the objection that have been received – therefore I have assumed that there are unresolved objections to the LPR’s allocation of the Site for development |
| 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) | It is my opinion that the allocation is consistent with the NPPF |

7.24 Having considered the LPR against the NPPF tests, it is my view that limited weight can be afforded to the relevant policies and the allocation. However, the evidence base that underpins the LPR can also be a material consideration, and this is referred to by my colleagues and me where relevant. The weight to be given to the evidence base is independent and is to be determined by the robustness of the evidence in question.

Conclusions

7.25 Both the existing Local Plan and the LPR policies cannot be afforded full weight in the decision-taking process.

7.27 In Section six I assessed the compliance of the Appeal Scheme against these policies and considered that there is general compliance with the existing development plan and support from the LPR.

7.28 I have also set out that the Appeal Scheme complies with many policies of the development plan that are not set out by the Council as being breached. These policies are also relevant to the determination of the Appeal and compliance with these has to be taken into account in determining the Appeal.

7.29 I consider these in the section below on the benefits of the scheme.

8. THE BENEFITS

Introduction

8.1 Any assessment of the Appeal Scheme has to have regard to the benefits that would clearly emerge from the grant of consent. These are not generic benefits and would only be secured should consent be granted.

8.2 In coming to a view as the benefits that would be secured, I rely on the evidence of my colleagues. The matter of weight in the overall planning balance is my judgement.

8.3 In coming to my view, I have regard to the three components of sustainable development as outlined in the NPPF: economic; social; and environmental.

8.4 When considering the benefits (and the harms) associated with the Appeal Scheme, I have used the following terms to signify the weight to be afforded to each element¹⁴:

| Weight |
|-------------|
| Substantial |
| Significant |
| Moderate |
| Limited |
| Negligible |
| None |

Social Benefits

8.5 There are no doubts in my mind that the provision of housing, as well as the provision of affordable housing are benefits.

8.6 Whether the Inspector agrees that the Council has a five-year housing land supply or whether the Inspector agrees with Mr Roberts that the Council does not have a five-year housing land supply is not significantly material to my mind.

8.7 Even if the Council can demonstrate a five-year housing land supply, the position is marginal. In addition, I have identified that there is a significant and persistent shortfall against the CLP 2015 housing requirement, whilst on the current trajectory the Council will not meet the required need over the plan period for Cherwell's needs.

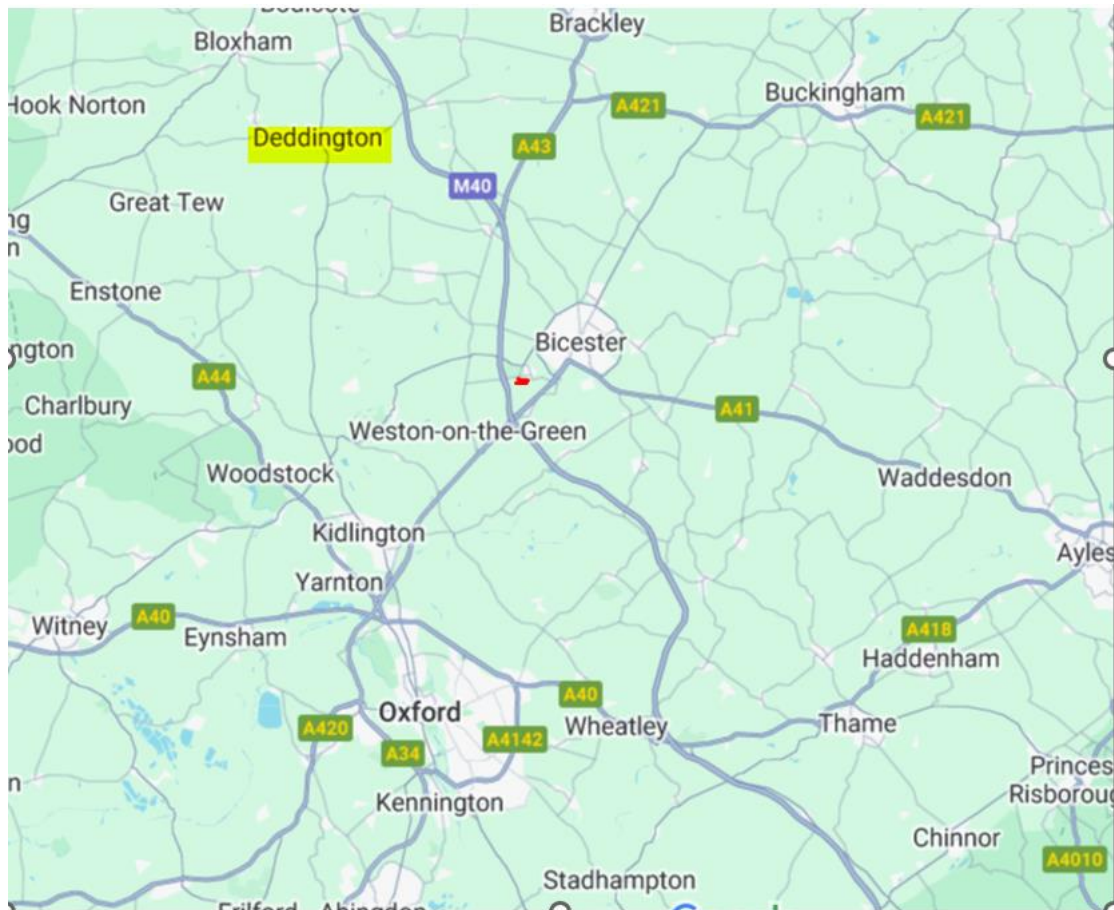
8.8 Furthermore, the Council itself accepts that it cannot demonstrate such a supply in relation to Oxford's housing needs. Given the proximity of the Site to Bicester and relative ease of access to Oxford, the Site could assist in meeting those needs (even

¹⁴ This approach is taken by several Inspectors such as Inspector Stephens in the [Yatton](#) decision (APP/D0121/W/21/3286677 and Appendix C) and Inspector Whitehead in [Clappers Lane](#) decision (APP/L3815/W/22/3291160 and Appendix D)

though it does not technically fall within the CLP PR definitions – the policies of which are out-of-date in any case due to the dire housing land supply position).

8.9 Mr Bevis addresses the ability of new residents of the Site to access Oxford and the wider employment that is associated with it. He notes that the park and ride and both train stations are within a reasonable cycle distance. He also notes the improvements to the bus service that would emanate from the joint contributions associated with the Appeal Scheme and the consented scheme at Great Wolf. To that effect, the Appeal Site is clearly differentiated from the decision of Inspector Edgington in the Deddington¹⁵ decision. In that case, the Inspector¹⁵ noted the distance of the appeal site from Oxford and for that reason they ruled out the ability of the site to meet Oxford's needs.

8.10 As can be seen from the map below, the Appeal Site is significantly closer to Oxford, circa 10 miles as the crow flies. Therefore, there are real prospects that development of the Site would assist in meeting both Cherwell's needs as well as some of Oxford's needs.



¹⁵ CD4.18

8.11 As such, it is my opinion that the provision of market housing should be afforded **significant** weight.

8.12 In terms of affordable housing, the Strategic Housing Market Assessment 2014 that underpinned the CLP 2015 identified that there is a need for 407 new affordable homes per annum¹⁶.

8.13 The Housing and Economic Needs Assessment ('HENA') December 2022 is the latest and up-to-date report on housing needs in Cherwell¹⁷.

8.14 Table 9.5 identifies households in unsuitable housing. As can be seen, Cherwell is the second worst district in the county (after Oxford City itself).

Table 9.5: Estimated Number of Households Living in Unsuitable Housing – Oxfordshire

| | Homeless/ concealed households | Households in overcrowded housing | Existing affordable housing tenants in need | Households from other tenures in need | Total |
|-------------|--------------------------------------|--|---|--|--------|
| Cherwell | 682 | 1,896 | 156 | 1,429 | 4,163 |
| Oxford | 965 | 3,856 | 268 | 1,878 | 6,967 |
| South Oxon | 535 | 1,436 | 140 | 1,238 | 3,349 |
| VoWH | 473 | 1,088 | 149 | 1,137 | 2,848 |
| West Oxon | 436 | 964 | 122 | 1,044 | 2,566 |
| Oxfordshire | 3,091 | 9,241 | 835 | 6,726 | 19,892 |

Source: MHCLG Live Tables, Census 2011 and Data Modelling

8.15 Table 9.11 set out the current affordable housing need for rented accommodation. Again, as can be seen the need in Cherwell is the second highest in the county.

Table 9.11: Estimated Need for Social/Affordable Rented Housing by local authority (per annum)

| | Current need | Newly forming households | Existing households falling into need | Total Gross Need | Relet Supply | Net Need |
|-------------|-----------------|--------------------------------|--|---------------------|-----------------|-------------|
| Cherwell | 128 | 659 | 161 | 948 | 288 | 660 |
| Oxford | 255 | 567 | 188 | 1,010 | 270 | 740 |
| South Oxon | 91 | 520 | 88 | 700 | 199 | 501 |
| VoWH | 79 | 567 | 110 | 756 | 259 | 497 |
| West Oxon | 76 | 365 | 69 | 510 | 142 | 368 |
| Oxfordshire | 629 | 2,678 | 616 | 3,924 | 1,157 | 2,767 |

Source: Range of sources

8.16 Table 9.21 estimates the need for affordable home ownership. Cherwell's need for that type of housing is more limited, but still significant.

¹⁶ Paragraph B1.05 of CD3.1

¹⁷ CD3.15

Table 9.21: Estimated Need for Affordable Home Ownership by sub-area (per annum)

| | Total Gross Need | Supply | Net need |
|-------------|------------------|--------|----------|
| Cherwell | 507 | 314 | 193 |
| Oxford | 492 | 175 | 317 |
| South Oxon | 563 | 294 | 269 |
| VoWH | 489 | 263 | 226 |
| West Oxon | 336 | 220 | 115 |
| Oxfordshire | 2,386 | 1,266 | 1,120 |

Source: Derived from a range of sources

8.17 The HENA sets out an overall need figure based on the 2021 census adjusted need:

Table 9.33: Comparing Affordable Delivery and Need

| | Oxford-shire | Cherwell | Oxford | South Oxon | VoWH | West Oxon |
|---|--------------|----------|--------|------------|------|-----------|
| Social/ affordable rented need (pa) | 2767 | 660 | 740 | 501 | 497 | 368 |
| Overall Need (2021 Census Adjusted Scenario)(dpa) | 4721 | 1081 | 1416 | 850 | 765 | 604 |
| % Census Adjusted Need | 59% | 61% | 52% | 59% | 65% | 61% |
| AH Policy | | 30-35% | 50% | 40-50% | 35% | 35-50% |
| AH Delivery @ 30% | 1416 | 324 | 425 | 255 | 230 | 181 |
| AH Delivery @ 35% | 1652 | 378 | 496 | 298 | 268 | 211 |
| AH Delivery @ 40% | 1888 | 432 | 566 | 340 | 306 | 242 |
| AH Delivery @ 45% | 2124 | 486 | 637 | 383 | 344 | 272 |
| AH Delivery @ 50% | 2361 | 541 | 708 | 425 | 383 | 302 |

8.18 The HENA does recognise that it is unlikely that overall affordable housing need will be met across the county and in Cherwell. However, what the report does demonstrate the significant and worsening need for affordable housing.

8.19 Chesterton’s village profile (Appendix 3 of the Council’s SoC [CD6.2]) provides data as to the position in Chesterton in mid-2021. It states that the population of the Parish was 3,502¹⁸ and that there had been 73 housing completions in the period 2015 to 2021 with three consented additional dwellings. The most worrying element of the update was the figures from the housing register. This showed that

¹⁸ I note that Inspector Ford in the Milcombe [CD4.19] decision addresses the point about percentage increase in villages. They note (paragraph 16) that “The Council say that the development would lead to significant additional growth of the village when considered alongside other development that has occurred in the settlement since the Local Plan was adopted. However, the development has been incremental over this time and the scheme proposed would constitute a 10% increase in the size of the settlement. I do not consider this to be a significant harmful addition given the position of the village in the settlement hierarchy or the level of growth directed to the rural areas”. I have addressed housing development across Chesterton elsewhere, noting the view of the Inspector refusing consent for the site to the north of the Appeal Site at the time considered the cumulative effects of Vespasian Way and the Paddocks coming forward at the same time. In this case, there is no significant development consented at Chesterton. In terms of additional growth, the development could lead to circa 350 additional residents in Chesterton, which is circa 10% of the parish population.

in July 2021 there were 1,680¹⁹ residents on the housing register (i.e. those seeking accommodation now) with **145** households with preference for Chesterton.

8.20 The Council's latest data in terms of affordable housing completions can be found in the Annual Monitoring Report 2023 [CD5.26]. In 2022/23, 181 affordable homes were delivered. Over the past 12 years, an average of 270 affordable homes per annum have been delivered whilst the past three years the average is 218 affordable homes per annum. Indeed, there is a downward trend in affordable housing delivery since 2018/19.

8.18 If current trends continue, it will take circa **eight years** to meet the needs of the people on the housing register that are seeking accommodation now. Of course, it is highly likely that additional people will be joining the register so that figure is likely to be significantly exceeded.

8.19 However, in the context of this Appeal, the figure for Chesterton is even more concerning. The Council in its update indicated that there are only three consented houses yet to be completed in Chesterton. I have reviewed the Council's planning register and note that only one additional new house has been permitted in Chesterton since 2021. Of course, small developments under ten units do not provide any affordable housing and the only way of meeting the need is through major development.

8.20 On the basis of the above, it would appear that the Council simply does not have a solution to meeting the needs of people on the housing register and are in need for housing now. This is even more severe in Chesterton where no solution is offered by the Council. The provision of 52 affordable homes would meet the needs of around a third of the current households seeking affordable housing provision in Chesterton.

8.21 In light of this need, it is my view that the provision of 35% of the new homes as affordable should be afforded **substantial** weight in the overall planning balance.

8.22 The Appeal Scheme will provide extensive open spaces which would be accessible both the existing and future residents in the area. The open space provision will go beyond what is required and is a key component of the Scheme. The Site does not currently have any public access to it and the inclusion of the open space as well as the walking paths and planting, all are wider public benefits. I note that there is open space in the wider area and that this is not an area that is lacking

¹⁹ A letter from CDC on 9 January 2024 set out "There are 1,846 active applications as at 20/12/2023. We hold the information by individual postcodes, not by Parish /towns. S.40 (2) provides that information is exempt if it constitutes personal data of any person other than the applicant, where disclosure would not be permitted under the Data Protection Act. We are, therefore, required to redact all 1,846 postcodes. We estimate that each record would take 1 minute to redact, resulting in a total time of 30 hours and 45 minutes. We are therefore unable to process your request as to do so would exceed the cost limit set out in s.12 of the Act."

in such open space, however, any such inclusion must be regarded as a wider benefit. As such, it is my view that this benefit should be afforded **moderate** weight.

8.23 The Appeal Scheme would also provide additional play space and sports facilities that would complement those that exist in the settlement. The play space would act as an extension to that existing but will provide wider opportunities for engagement in sport and recreation. The facilities were discussed with the Parish Council and the offer is based on feedback from them. As set out in the Overarching SoCG, the Appeal Scheme is seeking to deliver a Local Area of Play ('LAP') a Local Equipped Area of Play ('LEAP') and a Neighbourhood Equipped Area of Play ('NEAP') as well as a recreational playing field area which, could include formal sports pitches with associated parking, within the eastern parcel of the site. The indicative masterplan shows that facilities within the more formal area could include a football pitch, tennis courts, netball / basketball courts as well as a more informal kickabout area. Overall, the amount and quality of the sports facilities is significant and thus I afford this benefit **significant** weight.

8.24 Paragraph 8(b) of the NPPF sets out that part of the social objectives the fostering of well-designed and beautiful places should be considered. I refer to the evidence of Mr Burton and especially his conclusion in paragraph 6.1.11. In that he considers that the Appeal Proposals can and do benefit from the positive **significant** weight that paragraph 139(a) of the NPPF sets out should be ascribed. It is agreed between the parties that a condition requiring the reserved matters should be in general accordance with the design principles set out in the outline application, thus securing this high-quality design which is ascribed positive weight.

Environmental benefits

8.25 The development of a greenfield site would inevitably lead to change. As to whether this change is acceptable in terms of the character and appearance of the site and the wider area is a matter that the Inspector will come to a view in light of the evidence of the relevant experts.

8.26 The Development will lead to increased tree and hedgerow planting all of which are benefits. I have set out above that there is no adopted minimum BNG requirement currently in operation in Cherwell. As such, any BNG increase should be afforded weight in the planning balance. In this case, the BNG benefit is significantly higher. The gain for habitat units is 20.68% whilst for hedgerows is 54.84%. I note that the BNG calculation shows a 0.37% loss for ditches, however, as the OR notes (paragraph 9.136) there is likely to be a gain for this type of habitat as well. I have spoken to the ecologist who calculated the BNG who confirmed that "*As discussed, if we wish to be fully policy compliant with net gain requirements, and deliver a gain... for the Rivers section, the final landscaping plan should include as a minimum 5 metres of new ditch creation. This can be contoured and planted up with some aquatic vegetation and ideally link to existing ditches*". A note from the ecologist on this matter can be found at Appendix F.

8.27 Given the above, it is my view that the overall BNG benefit is significantly above the bare minimum. As such, this benefit should be afforded **moderate** weight.

8.28 The new homes will be highly energy efficient and are design to be net zero carbon. This sustainability level is well above current national building regulations standards and will ensure that the homes are future proofed for the future and will assist in moving to a low carbon economy (NPPF paragraph 8 (c)). I afford the provision of net zero ready homes **significant** weight.

8.29 In coming to this view, I note the Written Ministerial Statement of 13 December 2023²⁰ which states *“A further change to energy efficiency building regulations is planned for 2025 meaning that homes built to that standard will be net zero ready and should need no significant work to ensure that they have zero carbon emissions as the grid continue to decarbonise. Compared to varied local standards, these nationally applied standards provide much-needed clarity and consistency for businesses, large and small, to invest and prepare to build net-zero ready homes”*. In addition, the Statement sets out that *“In this context, the Government does not expect plan-makers to set local energy efficiency standards for buildings that go beyond current or planned buildings regulations”*. The Appellant is proposing to meet the 2025 standard now beyond the current levels set out in the Building Regulations. The content of the Statement supports my assessment as to the weight to be afforded to this benefit.

8.31 Mr Bevis sets out a package of benefits that would be associated with the grant of consent. I accept that a significant number of these are included as mitigation and would not have a wider benefit. However, I do consider that there are three benefits that would be wider public benefits and that these weigh in favour of the grant of consent. The first of these is the pedestrian and cycle improvements associated with the scheme and illustrated in the plans provided by Mr Bevis. The second is the financial contribution towards the improved bus service and the third is the provision of an on-site EV car club. As set out, whilst these are most likely to benefit the future residents, they will also benefit the wider community. As such, I afford these benefits **limited** weight.

Economic Benefits

8.32 Housing development leads to wider economic benefits. There are two distinct benefits that are associated with housing development. The first is the short-term spend and employment from providing up to 147 new homes, the spend from the employees and the local supply chain. In Cherwell unemployment is generally below the wider southeast, although the latest data²¹ from the ONS is that employment is still at 2.6%. In addition, there is house building taking place in the wider area. The information provided with the Application²² sets out that granting consent for the Appeal would provide 35 gross direct jobs (FTE), 25 net direct jobs and 10 indirect jobs, such that the total jobs supported by granting consent would be **70**. These jobs would exist for the four years that the Appeal Scheme would take to build out. In addition, the Gross Value Added (‘GVA’) would be circa £2.4m of which £1.5m would be in Cherwell. As such, and whilst I note that the NPPF sets out that economic

²⁰ <https://questions-statements.parliament.uk/written-statements/detail/2023-12-13/hcws123>

²¹ <https://www.ons.gov.uk/visualisations/labourmarketlocal/E07000177/>

²² Turley Economic infographic – Appendix E

development should be afforded significant weight, I afford this benefit **significant** weight.

8.33 The new residents will assist in maintaining and enhancing the settlement's vitality and viability and, as such, would have a **significant** wider benefit. The local spend will assist in the existing facilities enhancing their viability so that they are more sustainable. In addition, as Mr Bevis sets out, more residents may also enhance local bus services, this being a further manifestation of local spend.

Conclusions

8.34 I have considered the numerous benefits that would be secured should consent be granted for the Appeal Scheme. For ease of reference, I provide this as a summary in the below table:

| Benefit | Weight |
|------------------------------|---------------|
| Market housing | Significant |
| Affordable housing | Substantial |
| Economic benefits | Significant |
| Design | Significant |
| Biodiversity net gain | Moderate |
| Net Zero Homes | Significant |
| BNG | Moderate |
| Open Space | Moderate |
| Sports facilities | Significant |
| Sustainable Transport | Limited |

8.35 Having reviewed the above benefits, it is my view that cumulatively the benefits should be afforded **significant** weight in the overall planning balance.

8.36 Against these benefits, the harms need to be identified and I turn to these and the overall planning balance next.

9. THE PLANNING BALANCE

Introduction

9.1 In this Section of my Proof of Evidence, I address the planning balance. In coming to my view, I have regard to the provisions of S38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) in that the planning decision should be made in accordance with the provisions of the development plan unless material considerations indicate otherwise.

The Harm

9.2 The Council has set out several areas where it alleges that there would be harm. These relate to landscape and visual effects, effects on the character of the settlement and sustainability matters. All of these are addressed by my colleagues, and I rely on their evidence and do not repeat it here.

9.3 The Site is agricultural land. The assessment by Reading Agricultural Consultants²³ confirms that the vast majority of the Site falls within soil classification 3a and is, therefore, best and most versatile agricultural land ('BMV'). The NPPF sets out the economic value of such land should be recognised as well as the benefit of using land for food production.

9.4 The loss of the BMV land is a disbenefit. However, the loss is not significant²⁴ and therefore, I afford this harm **moderate** weight. In terms of the additional references in the December 2023 NPPF to food production, I note that this appears in footnote 62²⁵ which in turn relates to paragraph 181 which addresses local plans and allocations and therefore it not relevant to this Appeal determination. In any case, I have considered the effects of the loss of the land for the use as food production as part of the wider assessment of the loss of the BMV. This does support my overall judgement as to the weight to be afforded to the loss of the land.

9.5 The landscape harm to the Site itself will be significant. However, as Mr Smith sets out, this is inevitable when developing a greenfield site. Outside the Appeal Site itself, Mr Smith does conclude that there will be some localised landscape and visual harm associated with the development and that this would reduce over time. He concludes that the harm would not be significant. Overall, it is my view that the landscape and visual harm would be **limited**.

9.6 As to the allegation of the Council that *"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*

²³ CD1.5

²⁴ The reference to Natural England relates to the loss of 20ha of BMV which is not applicable in this case - <https://www.gov.uk/government/publications/agricultural-land-assess-proposals-for-development/guide-to-assessing-development-proposals-on-agricultural-land>

²⁵ Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development.

growth. This is a significant negative economic consideration” (OR paragraph 10.7) I do not accept this proposition. Whilst 147 is circa 20% of the uncapped 750 new homes envisaged under Policy Villages 2, as set out by the Council, this figure has already been exceeded, when taking into account both consents and completions. As such, the existing situation already is already that - if applied as a cap (which it is not) - the growth strategy is not working. Even if the Council can demonstrate a policy compliant housing land supply, one has to consider the effect of the delivery of 147 homes against the overall requirement of 22,840 across the plan period. As set out, this scheme equates to 0.64% of the total requirement in the District. I cannot see how a scheme delivering significantly less than 1% of the Council’s total housing requirement can undermine the entire growth strategy for the District. Indeed, the area that is underdelivering is Bicester. I note that the Regulation 18 LPR seeks to include the Site within the Bicester area (because of its relationship with the town and ease of access to local facilities). The Appeal Scheme will also further enhance economic activity and lead to significant investment, something that is supported by the Local Plan. I do not consider that delivering in excess of the uncapped 750 homes figure has any negative economic effects.

9.7 The Council also alleges negative social effects due to the educational spend in southwest Bicester *“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”* (OR paragraph 10.9). This position runs wholly contrary to the views of the statutory provider of educational services in the area, notably, OCC, who support the grant of consent and the associated contributions. As they note, currently students from Bicester travel to Chesterton for primary education. The contribution from the development would assist in adding capacity at Bicester, thus ensuring that pupils from Bicester do not need to travel to Chesterton, but also releasing additional capacity in Chesterton for the residents of the development. As such, I do not consider this as a negative effect whatsoever.

The Balance

9.8 Section 38(6) requires decisions to be made in accordance with the provisions of the development plan unless material considerations indicate otherwise. I have concluded that the Appeal Scheme is in accordance with the provisions of the development plan when considered as a whole.

9.9 I have also set out that material considerations such as the NPPF and the LPR also support the grant of consent.

9.10 As such, I conclude that planning permission should be granted subject to appropriate and proportionate conditions and the agreed s.106 obligation.

9.11 In coming to this view, I have weighed up the following benefits and adverse effects. In my view, it is clear that the numerous and significant benefits more than outweigh the limited adverse effects:

| Matter | Benefit / harm | Weight |
|-------------------------------------|-----------------------|---------------|
| Market housing | Benefit | Significant |
| Affordable housing | Benefit | Substantial |
| Economic benefits | Benefit | Significant |
| Design | Benefit | Significant |
| Biodiversity net gain | Benefit | Moderate |
| Net Zero Homes | Benefit | Significant |
| BNG | Benefit | Moderate |
| Open space | Benefit | Moderate |
| Sports facilities | Benefit | Significant |
| Sustainable transport | Benefit | Limited |
| BMV | Harm | Moderate |
| Landscape and visual effects | Harm | Limited |

9.12 Mr Roberts sets out that the Council cannot demonstrate a policy compliant housing land supply position and therefore the tilted balance applies to the determination. I do not rely on the operation of this to justify the scheme, but if the Inspector agrees with the Appellant on the application of the tilted balance, then even greater support would be afforded to the grant of consent.

Conclusions

9.13 I have set out a clear approach to determination of this Appeal.

9.14 I consider that on the proper reading of the policies and accepting the views of my colleagues, accordance with the provisions of the development plan when considered as a whole can be supported.

9.15 I consider that there are significant material considerations that support the grant of consent and that this further enhances the case for the Appeal Scheme.

9.16 I conclude that the Appeal should be allowed when undertaking the S38(6) assessment. In summary:

- I. The Appeal Scheme is accordance with the provisions of the development plan when considered as a whole;
- II. Alternatively, if the Inspector concludes otherwise, material considerations nonetheless support the grant of permission, whether or not the NPPF tilted balance is engaged.

9.17 However, I also set out that the tilted balance applies to the determination of the Appeal in that significant and demonstrable harm needs to be identified to outweigh the benefits. I consider that the benefits are numerous and significant so that, in order to significantly and demonstrably outweigh those benefits, the level of

harm would have to be considerable. I do not consider that such a level of harm can be demonstrated.

10. SUMMARY AND CONCLUSIONS

10.1 The Appeal Scheme would provide numerous and significant benefits. Whilst the Council may or may not have the required housing land supply position, this does not affect the weight to be afforded to the benefits of the Appeal Scheme.

10.2 Of course, the most significant benefit is the delivery of housing and especially affordable housing, in an authority that has not met the overall need for affordable housing and with an increased need for such housing.

10.3. However, the other benefits emanating from the development should not be underestimated. The Appeal Scheme will provide an extension to the existing recreational area and provide further and enhanced facilities for sport and recreation, something that is fully supported by national and local policy. The Proposal will also provide additional parking which would alleviate impact on existing residents.

10.4 The Proposal will partially rely on the enhanced sustainability measures associated with the Great Wolf and BSA schemes but would also include its own specific measures such as enhancements to walking and cycling in the area and the inclusion of an EV Car Club, which would be available to both existing and new residents.

10.5 It is not only the Appellant that considers that the Site is suitable for housing development. This is a view that is shared by the Council itself who seeks to allocate the Site (and a wider area) as a location for 500 new homes and associated infrastructure. As such, any allegation in terms of effects on landscape, settlement character and wider sustainability do not stand up to scrutiny in light of that decision and the evidence base that supports it.

10.6 When considering the evidence of Mr Smith, Mr Burton and Mr Bevis, an appropriate assessment of the effects of the development against the relevant policies in the development plan, then a reasonable conclusion is that the Appeal Scheme would accord with the provisions of the development when considered as a whole.

10.7 The evidence of Mr Roberts is that the housing land supply position in Cherwell is precarious, even on the Council's own figures there is a significant shortfall in meeting the needs of Oxford – the Appeal Site and its connectivity to Bicester provides access to Oxford so quite reasonably can assist in meeting these needs.

10.8 In coming to a view as to the suitability of the Site for development, I note that it does not suffer from any specific landscape or biodiversity designations. It is not Green Belt. It is not valued landscape. It is located adjacent to one of the most sustainable settlements in Cherwell and clearly associated with Bicester, which provides a range of shopping, employment and leisure opportunities.

10.9 Both national and local policy seek to ensure that local facilities are vital and viable. Granting consent for additional housing will ensure that local spend will

assist in maintaining such local facilities. Additional people will also support local bus services ensuring that they will continue to be viable.

10.10 As such, I conclude that there are significant and tangible benefits. I accept that there would be some harm associated with the development. Any loss of greenfield land would have adverse landscape effects, however, in this case they would be localised, limited and mitigated. The loss of agricultural land is also a disbenefit, however, the loss is not significant.

10.11 In my view these disbenefits do not outweigh the significant benefits associated with the scheme.

10.12 As such, I invite the Inspector to grant consent for this Appeal Scheme, subject to appropriate conditions and obligations.

