



Appeal Decision

Inquiry held on 5 -7 and 11-15 December 2023

Site visit made on 7 December 2023

by Helen Hockenhull BA (Hons) B.PI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th March 2024

Appeal Ref: APP/C3105/W/23/3326761

OS Parcel 1570 Adjoining and West Of Chilgrove Drive, and Adjoining and North Of Camp Road, Heyford Park, OX25 5LX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Richborough Estates, Lone Star Land Ltd, K and S Holford, A and S Dean, NP Giles and A L C Broadberry against the decision of Cherwell District Council. The application Ref 21/04289/OUT, dated 24 December 2021, was refused by notice dated 31 March 2023.
 - The development proposed is outline planning application for the erection of up to 230 dwellings, creation of new vehicular access to Camp Road and all associated works with all matters reserved apart from means of access to Camp Road.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 230 dwellings, creation of new vehicular access from Camp Road and all associated works with all matters reserved apart from means of access to Camp Road, at OS Parcel 1570 Adjoining and West Of Chilgrove Drive, and Adjoining and North of Camp Road, Heyford Park, OX25 5LX in accordance with the terms of the application, Ref 21/04289/OUT, dated 24 December 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application seeks outline planning permission with only the matter of access reserved for later approval. The application includes a drawing showing the detail of the proposed access to Camp Road, an illustrative Masterplan and a series of Parameter Plans, one of which is an Access and Movement Parameter Plan. The Town and Country Planning (Development Management Procedure) (England) Order 2015 makes clear that access for the purpose of reserved matters means the accessibility to and within the site in terms of the positioning and treatment of access and circulation routes and how they fit into the surrounding access network. The Rule 6 Party questioned the fact that as the Illustrative Masterplan and Parameter Plans were indicative only, there was insufficient detail to allow the matter of access to be determined.
3. However, layout remains a reserved matter, so that it would not be reasonable to expect detailed plans of internal roads and footways at this stage. To resolve the matter, the appellant proposed a change to the description of development. This was to clarify that whilst access is being applied for, only approval of access to Camp Road is being sought with other means of access reserved for later approval. All parties accepted this change and as the alteration caused no

- prejudice to any party, I have amended the description of development above and considered the appeal on this basis.
4. A revised National Planning Policy Framework (the Framework) was published after the close of the Inquiry on 19 December 2023. The references in my decision to the paragraphs in the Framework relate to this new document. I sought the views of the main parties on the implications of the revised national planning policy for their respective cases and have taken these into account in making my decision. In response to these changes, the Council prepared an updated Housing Land Supply Position Statement (January 2024). I also sought views on this document from the parties and have taken them into consideration.
 5. A revision to the Housing Supply and Delivery guidance contained in Planning Practice Guidance (PPG), in response to the Framework amendments, was published on 5th February 2024. I again asked for the comments of the parties and have considered these in coming to my decision.
 6. During the Inquiry an appeal decision for a site in Milcombe¹ was issued. I allowed the parties time after the event to submit comments in writing.
 7. Rule 6 party status was granted to Dorchester Living. Their representatives presented evidence at the event.
 8. Within an agreed timeframe after the Inquiry, the appellant submitted a final section 106 agreement. This secures the provision of affordable housing and financial contributions towards a range of matters including indoor and outdoor sports facilities, open space, education, health, highway improvements, a Community Development Worker and a community hall. I discuss this in more detail later in my decision.
 9. The Council refused planning permission for two reasons. Reason 1 includes a number of different elements. Amongst other things, it states that the development would have a poor and incongruous relationship with the form and character of Heyford Park, by reason of the sites openness. Essentially this is a landscape and visual impact issue which was debated at length at a Round Table session.
 10. During cross examination of the planning issues raised by the case, the Council conceded that based on the evidence, the proposal can reach a point of negligible landscape harm at year 15 subject to mitigation. Moreover, the Council accepted that the scheme does not conflict with the adopted Cherwell Local Plan 2015 (CLP2015) Policy ESD13 which expects development to respect and enhance local landscape character. As this issue is no longer in dispute, I do not address it further in my decision. The Council however maintains conflict with Policy ESD15 which concerns the character of the built and historic environment. I address this issue later in my decision.
 11. The Councils' second reason for refusal relates to the lack of a satisfactory unilateral undertaking or section 106 agreement to provide for appropriate infrastructure contributions or transport mitigation necessary to ensure modal shift to sustainable transport modes and to make the development acceptable in planning terms. The Council accepted at the Inquiry that the section 106

¹ APP/C3105/W/23/3325113

provided by the appellant addressed this matter and this reason for refusal was overcome.

12. In regard to transport matters, the appellant and Dorchester Living, the Rule 6 party, narrowed down the areas of dispute before the event. It was agreed that the scheme was acceptable on highway safety grounds and that there was no objection in terms of highway capacity, subject to the proposed mitigation and contributions to off-site highway improvements detailed in the section 106 agreement. I do not therefore deal with these issues any further. Dorchester Living maintain their objection regarding connectivity and integration with Upper Heyford and the Heyford Park allocation. I deal with this under the third main issue.

Main Issues

13. Given the above, the main issues raised in this case are:

- Whether the appeal site forms a suitable location for development having regard to national and local planning policies.
- The effect of the proposed development on heritage assets.
- Whether the development makes appropriate provision for infrastructure and transport mitigation to ensure a sustainable development and make the development acceptable in planning terms.
- Whether the Council can demonstrate a deliverable housing land supply as required by the Framework.

Reasons

Suitable location for development

14. Outline planning permission is being sought for up to 230 dwellings with vehicular access from Camp Road on land to the south of Heyford Park. The site comprises 11.68 hectares of pastoral farmland. It is located outside the defined settlement boundary of Upper Heyford in the open countryside.
15. Land to the west within the RAF Upper Heyford allocation, is currently undeveloped but has the benefit of planning permission for 120 dwellings². This is referred to as the Pye scheme. An alternative proposal is currently before the Council for 126 dwellings³ put forward by another developer. Immediately to the north of the site lies the former RAF/USAF Upper Heyford Airfield which is currently being redeveloped to create a new community, including housing and employment uses as well as the necessary infrastructure. The Airfield is a designated conservation area and contains two Scheduled Monuments and numerous designated and non-designated heritage assets. The eastern boundary of the appeal site runs parallel to Chilgrove Drive, a public bridleway, with farmland beyond to the east and south.
16. The CLP2015 provides the strategic planning policy framework for the District to 2031. Paragraph A11 of the Plan sets out that the spatial strategy directs most growth to Banbury and Bicester and that away from these two towns, the

² Ref 15/01357/F and 21/03523/OUT

³ Ref 22/03063/F

major single location for growth will be at the former RAF Upper Heyford base, now referred to as the Heyford Park development.

17. Upper Heyford forms a sustainable location. The settlement benefits from a community centre, shops, pharmacy, restaurant, school, pub, hotel and bowling alley. Many of these facilities are within walking or cycling distance from the appeal site. Additional facilities are proposed in the Masterplan for Heyford Park, which in the course of time will include a new local centre, leisure and sports facilities and a primary school as well as employment opportunities.
18. It is common ground⁴ that the appeal proposals broadly comply with paragraph 109 of the Framework which directs that significant development should be focussed on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.
19. Policy ESD1 of the CLP2015 seeks to mitigate and adapt to climate change and at the strategic level states that this includes distributing growth to the most sustainable locations as defined in the Local Plan. Heyford Park is one of these locations. Therefore, as the appeal site lies outside this location, it does not accord with this Policy.
20. Policy PV5 of the CLP2015 relates specifically to the former RAF Upper Heyford base. It makes provision for 1600 dwellings and sets out a range of infrastructure requirements as well as design and place shaping principles for the site. As the appeal site lies outside the allocation, Policy PV5 provides no support to the proposal.
21. The appeal site lies outside the settlement in the open countryside. Saved Policies C8 and H18 in the adopted Cherwell Local Plan 1996 are therefore relevant. Policy C8 seeks to prevent sporadic development in the countryside. Policy H18 seeks to control new dwellings in the countryside and states that they will not be granted unless they are essential for agriculture or other existing undertakings, or they meet the criteria of Policy H6 and would not conflict with other policies of the plan. Policy H18 is similar to Policy C8 in that it too seeks to ensure the countryside is protected from sporadic development.
22. There was debate at the Inquiry as to the meaning of sporadic and whether it applied to the appeal site. I accept that until the Pye scheme or its subsequent proposal is implemented to the west, the appeal site would be spatially separated from the settlement. However, it is not necessary to come to any conclusion on this as the intention of both policies is clear. That is to prevent development outside the built-up limits of settlements. The appeal scheme would conflict with both policies.
23. Policies C8 and H18 pre-date the Framework. They are inconsistent with it as the Framework promotes the development of housing where it will enhance or maintain the vitality of rural communities, rather than promoting a blanket protection of the countryside for its own sake. As a result, I give the conflict with these policies limited weight.
24. The Mid Cherwell Neighbourhood Plan adopted in May 2019 supports the policies in the Local Plan to ensure there is minimal and sustainable development outside of settlement areas. It relies on Local Plan policies ESD13,

⁴ E7 Overarching Statement of Common Ground, paragraph 8.12.

- BSC2 and saved Policy C15, rather than including its own policies for the protection of the countryside.
25. The emerging Cherwell Local Plan has been the subject of consultation at Regulation 18 stage. The appeal site forms a draft allocation in the Plan and is identified with additional land, as being a sustainable and suitable location for growth, subject to infrastructure requirements being met. Whilst the emerging plan is at a very early stage of preparation and attracts very limited weight, it identifies the allocation as a sustainable and suitable location for growth.
 26. Policy BSC1 of the Plan seeks to deliver 22,840 dwellings between 2011 and 2031, including 5,392 homes outside Banbury and Bicester, of which 2,361 are allocated to Upper Heyford. The Local Plan is more than 5 years old. The Council has undertaken a recent review of the CLP2015 under regulation 10a of the Town and Country (Local Planning) (England) Regulations 2012. This concluded that the number of dwellings defined in Policy BSC1 was out of date and the policy needed to be reviewed. This will take place through the emerging local plan. Whilst the figures in Policy BSC1 may be out of date, the spatial approach to growth and the distribution of development is still relevant and should attract significant weight.
 27. There was much debate that the Inquiry as to whether the delivery of housing at Upper Heyford and throughout the District, was meeting the Local Plan targets as set down in Policy BSC1. The CLP2015⁵ states the expectation for approximately 2,361 homes at RAF Upper Heyford over the plan period. This comprises the target of 1600 dwellings set out in Policy PV5 and 761 permissions already consented. The Council's most recent Authority Monitoring Report December 2023 (AMR) shows an under delivery of 268 dwellings to 2031.
 28. The AMR also shows that there is a current shortfall of 1392 dwellings over the District as a whole and this is anticipated to increase to 3,416 by the end of the Plan period. This is a significant deficit. The fundamental issue for Cherwell is that the strategic allocations in Bicester and Banbury and also Upper Heyford are not delivering as anticipated.
 29. The figures in Policy BSC1 anticipate delivery of 2350 dwellings in the 'Rest of the District', excluding Banbury and Bicester. This figure derives from 1600 homes at Heyford Park and 750 from allocations under Policy PV2. The AMR shows that 1195 dwellings have been built and consented against the 750 figure of Policy PV2, that represents an excess of 445 dwellings. There is still of course 8 years of the plan left to go, so that delivery in the 'Rest of the District' is likely to exceed the plan requirement. Any shortfall at Heyford Park is likely therefore to be outweighed. In this context, further development in this part of the District, away from the identified sustainable locations for growth, could undermine the Plan's strategic distribution of housing.
 30. In summary, I have found that the proposal fails to comply with Policy ESD1, and it also has no support from Policy PV5. I have also found that the scheme fails to comply with saved CLP Policies H18 and C8, albeit for the reasons I have outlined I give the conflict with these policies limited weight.

⁵ Paragraph A11

Heritage matters

31. As I have already stated, the former RAF/USAF Upper Heyford Airbase forms a designated Conservation Area (CA) and contains two Scheduled Monuments and numerous designated and non-designated heritage assets.
32. It was agreed by the parties that the proposed development affects the setting of two non-designated heritage assets within the former airbase, a group of seven Hardened Aircraft Shelters (HAS) and the Southern Bomb Stores. I assess the impact on these two assets below. Other assets within the CA are not affected by the appeal proposals, being at a sufficient distance from the proposed development.

Upper Heyford Conservation Area

33. The history of RAF Upper Heyford is well documented. A detailed Conservation Area Appraisal was prepared at the time the CA was designated in 2006 which was informed by a Conservation Area Plan. In addition, a comprehensive planning brief for the site has been prepared and adopted by the Council as a Supplementary Planning Document (SPD) to inform the wider development of the allocation.
34. An airbase was established at Upper Heyford during the First World War with the airfield opening in late 1918. Following periods of expansion, the site was upgraded and developed as a training base in the Second World War, becoming one of the principal Strategic Air Command Bases for the United States Air Force in the 1950's. It evolved into a Cold War base in the 1970s. Following decommissioning in the 1990s, the site gained initial approval for its redevelopment to create a new community in the early- mid 2000s.
35. It is agreed in the Heritage Statement of Common Ground that the significance of Upper Heyford derives from its historic interest as one of the best preserved Cold War airbases for the deployment of fast jets. This significance is drawn from the structures and landscaping of the CA, including the interconnection between the various structures, landscaping and facilities. The CA also possesses architectural interest, which derives from the particular function and design of the various structures, exhibiting the innovative technology of the time and also their spatial arrangement.
36. The appeal site lies in the setting of the CA. The setting of the CA is open and rural in character, which reflects the open character of the Flying Field. However, it also includes some historic residential development, formed by dwellings occupied by the RAF and USAF as well as more recently constructed residential development.
37. The airbase was chosen as a base for fast jets due to its topography on a plateau, and because there was an existing airfield in this location. Its selection was also due to its location in the country, offering a degree of additional protection. Being next to an existing settlement, it was not chosen because of its rural isolated location and was effectively imposed on the landscape. Understandably it forms an inward looking, secure and enclosed facility. There is a significant difference in character between the open Flying Field, and the surrounding landscape which is broken up by field boundaries, hedgerow, and landscaping. Accordingly, it is my view that the setting of the CA does not strongly contribute to its significance as a Cold War airbase.

38. In terms of views, the Council agreed that there were no significant views out of the CA which would be adversely affected by the proposal. Informed by my site visit, I agree with this position. Views into the CA are limited but can be gained from the northern end of the appeal site, Chilgrove Drive and Camp Road. However, these views form glimpses through gaps in the vegetation and hedgerows. The proposed landscaping to the boundaries of the appeal scheme would not in my view further obstruct views into the CA and given their scale, the HAS would still be likely to be visible though heavily filtered. It is also relevant that the Council's SPD for the site, promotes planting on the site boundaries to replace the existing fencing.
39. The Conservation Area Appraisal identifies key views into and out of the CA, however none of these would be adversely affected by the proposal. The Council agreed that there is therefore no conflict with Policy PD4 or Saved Policy C33, which seek to protect recognised views of historical value.
40. The CA must also be considered in the context of the consented development proposals for the airbase. Significant changes will take place which will inevitably affect its character and setting. In particular commercial development is proposed to the south of the Flying Field in the area currently occupied by the HAS, with the existing structures retained and reused. New development here is anticipated to reach a height of 18 metres and a new access road for HGV's running parallel to Chilgrove Drive is proposed. The proposals also include a new heat and power plant south of the shelters with an exhaust stack anticipated to be of 24 metres in height.
41. Given the lack of harm to protected views, the provision of landscaping and the sites relationship to proposed new development, I am not persuaded that development of the appeal site would harm the setting of the CA or its significance as a Cold War airbase.

Non designated Heritage Assets

Hardened Aircraft Shelters

42. The HAS form a group of seven shelters that date from the hardening programme undertaken in the 1970's being evidence of the Cold War and the military strategy of the time. They are located within the Flying Field to the south of the runway. Their group value and relationship with each other is important. No more than three shelters are constructed in a direct line over 500 metres, to avoid the risk of all or most shelters being destroyed in a single bombing run. Their significance relates to their historical interest as surviving examples of the hardened phase of Upper Heyford's development. They are also of architectural interest with their form being related to their function and an illustration of the construction methods employed. Their setting comprises residential and commercial development associated with the airfield, modern residential development both within and outside the Conservation Area and the surrounding landscape.
43. I have already discussed above the limited views of the HAS from the appeal site, Camp Road and Chilgrove Drive as well as the significant changes which are to take place in their vicinity through the redevelopment proposals for the airbase. Whilst views of the shelters from the north and the west may be reduced by planting and landscaping on the site boundary, the structures would still be evident.

44. I therefore conclude that the appeal scheme will not cause harm to the setting of the shelters or their significance.

Southern Bomb Stores

45. The Southern Bomb Stores were constructed in the 1950's and were then altered as part of the hardening strategy in the 1970's. They are sited at the southeast end of the airfield, distant from other buildings. They form a series of similar structures largely covered in earth and grassed to provide a degree of camouflage. Their significance derives from their historic interest, their form and function as well as their relationship with the wider airbase. Their setting is restricted to the immediate surroundings within the base. They are not highly visible due to their scale and not visible from the appeal site.

46. The appeal proposals do not affect views to the Bomb Stores or how they are experienced and appreciated. The proposed development would therefore cause no harm to their setting or significance.

Overall conclusion

47. Given the above I find that the appeal scheme would cause no harm to the setting of the Upper Heyford CA or to the affected non designated heritage assets, the HAS and Southern Bomb Stores. Accordingly, the scheme would comply with section 16 of the Framework and Policy ESD15 of the CLP2015 which seeks to conserve and enhance the historic environment.

Infrastructure and transport mitigation to provide a sustainable development.

48. As the appeal scheme lies outside the Heyford Park allocation, Policy PV5 is not applicable. However, it is common ground in this appeal, that as the site represents an extension of this allocation, it is reasonable that the design principles and place shaping of this policy should be applied to the appeal scheme.

49. Policy PV5 sets out that the settlement should be designed to encourage walking, cycling and the use of public transport with provision for footpath and cycle links to existing networks. Development should also include a layout maximising the potential for walkable neighbourhoods with a legible hierarchy of routes. It should also have a high degree of integration with development areas within the PV5 allocation, with connectivity between new and existing communities. Additionally, there should be integration of the new community into the surrounding network of settlements by reopening historic routes and encouraging travel by means other than the private car.

50. As stated above that Policy PV5 seeks to maximise the potential for walkable neighbourhoods. Manual for Streets states that a walkable neighbourhood is typically characterised by having a range of facilities within 10 minutes (800m) walking distance of a residential area. I note however that Manual for Streets goes on to state that there is no upper limit, with walking offering the potential to replace short car trips under 2 kilometres. The National Design Guide, referenced in paragraph 114c) of the Framework, also promotes a walkable neighbourhood.

51. Turning to the appeal site, it is only the school in Upper Heyford that would be within 800m, though other facilities would be very close to it. For example, the

supermarket would be around 850 metres away, the restaurant about 830 metres and the leisure facilities within 805 metres.

52. The Rule 6 party witness accepted that a distance of 1.6km, or a 20 minute walk, was a threshold within which a modal shift could occur. Within 1.6km of the appeal site is the bike service and repair café (900m) and the dentist (900m) the Innovation centre and community workshop (1200m) and the Chapel (1250m). I take the view that these are located at a reasonable walking/cycling distance from the appeal site. I accept that some facilities will be further away such as the gym and nursery but it not unacceptable to expect that some facilities may be further afield. Guidance does not indicate that all facilities should be within the 800m distance, but rather a range. This is achieved in the appeal case.
53. Additional facilities will of course become available within walking and cycling distance as the local centre within the Heyford Park development comes on stream. It is notable that parts of the PV5 allocation are currently more than a 10 minute walk from the facilities in the village. However, this will improve and when the local centre is completed.
54. In terms of public transport, the No 25 bus runs along Camp Road. A financial contribution to support the service forms part of the section 106 obligations. This will improve the frequency of the service from one bus an hour to four buses an hour. This service provides access to Bicester village rail station from where there are half hourly trains to Oxford and London Marylebone. The appeal site is therefore accessible in terms of public transport.
55. The scheme proposes a new 3 metre wide off road shared cycle/pedestrian route to the north of Camp Road to the Chilgrove Drive junction. This enables access to the northern part of the allocation ensuring integration and connectivity between the two sites. Chilgrove Drive is a historic route which in the Heyford Masterplan is to link to a wider heritage trail. Residents of the appeal site would have access to this. New footways along Camp Road are also proposed to tie the appeal site into the consented Pye scheme.
56. The development also proposes a link to the northern boundary, requested by the local highway authority, to provide the potential for a link to the proposed pedestrian/cycle route running east-west to the southern boundary of the Heyford Park allocation. The part of the allocation north of the appeal site has yet to receive reserved matters approval and the Council have confirmed the intention to seek a connection point at this location. I have no evidence before me to suggest that this cannot be achieved. The key pedestrian and cycle routes shown on the Heyford Park Masterplan are to the north, south and east of the appeal site and connections into these can be made.
57. A further connection is proposed to the western site boundary to link into the adjacent Pye site, the subject of a further planning application by another housebuilder. The appellant has provided a letter from this developer⁶ confirming that agreement is in place to achieve this, though it has yet to be formalised.
58. The Rule 6 Party have questioned the usefulness of the above connection, as it will only provide a route through to the adjacent development and link back to

⁶ Cd \appendix Parker Transport Supplementary proof

Camp Road. This route would be by a hoggin path and through a shared driveway. It is argued that a route through the adjacent site to Larsen Road would provide a more meaningful off-road connection for pedestrians and cyclists. It would also improve the connectivity of the appeal proposal and maximise the potential for walkable neighbourhoods, as required by Policy PV5. A Grampian condition is suggested to achieve this. I have been made aware that to secure such a route to the west of the Pye site, land owned by the Rule 6 Party and another third party would need to be crossed.

59. A condition was imposed on the permission for the Pye scheme⁷ preventing the commencement of development, until details of a proposed access for pedestrians and cyclist to the western edge of the site boundary to facilitate a scheme of access to Larsen Road had been submitted.
60. The wording of the condition is to my mind ambiguous and imprecise, failing the Framework tests. There was discussion at the event as to the meaning of the word 'facilitate'. In my view it does not require the developer to negotiate with third party landowners to secure a through route to Larsen Road. Rather it requires the scheme to provide a connection to the western boundary only. The Council and the Highway Authority have confirmed that they would not require a scheme that was dependent on third party land if that might affect delivery and they would only require a connection to the site boundary. I also note the condition had no implementation clause. It is likely that the flaws in the wording will be resolved when the alternative scheme is determined by the Council.
61. The question is whether it is necessary for the appeal scheme to provide this link in order to maximise the potential for a walkable neighbourhood in line with Policy PV5. It is notable that an east west link is not proposed by the Masterplan for Heyford Park.
62. I accept that a link through to Larsen Road would ensure increased connectivity and integration and enable links to pedestrian routes in the wider allocation. However, whilst it may provide a quieter more attractive route, in terms of distance it would be only marginally shorter than going along Camp Road. The appellant's Technical Note 4 itemises the difference in walking times from the most northerly part of the appeal site. It would be around 1 minute 20 seconds quicker to walk to the local centre using an east west route and two minutes thirty seconds quicker to the school. Of course, the distances and times would be more marginal from the central and southern parts of the appeal site. Accordingly, the east-west route whilst it may be desirable, is not critical to the overall accessibility of the appeal site.
63. In my view the appeal scheme has made all reasonable steps to maximise its connectivity to the wider allocation. The local highway authority and the Council have raised no objection. It is not reasonable or necessary to expect the appeal scheme to provide an east west route which would connect through another development site and require access across third party land to maximise its accessibility.
64. The Rule 6 party argues the appellant could have done more in terms of accessibility. As an example, reference is made to the cycle path provision along Camp Road. It is suggested that the short length to be provided would

⁷ N11, Ref 21/03523/OUT Condition 4

not provide any betterment for these road users. However, the appellant has done what was required by the highway authority within the confines of the adopted highway and the appeal site itself. The appellant has done all that they could reasonably have been expected to do, providing links from each of its boundaries to connect to adjoining development.

65. In summary, I conclude that the appeal scheme is in an accessible location and would be integrated with the surrounding location. It provides links to the north, west and east in order to meet with future proposed routes. I therefore consider the proposal meets the objectives of Policy PV5 and the Heyford Park Masterplan.

Housing land supply

66. There are two areas of dispute between the Council and the appellant in regard to housing land supply. Firstly, whether there should be separate calculations for Cherwell's needs and one for Oxford's unmet housing need. Secondly whether the Council can demonstrate a deliverable housing land supply as required by the Framework.

Housing Land Supply Calculation

67. The CLP2015 in Policy BSC1 sets out that the Plan will deliver 22,840 additional homes between 2011 and 2031 and sets out the distribution of housing development in the District.
68. The Cherwell Local Plan 2011-2031 (Part 1) Partial Review adopted in 2020 seeks to meet Oxford's unmet need and makes provision for 4400 homes. The Plan adopts a spatial strategy complementing that of the adopted CLP. In releasing land from the Green Belt, it seeks to provide new homes immediately north of Oxford in areas of the District with good connections to the city such as Kidlington, Yarnton and Begbroke along the A44 corridor. In so doing the Partial Review aims to avoid undermining the strategy of the CLP2015, promoting growth at Bicester, Banbury and Upper Heyford.
69. The Partial Review goes on to explain in paragraph 5.160 that it is appropriate and necessary that the monitoring of housing supply for Oxford's needs is undertaken separately from that of Cherwell. The justification for this is that the Partial Review is a focused Plan to help meet Oxford's unmet need. It is a specific strategy to achieve a defined vision that does not undermine the delivery of the separate strategy for meeting Cherwell's needs.
70. Accordingly, the Council argues that the five year housing land supply for Cherwell should exclude that of Oxford. However, the Partial Review was adopted under the 2012 Framework. This has been superseded.
71. The revised Framework published in December 2023 states in paragraph 67 that 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 authorities) 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. (*my emphasis*)
72. The updated PPG also refers to a singular housing requirement. For example, in paragraph 68-002 it refers to a '**housing requirement** set out in strategic

policies'. In paragraph 68-055 it states that 'Both the 5-year housing land supply and the four 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**. (*again my emphasis*).

73. These changes are significant and indicate that the expectation is for one single housing requirement which includes the unmet need from a neighbouring authority.
74. The Council relies on several appeal decisions to support its case. The two most recent at Deddington⁸ and Milcombe⁹ endorse their position for separate calculations. The Inspector in the Milcombe decision referred to the fact that at that time, there had been no change in circumstances since the adoption of the Partial Review to justify a different approach. With the recent publication of the revised Framework, this is no longer the case. It is notable that the emerging Local Plan proposes to dispense with the separate calculation and have one single housing requirement.
75. Given the above, I conclude that there should be one housing requirement for the District as a whole.

Deliverable supply of sites

76. It is common ground that the base date for any assessment should be 1 April 2023 with the five-year period running to 31 March 2028. It is also agreed that the Local Housing Need for Cherwell (LHN) is 710 dwellings per annum and that no buffer applies following the recent changes to the Framework.
77. The appellant has submitted that certain sites in the five-year supply are not deliverable and should therefore be removed reducing the number of dwellings in the overall supply. Based on the appellant's supply position, there would be a 2.26-year housing land supply with a shortfall of 3475 homes. Taking the Council's supply position, there would be a 3.32-year supply and the shortfall would be 2,129 homes.
78. After the close of the Inquiry in December 2023, a revision to the Framework was published and in February 2024 an update was made to the PPG. I sought the views of the parties on these updated documents and have taken them into account.
79. Paragraph 226 of the Framework sets out that for decision making, local planning authorities which have an emerging local plan at Regulation 18 or 19 stage including both a policies map and proposed allocations towards meeting housing needs, will only be required to identify and update annually a supply of specific deliverable site sufficient to provide a minimum of four year worth of housing, (with a buffer if applicable) against the housing requirements set out in adopted strategic policies or against local housing need where the strategic policies are more than five years old.
80. With regard to Cherwell, the emerging plan is at Regulation 18 stage. it proposes allocations towards meeting housing need. The document includes a Key Diagram and a series of plans which show in geographic terms, the extent

⁸ APP/C3105/W/23/3324704

⁹ APP/C3105/W/23/3325113

of some of the policies and policy allocations within it including strategy maps for Banbury, Bicester, Kidlington and the Heyford area as well as appendices which include a range of other maps setting out amongst other things indicative changes to Green Belt boundaries and indicative site development templates.

81. The appellant has argued that the Council's Regulation 18 consultation does not include a policies map as defined in the Regulations and therefore the Council must demonstrate a 5-year supply of housing land. Both main parties provided copies of legal advice they had received on this matter.
82. However, as I have stated above, the Council has less than a four-year supply irrespective of whether this is assessed on their own supply figures or that of the appellant. It is therefore unnecessary for me to determine whether paragraph 226 of the Framework is applicable, ie. whether a five year or a four-year supply should be demonstrated. It is also not necessary for me to assess each of the disputed sites.
83. Accordingly, I conclude that the Council has less than a four year supply of deliverable housing land and this shortfall is significant.

Other Matters

84. The Rule 6 party have expressed concern that should the appeal scheme be permitted, it would cannibalise the delivery of houses within the allocation. This is because drainage works and water supply upgrades required to be undertaken within Camp Road would cause serious disruption which Thames Water estimate could take between 18 months to 3 years to resolve. It is argued that this disruption would impact the delivery of homes on Heyford Park. Future phases would need to be reviewed, and if they are delayed there could be implications for the funding and the delivery of infrastructure.
85. Whilst I understand the concerns expressed, I have not been provided with a revised phasing and delivery schedule to demonstrate the possible impact. The length of time these works would take is an estimate only and it is very unlikely that the road would be completely closed. The Highway Authority would manage the works to ensure the minimum disruption to the network. Indeed, the implementation of the Pye scheme would also be likely to cause some disruption to the highway as the necessary infrastructure connections are provided.
86. I recognise the appeal site is located at the junction of Camp Road and Chilgrove Drive and close to the consented dwellings on Parcel 23. I have no evidence to suggest that market forces would not accommodate both proposals coming forward together. Issues of profitability and competition are not material planning matters.

Planning Obligation

87. The section 106 agreement includes a range of obligations that would be provided were the appeal to be allowed including various monetary contributions.
88. It includes the provision of 35% affordable housing, an indoor sports contribution towards the provision of new planned facilities in the locality, an outdoor sports contribution towards provision and maintenance of new facilities

at Heyford Park and the provision and maintenance of public open space within the site. The agreement also includes contributions towards the work of a Community Development Worker and Community Development Fund to integrate residents into the community and wider area as well as a community hall contribution towards the development of a new community centre at Heyford Park. In order to enhance the character of the area and enrich the environment, particularly within the proposed open space corridor, the obligation includes a public art contribution.

89. Further obligations include contributions towards health facilities to maintain, equipment and staff at Bicester GP practices, towards effective policing, for education facilities at nursery, primary, secondary and SEND level, as well as a household waste recycling contribution to expand existing facilities and a contribution to Bicester library book stock. In terms of highway works, the agreement includes contribution towards cycle route provision, public transport improvements, village traffic calming, primary pupil transport, the imposition of a local weight restriction as well as various specified highway capacity and safety improvements including works to M40 junction 10A and at Middleton Stoney. The agreement also includes the payment of monitoring fees that would be used by the Borough Council and County Council to monitor compliance with the agreement and to monitor the implementation of the Travel Plan.
90. Both the District Council and County Council have provided evidence within their submissions that justifies the above requirements and the amounts sought. It is clear from the information provided that these contributions are necessary to make the development acceptable in planning terms, that they are directly related to the development, and are fairly and reasonably related in scale and kind to the development proposed, which satisfies the tests in the Framework and Regulation 122 of the Community Infrastructure Levy 2010 (CIL). I therefore take the above planning obligations into consideration within my decision.

Planning Balance

91. The duty in section 38(6) of the Planning and Compulsory Purchase Act 2004 enshrines in statute the primacy of the development plan. As an essential component of the 'plan-led' system, it is also reiterated in the Framework.
92. I have found that the Council can demonstrate less than a four-year housing land supply. Accordingly, development plan policies which are most important for determining this appeal are out-of-date and paragraph 11 d) of the Framework applies. This presumption in favour of sustainable development states that permission should be granted unless one of the circumstances listed in sub sections i) or ii) of the paragraph is met.
93. Section d) i) states that the presumption should not be applied if specific policies in the Framework indicate development should be restricted. None apply in this case.
94. Paragraph 11 d) ii) requires a balance to be undertaken whereby permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

95. I have found that as the site lies in the countryside outside of the RAF Upper Heyford allocation, it fails to comply with Policy ESD1 and it also has no support from Policy PV5. I have also found that the scheme fails to comply with saved CLP Policies H18 and C8, albeit for the reasons I have outlined I give the conflict with these policies limited weight. The proposal does not therefore accord with the development plan taken as a whole.
96. In terms of benefits, the proposal would contribute towards the supply of market and affordable housing. The AMR indicates that there is a shortfall of some 5913 homes at the strategic allocations at Bicester, Banbury and Upper Heyford to 2031. This indicates a significant failure of the Local Plan to deliver the housing requirement. In terms of affordable housing, there has also been a failure to deliver the homes needed. In cross examination the Council agreed the situation to be acute. The shortfall against the 2014 SHMA figure is 1,149 affordable homes. Accordingly, I give both these benefits significant weight.
97. I recognise that the proposal would also be likely to boost the local economy by providing construction jobs and supporting local building trades, albeit that this would be for a temporary period. I also acknowledge that the future occupants of the development would be likely to support local businesses and facilities. Environmentally, the scheme would be designed to retain and enhance existing vegetation and wetland within the site. Together with the provision of new green infrastructure, a biodiversity net gain of around 12.37% would be achieved. I consider overall that these benefits would weigh moderately in support of the appeal.
98. In terms of heritage matters, I have determined that the proposal would cause no harm to the setting of the Upper Heyford CA and the non-designated heritage assets near the site. This matter is neutral in the overall planning balance.
99. I have given careful consideration to other matters, but I have found, based on the evidence before me, that there would be no material harm arising from the proposal in these regards.
100. The site is located immediately adjacent to the RAF Upper Heyford base, identified as a strategic location for growth in the CLP. It lies within an area undergoing change, with substantial new development under construction to the north and west. The site is in an edge of settlement location with significant employment and residential development and transport infrastructure within close proximity. Everyday local facilities and services including schools and shops, as well as employment areas, would therefore be readily accessible to future occupiers of the proposed development by sustainable modes of travel. The appeal scheme has broad compliance with paragraph 109 of the Framework, and this forms a material consideration giving further support to the proposal.
101. Given the above, I conclude that the harm I have identified does not significantly and demonstrably outweigh the benefits of the proposal. Therefore, overall, subject to the provision of the section 106 planning obligations that meet the statutory tests and the conditions set out in the attached schedule, the appeal scheme would be compliant with the Framework when read as a whole and would therefore form sustainable development.

Conditions

102. The Council and appellant have submitted an agreed list of suggested conditions that they consider would be appropriate if planning permission was granted.
103. I have considered the conditions in light of the advice given in PPG. As such, I impose these largely unaltered, only amending wording where necessary in the interests of precision and to ensure compliance with the tests.
104. In addition to the required conditions identifying the reserved matters and timescales for the submission of subsequent applications (conditions 1-3), I have specified the approved plans in the interest of certainty (condition 4).
105. Condition 5 requires a Construction Traffic Management Plan mitigating the impact of construction vehicles on the highway, in the interest of highway safety.
106. Conditions regarding surface water drainage and their management are necessary to ensure the development does not increase the risk of flooding elsewhere, (conditions 5 and 6). Condition 22 is required to ensure a sustainable surface water drainage scheme is implemented. Condition 23 is necessary to ensure an adequate foul drainage scheme is implemented. Additionally, to ensure a supply of potable water is available to the site, I impose condition 25.
107. I also impose conditions requiring a Construction Environmental Management Plan, an Arboricultural Method Statement and a Landscape and Ecology Management Plan to ensure the protection and enhancement of biodiversity (conditions 8,10,17). Condition 9 requires a phasing plan to ensure appropriate phasing and the provision of infrastructure.
108. To safeguard the living conditions of future residents, conditions 11,12,13 and 14 require investigation of on-site contamination and any necessary remediation. In the interests of the character and appearance of the area and to achieve a high-quality design, conditions regarding finished floor levels and the submission of a Design Code are required (conditions 15,18,19). I impose condition 15 to require an archaeological assessment and recording to be undertaken.
109. A renewable energy strategy is necessary to ensure a sustainable development (Condition 20) as well as a Travel Plan to promote sustainable travel choices (condition 21). In order to maximise connectivity between the appeal site and surrounding development, a condition is necessary to require pedestrian and cycle links to the northern and western site boundaries in accordance with a timetable to be agreed (condition 24).
110. A further condition was suggested by the Council following comments from Thames Water to prevent construction works within 5 metres of the strategic water main on the site. The developer has confirmed that this main is not within the appeal site and therefore the condition is unnecessary.
111. The Rule 6 party suggested three Grampian conditions should the appeal be allowed to control the phasing of the scheme in relation to the Heyford Park development, to secure an east-west pedestrian/cycle link and to prevent

occupation of any dwellings until all the site access and the footway and cycle way improvement and crossing point on Camp Road have been completed.

112. Based on the evidence before me, I do not consider that that a condition preventing the implementation of the appeal scheme until the Heyford Park permission have been completed meets the test of necessity or reasonableness. I have already discussed the need for the east west link in the main issues and determined it is not required to maximise the connectivity of the site. A condition requiring its provision is therefore not required.
113. A condition regarding the implementation of the site access and other works along Camp Road was requested as there was uncertainty as to whether the works outlined above could be delivered in the adopted highway. Highways Technical Note 6 submitted by the appellant after the Inquiry, concludes that this would be possible. It would require some narrowing of the adopted highway in places resulting in a carriageway width of around 6 metres. This would be adequate to accommodate two-way traffic movements including two large HGV's passing each other. I am advised that a slight narrowing of the carriageway has been consented for the Pye development and is also proposed in the Heyford Park wider scheme. I conclude that the scheme referenced in the section 106 agreement can be accommodated in the public highway. A Grampian condition is there not necessary.

Conclusion

114. For the reasons given above, and having had regard to all other matters raised, I allow this appeal.

Helen Hockenhull

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Sarah Reid KC
and Constanze Bell

Counsel Kings Chambers

She called

Wendy Lancaster PGDipLA PGDipUD
CMLI FRSA

Director , Tyler Grange

Thomas Copp BA(Hons) MA AssocIHBC

Director, RPS

James Parker BSc (Hons),MSc (Eng)
MCIHT MILT

Director Hub Transport Planning

Bem Pycroft BA (Hons) Dip TP MRTPI

Director, Emery Planning

David Bainbridge MA (Hons) MRTPI

Planning Director Savills

Samantha Amphlett
(attended Round Table discussion on
Conditions and planning obligation)

Lodders Solicitors

FOR THE LOCAL PLANNING AUTHORITY:

Gary Grant

Counsel

He called

Andy Bateson BSc (Hons) MRTPI

DM Team Leader Major
Developments

Dr Nicholas Doggett BA Ph.D.,
Cert. Archaeol, FSA, MCIfA, IHBC

Managing Director Asset Heritage
Consulting

Joy White
(Attended Round table Discussion on
highway matters)

Oxfordshire County Council Highways
Officer

FOR THE RULE 6 PARTY DORCHESTER LIVING

Paul Tucker KC
and Philip Robson

Counsel, Kings Chambers

He Called

David Frisby BEng CEng, FCIHT

Director Mode Transport Planning

David Hutchison BSc MRTPI

Executive Director Pegasus Group

Paul Silver

Chartered Accountant
Sponsor All Parliamentary Housing
and Growth Committee, CEO
Dorchester Living

INTERESTED PARTIES:

Martin Lipson

Chair Mid Cherwell Neighbourhood
Plan Forum

INQUIRY DOCUMENTS

1. Opening Submissions on Behalf of the Appellant.
2. Opening Statement on Behalf of LPA.
3. Opening Submissions on Behalf of Dorchester Living.
4. Existing and Proposed Pedestrian & Cycle Connectivity With Facilities in Heyford Park Centre – plan submitted by Rule 6 Party on 5 December 2023.
5. Lists of Appearances – submitted by each of LPA, Appellant and Rule 6 Party.
6. Cherwell District Council Regulation 122 Compliance Statement – submitted as hardcopy by the LPA on 6 December 2023.
7. Suggested Walking Routes – Chilgrove Drive / Camp Road, Heyford Park – plan submitted by the LPA.
8. Inquiry Site Visit Itinerary – plan by Tyler Grange submitted by the Appellant
9. Cherwell District Council Annual Monitoring Report 2023 Report to Executive, 4 December 2023.
10. Appendix 1 Annual Monitoring Report 2023 (01/04/2022-31/03/2023) Draft for Executive.
11. Appendix 2 – Brownfield Land Register 2023, Draft for Executive.
12. Note for Executive 4 December 2023 Schedule of Proposed Amendments and Revised Land Supply Table.
13. Appendix 1 – Five Year Land Supply Position Statement (Excluding Sites Completed at 31 March 2022).
14. Summary of the decisions taken at the meeting of the Executive on Monday 4 December 2023.
15. Supplementary Proof of Evidence of Ben Pycroft BA(Hons), Dip TP, MRTPI in relation to Housing Land Supply and Appendix EP9 – Schedule of disputed sites.
16. Draft Statement of Common Ground Housing Land Supply submitted by the Appellant.
17. Draft Statement of Common Ground Housing Land Supply submitted by the LPA.
18. Access & Movement Parameter Plan, drawing number: P02 – submitted by the Appellant on 8 December 2023.
19. Description of Development (Tracked Changes Version) – As Agreed between LPA and Appellant, submitted by the Appellant on 8 December 2023.
20. Technical Note 4 Walking Distances Comparison – submitted by the Appellant on 8 December 2023.
21. Updated Planning Conditions – As Agreed between LPA and Appellant,

- submitted by the Appellant on 8 December 2023.
22. Additional Planning Conditions from Dorchester Living – submitted by the Rule 6 Party on 8 December 2023.
 23. Planning Appeal Decision dated 8 December 2023 - Hempton Road, part of OS parcel 8752 east of Combe Cottage and south of St Johns Way, Deddington, Oxfordshire OX15 0QR – submitted by the LPA on 11 December 2023.
 24. Levelling-Up and Regeneration Act 2023 c.55 s.93 Role of development plan and national policy in England – hardcopy submitted by the LPA on 12 December 2023.
 25. Proposed Camp Road Improvements Along Pye/BDW Frontage With OCC Adopted Highway Boundary – drawing submitted by the Appellant on 12 December 2023.
 26. Mid Cherwell Neighbourhood Plan Forum Statement, dated 13th December
 27. Email from Joy White Oxfordshire County Council Highway Authority dated 15 December 2023 concerning extent of adopted highway- submitted by the Council.

DOCUMENTS SUBMITTED AFTER THE EVENT

1. Highways Technical Note 6 submitted by the appellant dated 20 December 2023
2. Comments from the Council in relation to Highways Technical Note 6 dated 21 December 2023
3. Comments from the Rule 6 in relation to Highways Technical Note 6 dated 22 December 2023.
4. Certified Copy of section 106 agreement dated 21 December 2023 with completed Deeds of Covenant and Indemnity.
4. Appellants note regarding Milcombe Appeal dated 22 December 2023
5. Council's note regarding Milcombe Appeal dated 22 December 2023
6. Comments on revised NPPF from the appellant dated 12 January 2024 including Legal advice on the implications for the appeal.
7. Comments on revised Framework from the Rule 6 party dated 12 January 2024.
8. Comments in the revised NPPF form the Council dated 12 January 2024 including Housing Land Supply Position Statement Update January 2024.
9. Email from the Council dated 15 January 2024 enclosing suggested conditions regarding potable water.
10. Email from the appellant dated 22 January 2024 commenting on suggested additional conditions.
11. Email from the Council dated 31 January 2024 enclosing Legal Advice regarding the implications of the revised Framework.
12. Email from the appellant dated 8 February 2024 with further comments regarding the revised Framework.
13. Email dated 14 February from the appellant commenting on the updated PPG.
14. Email dated 14 February 2024 from the Council commenting on the updated PPG.

SCHEDULE OF CONDITIONS

- 1) Details of the access, with the exception of the means of access to Camp Road, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, drawing number: L01, Site Access Junction with Visibility Splays and Crossing, drawing number: 001 revision C.
- 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 the 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.
- 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.
- 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 under planning condition no. 6 and implemented in accordance with the approved details and timetable.
- 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.

- 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.
- 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.
- 11) Prior to the commencement of the development, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' shall be submitted to and approved in writing by

the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

- 12) If contamination is found by undertaking the work carried out under condition number 11, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.
- 13) If remedial works have been identified in condition number 12, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.
- 14) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the development [or relevant phase of development] is resumed or continued.
- 15) 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.
- 16) 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.
- 17) 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.
- 18) No reserved matters applications shall be submitted, or development commenced until a Design Code for the site has been produced in accordance with Condition number 19 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.

- 19) 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
 - j) the measures to be incorporated into the development to ensure all properties have convenient locations for individual waste and recycling bins;
 - k) lighting proposals.
- 20) 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.
- 21) Prior to first occupation on site an updated Travel Plan shall be submitted to and approved in writing 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) and implemented as per the agreed plan.

- 22) 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
- 23) No development shall commence until a detailed foul 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.
- 24) As part of any submission for reserved matters, details of a pedestrian and cycle link to the western boundary of the site and details of a pedestrian and cycle link to the northern boundary of the site including a timetable for their implementation, shall be submitted and approved in writing by the Local Planning Authority. The pedestrian and cycle links to these boundaries of the site shall be created and made available for use in accordance with the agreed timetable and thereafter kept available for the use of pedestrians and cyclists.
- 25) No development may be occupied until written confirmation has been provided to the Local Planning Authorities satisfaction, that either: all water network upgrades required to accommodate the additional demand to serve the development have been completed; or a development and infrastructure phasing plan has been agreed with Thames Water to allow the development to be occupied. Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.