



Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

STATEMENT OF CASE ON BEHALF OF THE LOCAL PLANNING AUTHORITY

LPA References: 23/00853/OUT (Appeal Reference: 24/00004/REF)

PINS Reference: APP/C3105/W/24/3338211

Date: 21st March 2024

Appeal by Vistry Homes Ltd against the decision by Cherwell District Council to refuse planning permission for '*Outline application for up to 170 dwellings (Use Class C3) with associated open space and vehicular access off Warwick Road, Banbury; All matters reserved except for access*' on '*Land east of Warwick Road, Banbury, Oxfordshire*'.

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1.0 Background

- 1.1 This appeal relates to the decision to refuse planning permission in respect of application reference 23/00853/OUT for: *'Up to 170 dwellings (Use Class C3) with associated open space and vehicular access off Warwick Road, Banbury; All matters reserved except for access.'*
- 1.2 This application was considered by Cherwell District Council's Planning Committee at a meeting held in public on 10th August 2023.
- 1.3 CDC Planning Committee resolved that the application be refused as it was considered that the application site was located within open countryside and was not allocated for development in any Development Plan. Its visually prominent position on plateau land beyond the clear developed northern edge of the town would breach Banbury's contained environmental setting, giving rise to a direct risk of coalescence between Banbury and neighbouring Hanwell village. As such, development would cause undue visual intrusion into open countryside, fundamentally changing the undeveloped characteristics of the open arable land, creating a prominent urban built form, inconsistent with the local character, which would be detrimental to the rural landscape and the identity and individuality of nearby Hanwell village. Development would therefore be contrary to Policies PSD1 and BSC1 of the District's 2015 Local Plan and saved Policies C8 and H18 of its 1996 Local Plan and Government guidance within the National Planning Policy Framework. In addition, and notwithstanding a recent appeal decision at Heyford Park which the Council will be challenging through the Courts, Cherwell District Council maintains that it could at time of determination and still can demonstrate more than a 5-year supply of deliverable housing land, meaning that the quoted relevant Development Plan policies are all up to date.
- 1.4 The Planning Committee also determined that the proposed development was likely to erode the open arable landscape which provides clear separation between Banbury town and Hanwell village and forms part of the surroundings within which the setting of Hanwell Conservation Area, St Peter's Church (Listed Grade I) and Hanwell Castle (Listed Grade II*) are experienced, to the detriment of and causing harm (less than substantial) to the setting of these designated heritage assets, contrary to policy ESD15 of the Council's 2015 Local Plan and Government guidance contained within Section 16 of the National Planning Policy Framework.
- 1.5 In addition, the land is identified as 'best and most versatile' agricultural land and the Planning Committee resolved that no evidence had been provided to attempt to demonstrate whether the loss of 'very good' and 'good' quality agricultural land could be avoided. The proposals thereby failed to satisfy the prescribed criteria under Policy Villages 2 of the Council's adopted 2015 Local Plan and the requirements of what at the time was paragraph 174 of the NPPF [now paragraph 180 b)].
- 1.6 Finally, the Planning Committee noted that no signed Section 106 agreement had been submitted by the applicant to mitigate impacts and provide appropriate infrastructure contributions required as a result of development that, in the event of any consent, would be necessary to make the impacts of development acceptable in planning terms. As such, the proposal was deemed contrary to Policy INF1 of the Council's 2015 Local Plan, its 2018 Developer Contributions SPD and Government guidance contained within the National Planning Policy Framework.

1.7 Accordingly, the Council's refusal of planning permission was subsequently issued on 11th August 2023, wherein the reasons for refusal read as follows:

1. Cherwell District Council is able to demonstrate a 5-year housing land supply meaning that the relevant development plan policies are up to date. The application site is located within open countryside and is not allocated for development. The proposed development by virtue of its visually prominent position, is such that it would breach Banbury's contained environmental setting, giving rise to a direct risk of coalescence between Banbury and Hanwell, causing undue visual intrusion into the open countryside, fundamentally changing the undeveloped characteristics of these parcels of open arable land, creating a prominent urban built form, inconsistent with the local character, to the detriment of the rural landscape and the identity and individuality of Hanwell village, contrary to Policies PSD1 and BSC1 of the CLP 2031 Part 1, saved Policies C8 and H18 of the CLP 1996 and Government guidance within the National Planning Policy Framework.
2. The proposed development is considered to erode the open arable landscape which provides clear separation between Banbury and Hanwell and forms part of the surroundings within which the setting of Hanwell Conservation Area, St Peter's Church (Listed Building Grade I) and Hanwell Castle (Listed Building Grade II*) are experienced, to the detriment of and causing harm (less than substantial) to the setting of these designated heritage assets, contrary to policy ESD15 of the CLP 2031 Part 1 and Government guidance within the National Planning Policy Framework.
3. No evidence base has been provided to attempt to demonstrate whether the loss of this 'very good' and 'good' quality parcels of agricultural land could be avoided. The proposals thereby fail to satisfy the prescribed criteria under Policy Villages 2 of the CLP 2031 Part 1 and the requirements of para. 174 of the NPPF.
4. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions required as a result of the development, and necessary to make the impacts of the development acceptable in planning terms. As such, the proposal is contrary to Policy INF1 of the Cherwell Local Plan 2011-2031, CDC's Developer Contributions SPD 2018 and Government guidance within the National Planning Policy Framework.

2.0 Updates Since Determination of the Application

- 2.1 In February 2023 Cherwell District Council approved a review of its adopted planning policies carried out under Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012. This review concluded that, due to the publication of more recent evidence on Housing Needs to support the preparation of the Reg.18 Cherwell Local Plan Review 2040, policies including Policy BSC1 were 'out of date'. Paragraph 77 and footnote 42 of the NPPF requires that in such circumstances the 5-Year [or 4-year (as per para.226)] supply of land should be calculated using the Government's standard methodology.
- 2.2 With respect to housing land supply, the Council has, since determination of this application, published a 2023 Annual Monitoring Report (AMR) which uses the national standard methodology for calculation of its housing requirement and that has the effect of reducing the annualised requirement from 1,142 dpa to 710 dpa for the purposes of calculating the land supply. The published AMR demonstrates that the District currently has a 5.8-year supply measured against Cherwell District's own housing needs.
- 2.3 At the Council's Executive meeting on 4th September 2023, the Council resolved to approve for publication its Reg.18 draft Cherwell Local Plan Review 2040. That new emerging draft Plan was formally published for 6 weeks of consultation on Friday 22nd September 2023.
- 2.4 The Reg.18 draft Plan identifies on pages 12-13 its intended 'spatial strategy'.
- 2.5 On 19th December 2023, a revised National Planning Policy Framework (NPPF) was published. At paragraph 226 of the latest NPPF it states inter alia that: "...*certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing...against local housing need where the strategic policies are more than five years old, instead of a minimum of five years'...*This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage...". The Council will maintain that NPPF paragraph 226 applies in this instance and that its deliverable supply is significantly above the minimum four-year requirement.
- 2.6 On 5th March 2024, a decision was issued by The Planning Inspectorate in respect of appeal reference **APP/C3105/W/23/3326761** at OS Parcel 1570, Adjoining and West of Chilgrove Drive & Adjoining and North of Camp Road, Heyford Park (known as the Heyford Inquiry). The LPA agrees that the decision issued by the Inspectorate in the above Heyford Park case is a potential material consideration to this Warwick Road, Banbury appeal.
- 2.7 However, the LPA is currently reviewing its position in relation to a s.288 legal challenge to the conclusions reached by the Inspector in that case (and the basis for the decision making) and has six weeks to consider this. We have taken Kings Council advice and will be proceeding with a s.288 legal challenge to that decision, believing it to be unsound. As you will appreciate, we are not in a position to advise on the likely timescale should an application for review by the Courts be agreed.

- 2.8 We have significant concerns that the Heyford Inquiry decision does not sufficiently consider all material considerations and therefore could well be unsound. On that basis, we consider that placing any reliance on that decision and upon the housing land supply considerations and conclusions could place subsequent and dependent decisions also at risk.
- 2.9 For that reason, we consider that this appeal and the Heyford Inquiry decision should be kept entirely separate. We are not yet able to provide a complete response to the Heyford Inquiry decision at this point in time because to do so could limit or prejudice the case that the LPA would ultimately wish to present to the Courts.
- 2.10 We consider that how the Heyford Inquiry decision was reached is a matter best reserved for the Courts. Nevertheless, to assist understanding and given the limited timescale for responding, we set out below a summary of our concerns without prejudice to our future position.

Single housing land supply

- 2.11 Notwithstanding the above, it should be noted that Paragraph 67 of NPPF 2023 states:
- “Strategic policy-making authorities should establish a housing requirement figure for their whole area, which shows the extent to which their identified housing need (and any needs that cannot be met within neighbouring areas) can be met over the plan period. **The requirement may be higher than the identified housing need if, for example, it includes provision for neighbouring areas, or reflects growth ambitions linked to economic development or infrastructure investment.** Within this overall requirement, strategic policies should also set out a housing requirement for designated neighbourhood areas which reflects the overall strategy for the pattern and scale of development and any relevant allocations. Once the strategic policies have been adopted, these figures should not need re-testing at the neighbourhood plan examination, unless there has been a significant change in circumstances that affects the requirement.”*
- 2.12 Highlighted in red is the new wording to the NPPF in comparison to the previous 2019 version of the NPPF. At Paragraph 71 of the Decision, the Heyford Inspector set out the first sentence of Paragraph 67 but did not outline the remainder of the Paragraph, which should be read as whole. This includes the reference to strategic policies (indicating that there may be more than one policy on housing land supply). This is a significant omission.
- 2.13 At Paragraph 72 of the Decision, the Heyford Inspector notes a limited reference to the Planning Practice Guidance. This is set out in full below:
- “The criteria for housing land supply requirements for decision-making purposes are set out in paragraphs 76, 77 and 226 of the National Planning Policy Framework.*
- Paragraph 76 sets out the criteria under which an authority is not required to annually demonstrate a housing land supply for decision making. If an authority does not meet the criteria in paragraph 76, paragraph 77 sets out the housing land supply of specific deliverable sites that authorities should demonstrate for decision-making against either their requirement figure or LHN as appropriate.*

Paragraph 226 sets out criteria where, for a period of two years from the date of publication of the National Planning Policy Framework published on 19 December, an authority only needs, for the purposes of decision-making, to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing (with a buffer, if applicable) against either its housing requirement figure or LHN as appropriate.

The glossary of the National Planning Policy Framework defines what can be counted as a deliverable site for these purposes - those that are available now, offer a suitable location for development now, and those that will be achievable with a realistic prospect that housing will be delivered on the site within five years. Both the 5 year housing land supply and the 4 year housing land supply that authorities should demonstrate for decision making should consist of deliverable housing sites demonstrated against the authority's five year housing land supply requirement, including the appropriate buffer."

2.14 Further, at paragraph 73 of the Decision the Heyford Inspector highlights that:

"These changes are significant and indicate that the expectation is for one single housing requirement which includes the unmet need from a neighbouring authority."

2.15 However, as highlighted above, Paragraph 67 has not significantly changed, and the Inspector does not grapple with Paragraph 77 of the NPPF 2023 (discussed below). Therefore, the conclusions of Paragraphs 73 and 75 of the Decision are, in the view of the LPA, factually an error in law and in the interpretation or fair reading of the NPPF 2023. It therefore appears that the Heyford Inspector has misdirected herself in the interpretation of policy.

2.16 Furthermore, whilst a material planning consideration, applications and appeals must be determined in accordance with the Development Plan, with the NPPF and Practice Guidance being national guidance. There have been no significant or material changes to national policy in the NPPF 2023 that should mean that the existing Adopted Development Plan, in particular the Partial Review, should be disregarded within 5 years of its adoption, which is the effect of the Heyford Inquiry decision. The Heyford Inquiry Inspector's interpretation of NPPF guidance effectively set aside Development Plan strategy and implicitly seeks to meet Oxford's housing need deficit at Heyford, with no explanation of why and no consideration of its implications.

Paragraph 77 of the NPPF 2023

2.17 The application of paragraph 77 of the NPPF 2023 is relevant for decision-taking and identification of the requirement against which supply is to be assessed. Both the Appellant's case, and any acceptance of the conclusions of the Heyford Inquiry Decision Letter, relies upon a change in the interpretation of paragraph 77 of the NPPF 2023. Within that context:

- a. Paragraph 77 of the NPPF is unchanged following the publication of the revisions in December 2023.
- b. The Appellant's case (and Paragraph 71 of the Heyford Park DL) relies upon changes to Paragraph 67 of the Framework, which relates to plan-making. In practice this imports wording already extant in the PPG at 2a-010 and, read as a whole, paragraph 67 outlines the role of adopted strategic policies (plural) to determine the requirement(s) to assess supply.

- c. The change in circumstances relied upon at Paragraph 72 of the Heyford Park DL and the resultant introduction of PPG ID: 68-055-20240205 stems from a separate issue over the period over which supply is to be assessed in some circumstances from December 2023.
- 2.18 It is the LPA's view that had the Government sought to fundamentally change and restrict the scope of national policy to prescribe how the requirement against which supply is to be assessed using a singular figure, for an individual authority, it would have addressed this through changes to Paragraph 77 of the NPPF 2023. Any changes to the PPG would have been clear in the role to address this point. The LPA's view is that the Government would not seek to import such a fundamental point while clarifying a separate dispute relating to the period over which supply is to be assessed following changes to paragraph 226 of the NPPF 2023.
- 2.19 It is therefore also relevant to note:
- a. The Heyford Inquiry Decision Letter provides no reasons to indicate that the Council's position was incorrect with respect to the requirement against which supply was to be assessed before December 2023.
 - b. The Heyford Decision Letter does not indicate that the LPA's approach to preparation of its adopted strategic policies was not a permissive one. There is no conflict identified with how these specific adopted strategic policies are intended to operate on the Council's case, including with respect to paragraph 11(d) and Footnote 8 of the NPPF. This is important because the Council's case still relies on a position tested at Examination (via the policies of the Partial Review). The conclusions of the Heyford Inquiry DL (while not actually specifying what requirement is used to assess supply) cannot be stated to be an approach tested as part of plan-making.
 - c. The change in circumstances relied upon for the conclusion of the Heyford DL draws no support from the Housing Delivery Test.
 - d. Paragraph 70 of the Heyford DL represents a suggestion that circumstances had already changed following adoption of the Partial Review under the NPPF 2012 Framework. This is not relied upon for the actual conclusions based on the NPPF 2023 and, moreover, if it were correct, it would equally have applied to the Deddington and Milcombe Decisions that the Inspector distanced herself from in paragraph 74. Specifically, the change in circumstances relied upon is the publication of the Revised Framework and associated PPG.
- 2.20 As such, the Heyford Inquiry Decision cannot be relied upon and its failure to deal with Paragraph 77 is significant and the conclusions of Paragraphs 73 and 75 of the Decision are, in the view of the LPA, factually an error in law and interpretation or fair reading of the NPPF. The Inspector has retrospectively sought to apply new NPPF paragraphs 67 and 77 to the strategies of the 2015 Local Plan and 2020 Partial Review Local Plan which were both prepared in respect to the guidance contained within paragraphs 47-55 of the 2012 NPPF. It would appear that the Heyford Inspector has been misdirected in the interpretation of policy.

Oxford's Unmet Housing Need

- 2.21 The Heyford Inspector in her decision makes no reference to Policies PR1 or PR12 of the Partial Review Development Plan or indeed its adoption. Furthermore, the Inspector makes no reference to the age since adoption or the reasons for allocation.

- 2.22 The Inspector at Heyford is incorrect that the Partial Review was assessed or adopted solely under the context of NPPF 2012. The Partial Review did include assessment under NPPF 2019 prior to its adoption, this is a factual error, and the Inspector has not read or assessed the Partial Review in an appropriate and fair manner.
- 2.23 As examined at the Heyford Inquiry, the original allocation of the PR sites (as set out in the sustainability appraisal of the Partial Review and PR12a) was to provide new residential development that included:
1. Proximity to Oxford, the existing availability of public transport and the opportunity to maximise the use of sustainable and affordable transport in accessing Oxford's key employment areas and services and facilities.
 2. Opportunity to achieve an overall, proportionate reduction in reliance on the private motor vehicle in accessing Oxford's key employment areas and services and facilities and to achieve further investment in sustainable transport infrastructure.
 3. Deliverability of sustainable transport improvements in comparison to other Areas of Search.
 4. Relationship of existing communities to Oxford.
 5. Existing economic relationship between the Areas of Search and Oxford.
 6. Opportunity to provide affordable homes to meet Oxford's identified need close to the source of that need.
- 2.24 The Inspector at the Heyford appeal makes no assessment of this matter in the decision to amalgamate housing land supply or the exceptional circumstances that were required as part of the Development Plan preparation. In this respect, the Heyford Inspector fundamentally and significantly undermines the Development Plan and the reasons for its adoption and the exceptional circumstances demonstrated.
- 2.25 The Partial Review is less than 5 years old. This matter is also not discussed by the Heyford Inspector or the implications of this in terms of the NPPF and the clear conflict with the 'either or' guidance given in the second sentence to paragraph 77.
- 2.26 In respect of the Partial Review becoming more than five-years old, Para 74 of the NPPF states –
- “The supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns...”*
- 2.27 As set out in Regulations, for dwellings, a largescale major development is one where the number of residential units to be constructed is 200 or more. In this context:
- PR6a – 690*
 - PR6b – 670*
 - PR7a – 466 (by the resolution to grant) – Allocation 430
 - PR7b – 123 (by the resolution to grant) – Allocation 120*.
 - PR8 – 2,100 (in the application submissions) – Allocation 1,950
 - PR9 – 540 (both the application submission and allocation)

*The allocations of PR6a and PR6b together with PR7a and PR7b are considered to have intimate relationships to each other and fall under the same heading and policy justification.

Further it should be noted that the Partial Review Sites are geographically in and around Kidlington which has a population of c.13,723 (2011 Census) so 4,400 houses would be a significant extension to Kidlington as shown on the Adopted Policies Map (Appendix 1 of the Partial Review).

- 2.28 Further, Appendix 4 outlines the level of infrastructure expected to be delivered and how it will be secured (funding and S.106s). This complies with Para. 74 - Working with the support of their communities, and with other authorities if appropriate, strategic policy-making authorities should identify suitable locations for such development where this can help to meet identified needs in a sustainable way. In doing so, they should:
- a) consider the opportunities presented by existing or planned investment in infrastructure, the area's economic potential and the scope for net environmental gains.....
- 2.29 The Partial Review was subject to Challenge (reference: Cherwell Development Watch Alliance vs Cherwell District Council [2021] EWHC 2190 (Admin) (Appendix 1) which was a challenge to the exceptional circumstances being demonstrated, and the County Council also required a review to the Transport Model and therefore did not remove a highways objection until mid-2023. Accordingly, resolutions to grant subsequent to those legal challenges and progress has been made in a quick and efficient manner. These matters were also not discussed by the Heyford Inspector.
- 2.30 Further, it is noted that Footnote 39 follows: "*The delivery of large scale developments may need to extend beyond an individual plan period, and the associated infrastructure requirements may not be capable of being identified fully at the outset. Anticipated rates of delivery and infrastructure requirements should, therefore, be kept under review and reflected as policies are updated.*"
- 2.31 Preparation of plans or policies and decision making are common phrases in several paragraphs of the NPPF. The NPPF and Government is therefore setting out the expectation of where large-scale developments should be re-assessed.
- 2.32 Therefore, if the issue of the non-delivery of the PR Sites is an issue, then this would be dealt with through the Local Plan Review and Reg 19 stage for more certainty. Similarly, urban extensions to Banbury and Bicester are also urban extensions.
- 2.33 The NPPF is explicit in that it is not a matter for any s78 appeal to address this assessment.
- 2.34 Overall, in assessing the Council as having one Housing Need the LPA contend there are several errors in the Heyford Inquiry Decision. There is no grappling at all with paragraph 77 or what the housing requirement actually is, or how it is calculated when LHN applies.
- 2.35 The Inquiry decision does not consider how unmet needs are addressed as part of plan making. Further, the lack of reference at all to LHN or the specific adopted strategic policies in the Partial Review in particular (specially PR1 and PR12a & PR12b) suggests that the Heyford Inspector has erred in her decision making.
- 2.36 The Council, therefore, rejects the conclusion of the Heyford Inquiry on its Housing Land Supply Position and considers that there are significant and fundamental errors which the Council is currently preparing a case towards. Due to the limited time given, this note may not represent the whole or full case presented.

Challenge to the Partial Review Local Plan

- 2.37 In respect of the Challenge to the Partial Review, the claim was brought by the Cherwell Development Watch Alliance, a consortium of local residents' groups, on two grounds of challenge:
- one based on housing need; and
 - another based on whether a proposed replacement golf course would be "equivalent or better provision" when compared to the existing one.
- 2.38 By 2018, the Claimant held that the underlying figures for housing need in Oxford had fallen. However, as part of the Oxford Local Plan examination process, the Inspectors there had found that the housing need figure of 1,400 dpa remained. Unlike in 2014, this would potentially meet affordable housing need in full.
- 2.39 The claimants in this challenge asserted that the Inspector had failed to consider the reduction in underlying figures when assessing whether there were exceptional circumstances justifying amending the Green Belt. Thornton J considered that the Inspector had considered the underlying figures but agreed with the conclusion of the Oxford inspectors, and that the Inspector had considered need, amongst other reasons, amounted to exceptional circumstances to justify the alteration of the Green Belt boundaries.
- 2.40 Of potential wider significance, Thornton J saw "force" in the submission that there is a policy distinction between the objectively assessed need (OAN) which is referred to in the NPPF and data that feeds into that figure. The latter may be material only so far that it would be irrational not to have considered it (paragraph 90).
- 2.41 In this respect therefore, the Heyford decision undermines and disregards the Exceptional Circumstances demonstrated as part of the Partial Review and the consideration of Thornton J in dismissing the Challenge to the Partial Review Local Plan.

NPPF Paragraph 226

- 2.42 The Heyford Inspector does not grapple with or assess the requirements of Paragraph 226 or the definition of the Policies Map, notwithstanding that she specifically asked for comments from all parties with respect to the new NPPF and its implications. This matter requires attention and consideration that the Heyford Inquiry did not resolve.

3.0 Grounds of Appeal

Housing Land Supply

- 3.1 The Appellant's Statement of Case suggests that material considerations exist which limit the weight that can be afforded to parts of the development plan and that the appeal should be allowed but that belief is predicated on an assumption set out in **section 4.5** of the statement of case that NPPF paragraph 11(d) is engaged and the most important policies in the development plan for the determination of the appeal proposals are out of date by virtue that CDC cannot meet a five year supply which triggers the 'tilted balance' in decision making. CDC does not accept and believes to be erroneous the Appellant's assertion that it is unable to demonstrate a sufficient housing land supply. The Council's case is based on its published 2023 AMR figure of a 5.8-year housing land supply and an NPPF paragraph 226 requirement to demonstrate just a deliverable 4-year supply following publication of its 2040 Reg.18 review Local Plan.
- 3.2 With respect to **paragraphs 4.5.1 – 4.5.7** of the Appellant's statement of case, and the combination of Cherwell District's housing needs with those of Oxford city, those matters have been previously addressed in Section 2 of this Statement of Case and will not therefore be repeated here. Suffice to say that the approach advocated does not accord with the conclusions reached by Inspectors at the Partial Review Plan Examination nor by s.78 appeal Inspectors at Deddington and Milcombe.
- 3.3 With respect to **paragraphs 4.5.8 – 4.5.18** of the Appellant's statement of case, the references made to NPPF paragraph 226 and the need for both a 'policies map' and proposed allocations necessarily references the Town and Country Planning (Local Planning) (England) Regulations 2012 as also referenced in the NPPF. Those Regulations do not specify a need for a Reg.18 draft plan to include a 'policies map', so the interpretation that the Appellant seeks to apply to the guidance is mis-founded.
- 3.4 With respect to **paragraphs in section 4.6** of the Appellant's statement of case, the claimed "*economic, social and environmental benefits, including through the direct provision of market and affordable homes*" needs to be considered in respect to the considerable amount of new residential development that has been successfully delivered at Banbury over the last 9 years since adoption of the Local Plan. Bankside Phase 1, Banbury 2 - Southam Road, Banbury 3 - Bretch Hill, Banbury 5 - Hanwell Fields, Banbury 16 - Bloxham Road, Banbury 17 - Salt Way and Banbury 18 - Warwick Road have already delivered over 4,000 homes and a further 2,500+ homes are still being delivered currently on the remaining approved parts of Banbury 2 Southam Road, Banbury 4 - Oxford Road, Banbury 17 - Salt Way and Banbury 18 - west of Warwick Road. There is no deficiency in need arising at Banbury that this speculative proposal would seek to address.
- 3.5 Irrespective of any flat or tilted balance, any benefits would be significantly and demonstrably outweighed through the resultant harmful landscape impact of development on open countryside beyond the clear settlement boundary of Banbury; also, by the virtual coalescence of Banbury with nearby Hamwell village; the resultant harm caused to the open setting of significant heritage assets at Hamwell; and the loss of best and most versatile agricultural land. The protection afforded through Development Plan and NPPF policies to such assets and features would not be reduced even if NPPF paragraph 11(d) were to apply, which the LPA does not agree with, so the case made at **Section 5** of the Appellant's statement are without merit, in the LPA's opinion.

Landscape Context

- 3.6 In the first instance it is important to understand the landscape context. Paragraph B.252 of the 2015 Local Plan lists key landscape and landform features of value around Banbury which includes ironstone ridges and valleys; the open and agricultural setting and identity of the outlying villages surrounding Banbury and Bicester and the historic villages and parkland of Hanwell and Wroxton.
- 3.7 Having regard to para. B.252, the appeal site comprises two arable fields, crossed by two PRoW, situated within an slightly undulating open agricultural plateau landscape wherein the landform slopes down into the Cherwell and Hanwell Brook valleys either side, maintaining the identity of the outlying village, on this occasion Hanwell.
- 3.8 With regards to the capacity of the appeal site to accept development, the CDC Housing & Economic Land Availability Assessment (HELAA030 – Land of Warwick Road, Banbury) provided a significant summary, stating:
- ‘Greenfield site outside the built-up limits. The site is considered to be unsuitable for development as the land rises from Hanwell Village towards the site and the gradient is steep. Similarly, the land falls steeply away from the site towards the cricket ground off Dukes Meadow Drive. There would be a direct risk of coalescence of Banbury and Hanwell village which development would lead to impacts on the Hanwell Conservation Area and the high landscape value and visual sensitivity of the site. The site is in a prominent position therefore unsuitable for development.’*
- 3.9 In addition to the findings of the HELAA, the appeal site forms part of a parcel of land (referred to as ‘Site A’) assessed by the Banbury Landscape Sensitivity and Capacity Assessment, which was prepared to inform the emerging Cherwell Local Plan Review. A wider parcel of land, equating to 105ha, was assessed, wherein the landscape sensitivity was assessed as:
- ‘medium - high sensitivity and the Visual Sensitivity has been assessed as high sensitivity’.*
- In addition, the capacity for residential development was weighted towards low, wherein it was stated:
- ‘The development of residential properties north of Dukes Meadow Drive may result in urban sprawl to the north of Banbury and create a poorly defined development limit which currently exists at Dukes Meadow Drive. There would also be indirect effects of residential development affecting the setting of the Hanwell Conservation Area and Banbury Cemetery and Crematorium.’*
- 3.10 In describing the landscape setting of Banbury, the September 2013 Banbury Green Buffer Report (paragraph 3.1.1) states, in part:
- ‘Banbury’s landscape setting imposes and defines environmental limits for growth of the town’;* and,
- ‘Any further development beyond these environmental limits would harm the special character of Banbury and its relationship to its landscape setting.’*
- 3.11 In respect of any potential landscape mitigation, it is important to return to the Banbury Landscape Sensitivity and Capacity Assessment and para. 4.1.15 wherein it states:

'Development within the area could be mitigated through the implementation of a landscape strategy although this would have an effect upon the visual appearance and alter the character from open valley side to a wooded valley appearance. The site is therefore considered of high sensitivity to mitigation.'

- 3.12 Turning to the perceived impact and effects of the proposed development. Significantly, 'Table 7.11: Summary of residual and significant effects' to the applicants LVIA submission provides a summary of the residual effects, wherein the table identifies: 1) changes to landscape character; and 2) changes to the visual amenity of visual receptors within 1km of the site.
- 3.13 Having regard to 1) the changes to landscape character – the residual effect is acknowledged as being 'significant', ranging from 'Minor' to 'Major' adverse both within the site and the site context, including the relationship between Banbury and Hanwell; and 2) changes to visual amenity - being 'Moderate' to 'Major' adverse in respect of the visual receptors within 1km, including the PRoW and users of Warwick Road, Main Street and Gullicott Lane in Hanwell.
- 3.14 The Appellants own summary of residual effects referenced above covers a period ranging from Year 1 to Year 15 and includes the proposed mitigation measures, namely woodland planting to a part of the western (Warwick Road) site boundary; a mixture of wildflower meadow and parkland; informal sports provision; attenuation features and natural play spaces.

Conclusion

- 3.15 Having regard to the above, the LPA consider that the proposed development would cause undue visual intrusion into the open countryside, fundamentally changing these parcels of open arable land, creating a prominent urban built form, inconsistent with local character, which would be readily visible from within the surrounding public domain.
- 3.16 The visual prominence of the appeal site is such that the proposed development of 170 homes would breach Banbury's contained environmental setting to the south, giving rise to a direct risk of coalescence between Banbury and Hanwell to the north, harming the undeveloped setting and eroding the identity of the settlement of Hanwell and its heritage assets – contrary to policy ESD13 of the CLP 2031 Part 1.

Heritage Context

Legislative and Policy Framework

- 3.17 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states:

'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) requires that in exercise of planning functions, with respect to any buildings or other land in a conservation area *'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.'*

The NPPF at Section 16 provides further guidance in respect to heritage protection and enhancement, particularly in respect to paragraphs 200-208.

- 3.18 The guidance given in the above NPPF paragraphs is reinforced by Policy ESD15 of the CLP 2031 Part 1 wherein, in part:

'New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design';

and,

'Contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views, in particular within designated landscapes, within the Cherwell Valley and within conservation areas and their setting.'

- 3.19 The special interest which Hanwell Conservation Area possesses lies in its historic core (centred around the Church and Hanwell Castle); several listed buildings; archaeological remains; and its rural setting.

Assessment – Archaeology

- 3.20 As set out within the OCC Archaeology consultation response at application stage, an archaeological evaluation was carried out on the site following a geophysical survey, and an accepted evaluation report was submitted. The evaluation recorded relatively dense Iron Age remains in the eastern part of the site, and an undated feature in the western area. The site lies immediately to the north of a development site wherein archaeological excavations recorded extensive Roman and Iron Age features. The features recorded in the evaluation would need to be fully investigated should any grant of planning permission be forthcoming following any allowing of the appeal.

Assessment – Conservation Area & Listed Buildings

- 3.21 The application site forms part of a patchwork of open arable land between the edge of Banbury and Hanwell village, providing clear separation between the respective settlements and forming part of the surroundings within which heritage assets, namely Hanwell Conservation Area, St Peter's Church (Grade I) and Hanwell Castle (Grade II*) are experienced.
- 3.22 St Peter's Church and Hanwell Castle are located on the southern side of Hanwell Conservation Area in the area overlooking the proposed development, forming a part of the surroundings and therefore the setting, in which these important heritage assets are experienced.
- 3.23 Significantly, para. 9.1 to the Hanwell Conservation Area Appraisal (2007) explicitly highlights:
- 'The pressure on the village from the urban extension of Banbury is a threat to the integrity and independence of Hanwell. It is important that the setting of the Conservation Area as well as that of the Castle and the Grade I listed Church is protected.'*

- 3.24 As acknowledged within the Executive Summary to the appellants application ‘*Archaeological and Heritage Assessment*’, the appeal site is recognised as making a ‘*small positive contribution to its significance*’; and there would be a ‘*change to the rural character of part of the setting of the HCA*’ thereby causing ‘*less than substantial harm*’.

Conclusion

- 3.25 The resultant development is considered to erode the open arable landscape which provides that clear separation between Banbury and Hanwell and the surroundings within which St Peter’s Church and Hanwell Castle are experienced, to the detriment of and causing harm (less than substantial) to the setting of Hanwell Conservation area and the setting of the aforementioned listed buildings – contrary to policy ESD15 of the CLP 2031 Part 1.

Loss of BMV Agricultural Land

Legislative and Policy Framework

- 3.26 The Agricultural Land Classification (ALC) helps to inform decisions on the appropriate sustainable development of land. The ALC uses a grading system to identify the quality of agricultural land. The land subject of this application is classified as Grade 2 (very good quality agricultural land) and Subgrade 3a (good quality agricultural land).
- 3.27 In efforts to preserve the natural environment the NPPF at paragraph 180 b) guides that:

‘Planning policies and decisions should contribute to and enhance the natural and local environment by 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’.

- 3.28 The requirements of para.180 above are supported by paras. 001 and 002: Planning Practice Guidance for the Natural Environment which explains why planning decisions should take account of the value of soils and the ALC.

- 3.29 In turn Policy Villages 2 of the Local Plan states, in part:

‘In identifying and considering sites, particular regard will be given to the following criteria:

- *Whether best and most versatile agricultural land could be avoided.’*

Assessment

- 3.30 In response to the applicable legislative and policy framework the appellants supporting ‘Planning Statement’ at application stage stated at paragraphs 5.98 and 5.99 that the value of the land having regard to the ALC and states:

‘The proposals will result in the loss of best and most versatile land, however this amounts to only 12.63ha and is therefore not significant.’

Conclusion

- 3.31 In this instance no evidence base has been provided to attempt to demonstrate whether the loss of this 'very good' and 'good' quality parcels of agricultural land could be avoided. The proposals thereby fail to satisfy the prescribed criteria under Policy Villages 2 of the CLP 2031 Part 1 and the requirements of para.74 of the NPPF and must be weighted accordingly in the decision making process.

4.0 Conclusion

- 4.1 For the reasons set out in the decision notice to planning application reference 23/00853/OUT, the minutes of the Planning Committee of 10 August 2023 and this Statement of Case, the LPA contends that the appeal proposal conflicts with the Development Plan and with Government guidance contained within the National Planning Policy Framework.
- 4.2 Accordingly, the Inspector is respectfully requested to uphold the decision made by the Local Planning Authority and dismiss this appeal.

5.0 Suggested Planning Conditions

5.1 Without prejudice to the Council's case, in the event that this appeal is allowed and planning permission is granted, then the following conditions are suggested for potential inclusion in any appeal decision letter:

1. No development shall commence until full details of the layout (including the layout of the internal access roads and footpaths), scale, appearance, and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. In the case of the reserved matters, the final application for approval shall be made not later than the expiration of three years beginning with the date of this permission.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

3. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents:

TBC

Reason: For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

5. No development shall commence until a Construction Method Statement, incorporating a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The CTMP will need to incorporate the following in detail and throughout development the approved plan must be adhered to:

- a) The CTMP must be appropriately titled, include the site and planning permission number;

- b) Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site;
- c) Details of and approval of any road closures needed during construction;
- d) Details of and approval of any traffic management needed during construction;
- e) Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway;
- f) Measures to control the emission of dust and dirt during construction as detailed in paragraph 6.1.2 of the Air Quality Management Plan;
- g) Details of appropriate signing to accord with standards/requirements, for pedestrians during construction works, including any footpath diversions;
- h) The erection and maintenance of security hoarding / scaffolding if required;
- i) A regime to inspect and maintain all signing, barriers etc.;
- j) Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided;
- k) The use of appropriately trained qualified and certificated banksmen for guiding vehicles/unloading etc.;
- l) No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will park, and occupiers transported to/from site to be submitted for consideration and approval. Areas to be shown on a plan not less than 1:500;
- m) Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.;
- n) Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution;
- o) Any temporary access arrangements to be agreed with and approved by Highways Depot.
- p) Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours;
- q) Delivery, demolition and construction working hours.

Reason: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and local residents, particularly at morning and afternoon peak traffic times. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

- 6. No development shall commence until a detailed surface water drainage scheme for the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is first occupied. The scheme shall include:
 - a) A compliance report to demonstrate how the scheme complies with the “Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire”;
 - b) Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
 - c) A Flood Exceedance Conveyance Plan;
 - d) Comprehensive infiltration testing across the site to BRE DG 365 (if applicable);
 - e) Detailed design drainage layout drawings of the SuDS proposals including cross-section details;

- f) Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element;
- g) Details of how water quality will be managed during construction and post development in perpetuity;
- h) Confirmation of any outfall details; and
- i) Consent for any connections into third party drainage systems.

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community in accordance with Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

7. Prior to the approval of any related reserved matters, a detailed Surface Water Management Scheme for each phase or sub-phase of development, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be in accordance with the details approved as part of the strategic scheme (Strategic Surface Water Management Scheme) and include all supporting information as listed in the Condition. The scheme shall be implemented in accordance with the approved details and timetable.

Reason: To ensure development does not increase the risk of flooding elsewhere; in accordance with Paragraph 155 of the National Planning Policy Framework (NPPF) and Local and National Standards.

8. No development shall take place on any phase (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:
 - a) Arrangements for a site walkover survey undertaken by a suitably qualified Ecologist to ensure that no protected species, which could be harmed by the development have moved onto the site since the previous surveys were carried out. If any protected species are found, details of mitigation measures to prevent their harm shall be required to be submitted;
 - b) Risk assessment of potentially damaging construction activities;
 - c) Identification of 'Biodiversity Protection Zones';
 - d) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - e) The location and timing of sensitive works to avoid harm to biodiversity features;
 - f) The times during construction when specialist ecologists need to be present on site to oversee works;
 - g) Responsible persons and lines of communication;
 - h) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
 - i) Best practice with regard to wildlife including use of protective fences, exclusion barriers and warning signs.

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

9. Prior to the commencement of development hereby approved, a phasing plan covering the entire application site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved phasing plan and each reserved matters application shall only be submitted in accordance with the terms of the approved phasing plan and refer to the phase (or phases) it relates to as set out in the approved phasing plan.

Reason: To ensure the proper phased implementation of the development and associated infrastructure in accordance with Government guidance contained within the National Planning Policy Framework.

10. Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

Reason: To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing built environment and to comply with Policy C28 of the adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. No development shall take place until details of all finished floor levels in relation to existing and proposed site levels and to the adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be constructed strictly in accordance with the approved levels.

Reason: To secure an acceptable standard of development that safeguards the visual amenities of the area and the living conditions of existing and future occupiers and to ensure compliance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance within the National Planning Policy Framework.

12. No development shall take place until the applicant (or their agents or successors in title) has submitted to and had approved in writing by the local planning authority a programme of archaeological work consisting of a written scheme of investigation and a timetable for that work. The development shall thereafter proceed in accordance with the approved written scheme of investigation and timetable.

Reason: To secure the provision of archaeological investigation and the subsequent recording of the remains, to comply with Government advice in the National Planning Policy Framework (NPPF) (Section 16). This information is

required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

13. No development shall commence unless and until a Landscape and Ecology Management Plan (LEMP), which shall also cover the construction phase of the development, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out or managed other than in accordance with the approved LEMP.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

14. No reserved matters applications shall be made or development commenced until a Design Code for the site has been produced in accordance with Condition 25 and following consultation with the Local Planning Authority and other stakeholders, and has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved Design Code.

Reason: A Design Code, is required at the beginning of the development process to ensure that the subsequent reserved matters applications are considered and determined by the Local Planning Authority in the context of an overall approach for the site consistent with the requirements to achieve high quality design as set out in the Environmental Statement and the adopted Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

15. The Design Code shall include:

- a) the character, mix of uses and density of each character area identified, to include the layout of blocks and the structure of public spaces;
- b) the character and treatment of the structure planting to the development areas;
- c) guidance of surface water control including design standards and methodology for sustainable drainage systems, detail of specific features and constraints, including appropriate options for SUDs features, considerations for implementing during construction, and adoption requirements;
- d) the building height, scale, form, design features and means of enclosure that will form the basis of the character of each phase, sub-phase or parcel;
- e) the street form and hierarchy and the features that will be used to restrict traffic speeds and create legibility and requirements for street furniture;
- f) the approach to car parking and cycle parking within the phases, sub-phases and parcels and the level of car and cycle parking within each phase to be provided to serve the proposed uses;
- g) the materials to be used within each character area;
- h) the treatment of any hedge or footpath corridors and retained trees and woodlands and local areas of play within each phase, sub phase or parcel;
- i) the measures to be incorporated to protect the amenities of the occupiers of existing properties adjacent to the site measures to be incorporated into the development to ensure all properties have convenient locations for individual waste and recycling bins;
- k) lighting proposals.

Reason: A Design Code, is required at the beginning of the development process to ensure that the subsequent reserved matters applications are considered and

determined by the Local Planning Authority in the context of an overall approach for the site consistent with the requirements to achieve high quality design as set out in the Environmental Statement and the Adopted Cherwell Local Plan 2011-2031 and Government Advice within the National Planning Policy Framework.

16. As part of any submission for reserved matters, full details of a renewable energy strategy for the site in accordance with Policy ESD5 of the Cherwell Local Plan, shall be submitted and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details prior to the first occupation of any building the renewable energy serves.

Reason: To encourage the use of renewable and low carbon energy in accordance with Policy ESD5 of the Cherwell Local Plan Part 1.

17. Prior to first occupation on site an updated Travel Plan is submitted to and approved by the local planning authority. This plan should be produced in accordance with the Oxfordshire County Council guidance document Transport for New Developments, Transport Assessments and Travel Plans (March 2014).

Reason: In the interests of promoting sustainable transport modes in accordance with Government advice in the National Planning Policy Framework.

18. Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:

- a) As built plans in both .pdf and .shp file format;
- b) Photographs to document each key stage of the drainage system when installed on site;
- c) Photographs to document the completed installation of the drainage structures on site;
- d) The name and contact details of any appointed management company information.

Reason: To ensure that the development/site is served by sustainable arrangements for the disposal of surface water, to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice in the National Planning Policy Framework.

Appendix 1: Extract of Minutes of Planning Committee meeting of 10 August 2023

Cherwell District Council

Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, Oxon OX15 4AA, on 10 August 2023 at 4.00 pm

Present:

Councillor George Reynolds (Chairman)
Councillor Rebecca Biegel
Councillor John Broad
Councillor Phil Chapman
Councillor Becky Clarke MBE
Councillor Jean Conway
Councillor Ian Harwood
Councillor Simon Holland
Councillor Fiona Mawson
Councillor Lesley McLean
Councillor Lynn Pratt
Councillor Les Sibley
Councillor Nigel Simpson
Councillor Barry Wood

Apologies for absence:

Councillor Maurice Billington (Vice-Chairman)
Councillor Andrew Beere
Councillor Julian Nedelcu
Councillor Amanda Watkins

Substitute Members:

Councillor David Hingley (In place of Councillor Julian Nedelcu)
Councillor Matt Hodgson (In place of Councillor Andrew Beere)
Councillor Sean Woodcock (In place of Councillor Amanda Watkins)

Also Present Virtually:

Councillor Gemma Coton (Speaking as Ward Member for agenda item 8 only)

Officers:

Shiraz Sheikh, Assistant Director Law, Governance & Democratic Services/Monitoring Officer
Paul Seckington, Senior Manager Development Management
Gemma Magnuson, Senior Planning Officer

Andy Bateson, Development Management Team Leader - North Area
Saffron Loasby, Principal Planning Officer
Jeanette Davey, Principal Planning Officer
Karen Jordan, Deputy Principal Solicitor
Natasha Clark, Governance and Elections Manager
Matt Swinford, Democratic and Elections Officer

Officers Attending Virtually:

Ian Boll, Corporate Director Communities

32 **Declarations of Interest**

9. Land East of Warwick Road Drayton, Warwick Road, Banbury.

Councillor Matt Hodgson, Other Registerable Interest, as a member of Banbury Town Council which had been consulted on the application.

Councillor Rebecca Biegel, Other Registerable Interest, as a member of Banbury Town Council which had been consulted on the application.

33 **Requests to Address the Meeting**

The Chairman advised that requests to address the meeting would be dealt with at each item.

34 **Minutes**

The Minutes of the meeting held on 13 July 2023 were agreed as a correct record and signed by the Chairman.

35 **Chairman's Announcements**

The Chairman made the following announcements:

1. Reminded Members of the Committee that there will be a meet and greet session with Planning Officers prior to the next Planning Committee meeting on 7 September 2023.
2. Advised members of the public attending the meeting that only registered speakers may address the Committee and requested that they did not cause a disturbance.

36 **Urgent Business**

There were no items of urgent business.

37 **Proposed Pre-Committee Site Visits (if any)**

There were no proposed Pre-Committee site visits.

37 **Proposed Pre-Committee Site Visits (if any)**

There were no proposed Pre-Committee site visits.

39 **Land East of Warwick Road Drayton, Warwick Road, Banbury**

The Committee considered application 23/00853/OUT, an outline application for up to 170 dwellings (Use Class C3) with associated open space and vehicular access off Warwick Road, Banbury; All matters reserved except for access at Land East Of Warwick Road Drayton, Warwick Road, Banbury for Vistry Homes.

Chris Brant, on behalf of Keep Hanwell Village Rural Action Group and Hanwell Parish Council, addressed the Committee in objection to the application.

David Murray-Cox, on behalf of the agent for the applicant, Turley, addressed the Committee in support of the application.

In reaching its decision the Committee considered the officers report and presentation addresses from the public speakers and the written updates.

Resolved

That application 23/00853/OUT be refused, in line with the officer's recommendation, as revised in written updates, for the following reasons:

1. Cherwell District Council is able to demonstrate a 5-year housing land supply meaning that the relevant development plan policies are up to date. The application site is located within open countryside and is not allocated for development. The proposed development by virtue of its visually prominent position, is such that it would breach Banbury's contained environmental setting, giving rise to a direct risk of coalescence between Banbury and Hanwell, causing undue visual intrusion into the open countryside, fundamentally changing the undeveloped characteristics of these parcels of open arable land, creating a prominent urban built form, inconsistent with the local character, to the detriment of the rural landscape and the identity and individuality of Hanwell village, contrary to Policies PSD1 and BSC1 of the CLP 2031 Part 1, saved Policies C8 and H18 of the CLP 1996 and Government guidance within the National Planning Policy Framework.
2. The proposed development is considered to erode the open arable landscape which provides clear separation between Banbury and Hanwell and forms part of the surroundings within which the setting of Hanwell Conservation Area, St Peter's Church (Listed Building Grade I) and Hanwell Castle (Listed Building Grade II*) are experienced, to the detriment of and causing harm (less than substantial) to the setting of these designated heritage assets, contrary to policy ESD15 of the CLP 2031 Part 1 and Government guidance within the National Planning Policy Framework.
3. No evidence base has been provided to attempt to demonstrate whether the loss of this 'very good' and 'good' quality parcels of agricultural land could be avoided. The proposals thereby fail to satisfy the prescribed criteria under Policy Villages 2 of the CLP 2031 Part 1 and the requirements of para. 174 of the NPPF.
4. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions required as a result of the development, and necessary to make the impacts of the development acceptable in planning terms. As such, the proposal is contrary to Policy INF1 of the Cherwell Local Plan 2011-2031, CDC's Developer Contributions SPD 2018 and Government guidance within the National Planning Policy Framework.

Appendix 2: Site and its Context



23/00853/OUT

**Land East Of Warwick Road Drayton
Warwick Road
Banbury**



1:4,000

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