

Appendix 3 – Relevant Planning Policy Context

Adopted Development Plan

- 1.1 Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with an application for planning permission, regard is to be had to the development plan so far as material to the application, local finance considerations and other material considerations.
- 1.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 1.3 At the time the decision was made, the Development Plan, so far as material to the application, comprised:
 - Adopted Cherwell Local Plan 2011 - 2031 Part 1 (adopted July 2015)
 - Adopted Cherwell Local Plan 2011-2031 (Part 1) Partial Review – Oxford’s Unmet Housing Need (adopted September 2020)
 - Minerals and Waste Core Strategy (adopted September 2017)
 - 'Made' Neighbourhood Plans in Cherwell District
 - Saved, retained policies of the Adopted Cherwell Local Plan 1996
 - Saved policies from Oxfordshire County Council's Minerals and Waste Local Plan 1996.
- 1.4 Other material planning policy considerations include the National Planning Policy Framework (the 'NPPF'). At the time of refusing the application the 2021 version of the NPPF applied.
- 1.5 The Council’s decision notice references conflict with the following policies:

Adopted Cherwell Local Plan 2011 - 2031 Part 1 (adopted July 2015)

- **Policy PSD1** (Presumption in Favour of Sustainable Development) states the Council will take a proactive approach to reflect the presumption in favour of sustainable development contained within the National Planning Policy Framework. Planning applications that accord with the policies in this Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.
- **Policy BSC1** (District Wide Housing Distribution) states that Cherwell will deliver 22,840 additional dwellings between 1 April 2011 and 31 March 2031.
- **Policy ESD15** (The Character of the Built and Historic Environment) states New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design.

- **Policy Villages 2** (Distributing Growth across the Rural Areas) states a total of 750 homes will be delivered at Category A villages. In identifying and considering sites regard will be given to the listed criteria, including whether best and most versatile agricultural land could be avoided.
- **Policy INF1** (Infrastructure) states the Council will identify infrastructure required to meet the District's growth. Development proposals will be required to demonstrate that infrastructure requirements can be met.

Saved, retained policies of the Adopted Cherwell Local Plan 1996

- **Policy C8** states sporadic development in the open countryside including developments in the vicinity of motorway or major road junctions will generally be resisted.
- **Policy H18** states planning permission will only be granted for the construction of new dwellings beyond the built-up limits of settlements other than those identified under policy h1 when: (i) it is essential for agriculture or other existing undertakings, or (ii) the proposal meets the criteria set out in policy h6; and (iii) the proposal would not conflict with other policies in this plan.

1.6 In addition, the following policies are also considered relevant to the determination of this appeal (although as they are not referred to in the decision notice, the LPA does not allege any conflict with them):

Adopted Cherwell Local Plan 2011 - 2031 Part 1 (adopted July 2015)

- Policy BSC 3: Affordable Housing
- Policy BSC 4: Housing Mix
- Policy BSC 10: Open Space, Outdoor Sport and Recreation Provision
- Policy BSC 11: Local Standards of Provision - Outdoor Recreation
- Policy BSC 12: Indoor Sport, Recreation and Community Facilities
- Policy ESD 1: Mitigating and Adapting to Climate Change
- Policy ESD 2: Energy Hierarchy and Allowable Solutions
- Policy ESD 3: Sustainable Construction
- Policy ESD 4: Decentralised Energy Systems
- Policy ESD 5: Renewable Energy
- Policy ESD 7: Sustainable Drainage Systems (SuDS)
- Policy ESD 10: Protection and Enhancement of Biodiversity and the Natural Environment

- Policy ESD 17: Green Infrastructure

Saved, retained policies of the Adopted Cherwell Local Plan 1996

- Policy H5 – Affordable Housing
- Policy H18 – New Dwellings in the Countryside
- Policy C7 – Landscape Conservation
- Policy C8 – Sporadic Development in the Open Countryside
- Policy C28 – Layout, design and external appearance of new development
- Policy C30 – Design of New Residential Development

Other material considerations

National Planning Policy Framework

- 1.7 The decision notice references conflict with the NPPF, paragraph 174 specifically (it is noted in the current December 2023 version of the Framework this is now paragraph 180). **Paragraph 180** states planning policies and decisions should contribute to and enhance the natural and local environment.
- 1.8 The following paragraphs are a relevant consideration.
- 1.9 **Paragraph 7** of the Framework sets out that the purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes and supporting infrastructure in a sustainable manner.
- 1.10 **Paragraph 8** of the Framework reiterates that the planning system has three overarching objectives:
- **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth
 - **a social objective** – to support strong, vibrant and healthy communities by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and
 - **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment, including making effective use of land.
- 1.11 **Paragraph 10** states that at the heart of the framework is a presumption in favour of sustainable development.
- 1.12 **Paragraph 11** sets out that, for decision-taking, this means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - (ii) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

1.13 **Paragraph 38** states that local planning authorities should *“approach decisions on proposed development in a positive and creative way... and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible”*.

1.14 **Paragraph 47** of the Framework reiterates that *“planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing”*.

1.15 **Paragraph 48** states that Local Planning Authorities may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- 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).

1.16 **Paragraph 49** deals with prematurity and explains that in the context of the Framework (and in particular the presumption in favour of sustainable development), arguments that an application is premature are unlikely to justify a refusal other than in limited circumstances.

Delivering a sufficient supply of homes

- **Paragraph 60** of the Framework emphasises the need to support the *“Government’s objective of significantly boosting the supply of homes.”* By making sure that *“a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet*

as much of an area's identified housing need as possible, including with an appropriate mix of housing types for the local community."

Promoting healthy and safe communities

- **Chapter 8** of the Framework outlines how planning policies and decisions should aim to achieve healthy, inclusive and safe places.
- **Paragraph 96** of the Framework states that planning decisions should aim to achieve healthy, inclusion and safe places which *"are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of beautiful, well-designed, clear and legible pedestrian and cycle routes, and high-quality public space, which encourage the active and continual use of public areas."*

Promote Sustainable Transport

- 1.17 **Chapter 9** of the Framework guides the important role transport plays in achieving sustainable development, seeking to maximise sustainable transport solutions.
- 1.18 **Paragraph 109** states that *"the planning system should actively manage patterns of growth in support of these objectives. 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."*
- 1.19 **Paragraph 115** states *"Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."*

Making effective use of land

- **Paragraph 123** of the Framework states that planning decisions *"should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions."*
- **Paragraph 124** of the Framework states that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes.
- **Paragraph 128** states that planning decisions should support development that makes efficient use of land taking into account:
 - *The identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;*
 - *Local market conditions and viability;*
 - *The availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;*
 - *The desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and*
 - *The importance of securing well-designed, beautiful and healthy places.*

Achieving Well-Designed Places

- **Chapter 12** sets out the importance of the design within the built environment.
- **Paragraph 131** state that *“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”*
- **Paragraph 135** states that planning decisions should ensure developments:
 - *Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
 - *Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
 - *Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
 - *Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
 - *Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
 - *Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

Meeting the challenge of climate change, flooding and coastal change

- **Chapter 14** of the NPPF focusses on the delivery of renewable and low carbon energy and associated infrastructure through new development. Opportunities relate to the landform, layout, building orientation, massing and landscaping of proposed development.
- **Paragraph 157** of the Framework sets out that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change.

Conserving and enhancing the natural environment

- **Paragraph 186** sets out that when determining applications, local planning authorities should apply the following principles:
 - If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts),

adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; and

- Development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

Emerging Policy Context

1.20 The Council's latest Local Development Scheme ('LDS') was adopted in September 2023). The document sets out the timeline for the Local Plan Review with the following timescales:

- Consultation on Proposed Submission Plan (Regulation 19): September-October 2024
- Submission (Regulation 22): January 2025
- Examination (Regulation 24): January 2025 (hearings estimated April & May 2025)
- Receipt and Publication of the Inspector's Report (Regulation 25): September 2025
- Adoption (Regulation 26): December 2025 (subject to examination)

1.21 It is agreed that the emerging Local Plan cannot be afforded any weight in the decision-making process.

Supplementary Planning Documents

1.22 In addition, there are also a number of Supplementary Planning Documents ('SPDs') that are considered to be of relevance to the application. These are listed below:

- Cherwell Residential Design Guide Supplementary Planning Document (SPD) (July 2018);
- Developer Contributions Supplementary Planning Document (SPD) (February 2018);
and
- Banbury Vision and Masterplan Supplementary Planning Document (SPD) (December 2016).