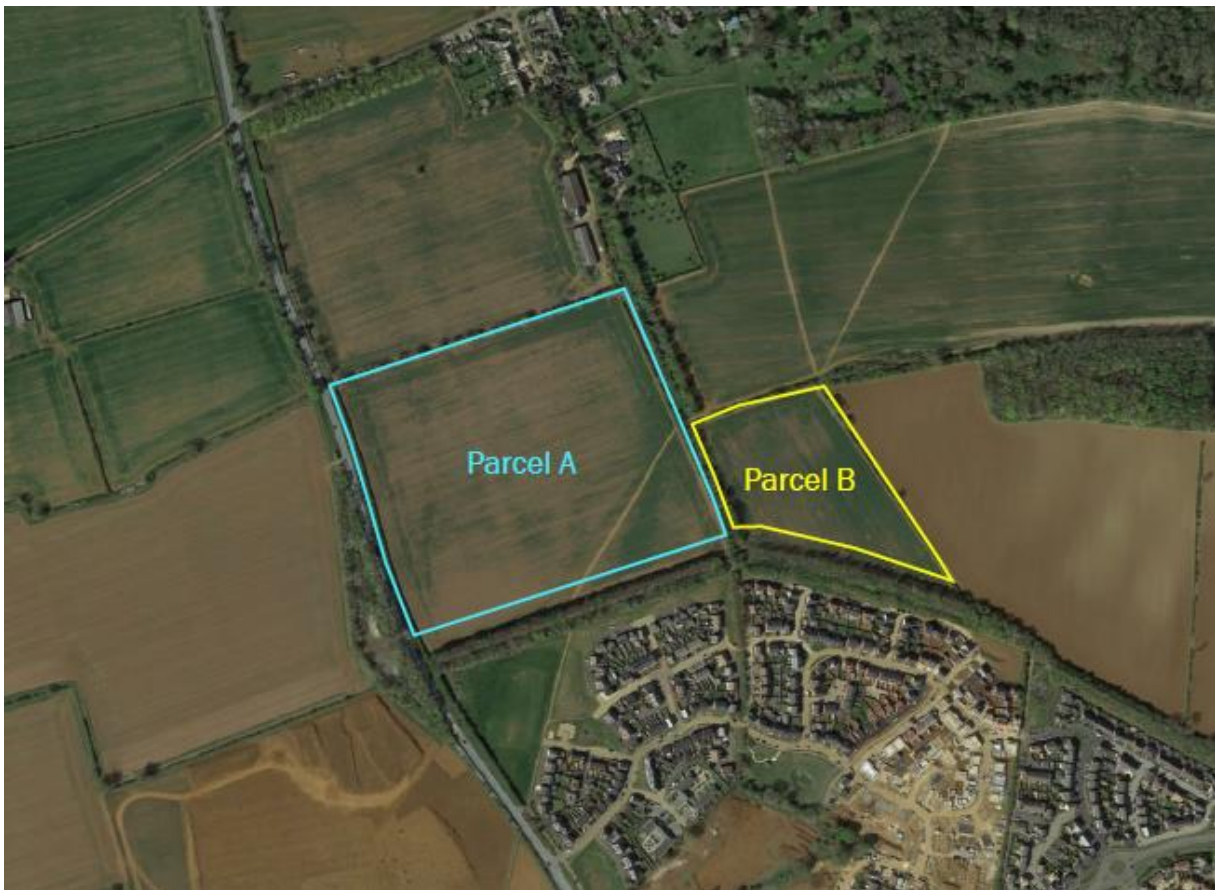


SECTION 78 OF THE TOWN & COUNTRY PLANNING ACT 1990
AN APPEAL IN RESPECT OF LAND EAST OF WARWICK ROAD, BANBURY
AGAINST THE DECISION BY CHERWELL DISTRICT COUNCIL

BEFORE: Inspector Dominic Young

APPEAL REFERENCE: APP/C3105/W/24/3338211

APPELLANT'S CLOSING STATEMENT



Aerial image of site with Parcels A and B annotated (source: Image EDP 2.1 from LVIA)

INTRODUCTION & CONTEXT

1. Following two weeks worth of detailed evidence, matters have further narrowed. There is even more clarity that consent ought to be forthcoming. The Inspector has specifically requested that parties address the various routes available to him, particularly in circumstances dependent on how the *Heyford Park* case concludes.
 - i. The **first** route available to the Inspector is to follow the *Heyford Park* decision in relation to the combined requirement position. The Council accepts in such circumstances they would have less than 4 years supply, and thus the issue of 4/5 years does not need addressing. The policies most important for the supply of housing would not be afforded full weight. With the tilted balance engaged, this is a scheme whose benefits plainly overcome its limited harms.
 - ii. The **second route** could be deemed as the *Chesterton* decision route, namely that the appeal scheme is in accordance with the development plan as a whole. There are no other material considerations which could be said to withhold permission in such circumstances. In seeking to support Policy BSC1 and Banbury's place in the hierarchy, it is quite clear that the weight of evidence supports the need for it, and permission ought to be granted.
 - iii. A **third** route available to the Inspector, in the event that he were to find conflict with any of the policies relied upon by the Council, any such conflict is on any rational view *limited*. By way of example, Mr Wyke ("NW") accepted that the approach taken to C8 and H18 in the *Heyford Park* appeal were plainly applicable to this appeal. In that scenario, there is a substantial and pressing

need for further housing in the District, with Banbury being only second to Bicester as the place to meet this need. This remains pressing even if the Council is able to demonstrate a 5YHLS. Further, in addition to all the other benefits, the fact that almost *half* of the scheme is dedicated to much needed affordable housing (40%) and over half of the site to open space, makes these proposals a unique proposition in the circumstances. This remains constant even if the *titled balance* were not engaged.

- iv. Finally, a **fourth route** exists in this appeal. Even if the Council is correct that a single requirement should not be used, for the calculation of HLS, it remains the case that it is committed to addressing unmet needs from the City. Even on the Council's evidence, it claims a mere 0.1 years supply against the expectations of the Partial Review Policy PR12a. Mr Richards ("JR") presents an even starker position, demonstrating 0.01 years supply against those expectations. By any measure, this District is absolutely failing to address those needs. There must be consequences for this failure – namely the application of the tilted balance throughout the District of Cherwell. If this is the **ONLY** route through which that balance must be struck, it is for the Inspector to decide whether this Site is capable of remedying the failure (as paragraph 23 of the Chesterton decision).
2. Indeed the Inspector may well create his own route via a combination or none of the above. The structure of these closings will follow the order set out in the Inspector's main issues, and the order in which the evidence was heard. Other matters heard as part of the appeal will then be addressed under 'Other Considerations'. There will then be a planning balance section which seek to refer back to the routes as set out above.

Main Issue (a) Whether the Council can demonstrate a sufficient supply of housing land

3. Whilst a significant amount of time was spent on this issue, there are some overarching points that remain constant no matter the conclusions reached on it.
 - i. **First**, it is common ground between the parties that there has been a persistent failure to meet the Council's adopted housing requirement to date, and there will be a failure to deliver the requisite homes required by the development plan by the end of the plan period (2031). See Policy BSC1 of Part 1 LP;
 - ii. **Second**, the need that is present now is only growing and getting worse. And remains so even on its best case scenario (able to demonstrate a healthy 5YHLS against local housing need for Cherwell only). Policy PR1 (partial review) added a further 4,400 homes;
 - iii. **Third**, the requirement figure that continues to ignore the combined need of Cherwell and Oxford is contrary to previous appeal decisions and policy.
4. It is critical to keep these points simple for present purposes. From the evidence heard, it is therefore possible to draw the following clear conclusions.
5. The Council **will substantially under deliver against** the housing requirement established in the Local Plan in 2015, pursuant to Policy BSC1 which requires that a total of 22,840 dwellings be delivered in the plan period (2011-2031).¹ The Council does not dispute this fact. When the SHMA was helping to set this housing requirement in 2014, it was focused on Cherwell's needs only, and so much has moved on since.

¹ See paragraphs 1-7 of the Appellant's opening remarks

6. As agreed in the SoCG, using the same base date as the *Heyford Park* appeal, the level of under-delivery stands at **-1,392** homes as at April 2023.² By 2031 there will be a shortfall of -3,416 dwellings against the adopted housing requirement just for Cherwell. Adding Oxford's unmet needs (**2,995**) means there will be a combined deficit of **-6,411**.³ How on any view this is not considered to be a gross under-delivery is anyone's guess. Even more puzzling Mr Goodall ("JG") struggled to accept that this represented a significant level of under-delivery and that the contribution of some 170 dwellings should also be considered 'significant'.

7. The **partial review** was a cynical attempt to place a holder between an adopted plan, and the need to produce a new plan. Some six years since it was submitted, there has been no partial review allocation that could be said to benefit from planning permission. And in so far as it was aimed at helping to meet the Council's pressing needs, this has not materialised. The total housing requirement is also provided in strategic policies across two plans.

8. The **affordable housing** position is even more shocking. The uncontested evidence heard at the inquiry from Ms Gingell showed that Cherwell is hoping to have the equivalent of **8,530** affordable dwellings delivered in a decade.⁴ Meanwhile the housing register is bulging in Cherwell with the expensive private sector unable to cope with the demand. What is the Council's response to this as part of the appeal? They wish to contest it on the basis that this is not a proposal that attracts 30% because it's not in or

² 2.9 of HLS ScG

³ 2.10

⁴ 4.23 of Ms Gingell PoE

at Banbury. Or that to meet Oxford's needs it must be 50%. Again, this is profoundly unserious. The scheme offers 40%, an offer that is at a premium in this District.

9. Against this stark reality, the Council is not claiming to have a healthy 5YHLS position because of rapid consents and delivery. Instead, it seeks to alter the requirement figure for calculating 5YHLS. They wish to persuade this Inspector, having already failed twice in two very recent appeals, that the LHN figure of 703dpa is the only figure that matters. This again speaks to the lack of seriousness on the part of the Council to meet a pressing need, now. And it is for this reason we have had to spend a significant amount of time at the inquiry about interpretation. Here are the answers.

10. Turning now to how the changes in NPPF Dec 2023 moved matters along.

4 or 5 year supply pursuant to NPPF 226

11. On any rational view, the Council's Reg 18 plan does not provide a *Policies Map* that is consistent with the Regulations for what is to be expected.⁵ As JR pointed out, the Council's interpretation invites a 'paper chasing exercise' in order to then find either a series of aerial images, or confused and confusing plans / maps. The Council's case is also chronologically unconvincing. In September 2023, they couldn't have known what the new NPPF 226, to be published in December 2023, would go on to recommend. And so it now seeks to retrofit the picture, instead of accepting explicitly (although they clearly have accepted implicitly) that they do not have a policies map in the true sense. The Council's position should be rejected for the following reasons.

⁵ See JR POE at 6.6-6.8

12. **First**, one example through the ‘paper chase’ demonstrates the absurdity of their position. In the Glossary of the Reg 18 Plan⁶ (internal page 331) it defines a ‘Policies Map’ in very much a similar fashion as was the case in adopted Local Plan.⁷ So far so good. But the Reg 18 does not follow through with an actual Policies Map in the way that the adopted Local Plan does. First deviation. Then the Reg 18 fails to refer to *any of the maps* that they are supposedly relying upon within the plan (or in the appendices) as a Policies Map. Second deviation and odd.
13. **Second**, when you work through the ‘paper chase’, by way of example of Core Policy 56, the Local Green Spaces, we are told that the proposed designations are ‘*shown on the policies map and Appendix 7*’.⁸ When you work it through to Appendix 7 you find a series of aerial photos showing proposed LGSs, which are treated distinct from the policies map – a map you will not find in the Regulation 18 Plan.
14. **Third**, a similar approach is taken to many other policies.⁹ And the Council’s desperate belief that they should not be denied their ‘relief’ is an attempt to benefit from the wording in Paragraph 226 that was never intended for their stage of the process. It was not contemplated by them (or indeed by national policy) in September 2023. If they were to move on to Regulation 19 and actually publish a Policies Map, they may well benefit from the relief that they crave so much.
15. **For all these reasons, we can invite the Inspector to conclude that for the purposes of NPPF 226, Cherwell’s failure means they do not benefit from it.**

⁶ CD 5.6

⁷ CD 5.1, see page 303 for glossary and 311 for the map itself

⁸ CD 5.6, Core Policy 56, pdf page 129

⁹ CP32, CP65, CP66, CP69, CP77, CP80 and CP81

Single or Combined Housing Requirement?

16. JG's evidence on this point was incoherent and illogical. It was rejected by two Inspectors just this year, and we invite the inquiry here to do the same.
17. The starting point is clearly the *Heyford Park* decision by Inspector Hockenhull. All parties agree that her decision is a material consideration and should be given full weight. In so far as it matters, the Appellant will be very surprised if her decision is quashed. Nevertheless, the following points remain true now.
18. **First**, Policy PR12a of the Partial Review Plan does state that a separate five year housing land supply will be maintained.¹⁰ But this is plainly in conflict with the NPPF. To this end, the requirement to demonstrate a sufficient housing land supply, and how it is to be maintained is set by national policy (NPPF). This is not for individual DPs. We know this because NPPF paragraphs 61 and 67 confirm that we are seeking a housing requirement **for an area**.
19. **Second**, the Council appears to accept the supremacy of national policy when it suits them. For example, when Policy PR12 also says that the Council will include 5% or 20% buffer¹¹, they no longer apply it.¹² The reason they do not do so is because the updated position in the NPPF, namely the guidance on how to calculate supply and the fact that the NPPF sets the requirement for a demonstration of 5YHLS, not the DP. In short, the requirement in PR12 is in addition to, not instead of, what the NPPF expects.

¹⁰ CD 5.2, page 150

¹¹ CD 5.2, page 150

¹² As confirmed in the ScG at 1.1, page 5

20. **Third**, the function for the 5YHLS assessments are principally about when the *tilted balance* ought to be engaged. This is obviously done under national policy considering the Cherwell wide district position on housing land supply. Conversely PR12a assessments provide a separate function to monitor delivery of housing, without being blurred into the delivery elsewhere in Cherwell District.

21. **Fourth**, the intention (and function) behind Policy 12a was made plainly clear, and the Examining Inspector was categorical about how to separate Oxford's unmet needs. In particular with the Council using Cherwell's needs as a distraction.

*148. Policy PR12a is concerned with delivery and the maintenance of housing supply. I can see the sense of the Council wanting to separate out their commitment to meeting Oxford's unmet needs from their own commitments in the Local Plan 2015, as set out in the first paragraph of the policy. That would avoid the situation where meeting Oxford's unmet needs could be disregarded because of better than expected performance on the Local Plan 2015 Cherwell commitments, or vice versa. (emphasis added).*¹³

22. In short, the NPPF requirement to demonstrate a 5YHLS position for Cherwell should not be conflated with (or displaced by) a specific function under PR12a, which is there to address the maintenance of the PR sites specifically on housing supply.

23. **In sum, for all these reasons and the evidence presented, there is only one district wide housing requirement, as found in *Heyford Park*. We commend this approach.**

¹³ CD 6.20, pdf page 27, paragraph 148

24. Turning to the consequences of this, it is common ground that even on the Council's case, it would not be able to demonstrate a 4 year supply position, which renders the debate around NPPF 226 otiose for the purposes of this appeal. This is what we have referred to above as the *Heyford Park* route.
25. On the specific sites and supply position, we commend the contributions made by JR in the roundtable discussions. The sum total of what the Appellant invites the inquiry to take into account is contained in the Appendix to these closings. They are not repeated for present purposes.
26. Turning to the second main issue now.

Main Issue (b) The degree to which the proposed development would result in landscape and visual harm to the local area

Credibility of the Council's case

27. Mr Cooper ("MC") on behalf of the Council was clear that he did not undertake the same detailed assessment done by Mr Connolley ("BC") when appraising the proposals. Indeed, when the comparative analysis was done between his work in July 2023 and for the purposes of this appeal in April 2023, they were essentially the same document with a few additions and deletions. Some inexplicable deletions were promptly reinstated in XX. The July 2023 document, in the words of MC, was an objective 'real world' assessment (*reasonable MC*) and the latest iteration for the appeal which seek to introduce harmful qualitative judgements (*trouble-seeking MC*). The culmination of this is he reaches a view that no development at all is appropriate, without explaining in detail how such a conclusion is supported by evidence.

28. Contrasting this with BC's work which was compelling and robust. He sought to apply the guidance and methodology carefully, as supported by clear and transparent assessment. Indeed MC told the inquiry that it was quality and a high standard.¹⁴ Through his evidence we are able to discern the sensitivity of the landscape, how the change will be managed and how the ultimate effects will soften over the coming years, and how they remain quite localised. The negotiated SoCG clearly narrows the differences between the parties in a way that speaks to the low level of long term harm.
29. At best, the Council's evidence through MC supports the Appellant's case. It does not seriously grapple with the key components. At worst, it is not worth the paper it's written on given how superficial and generic it remains from July 2023 to today.
30. The introduction of policies at such a late stage in the process also speaks to the Council's real-time assessment of the proposals not raising issues now pursued. By way of example, policies such C15, C33, ESD13 and ESD17 are all examples of afterthought policies concocted with a view to raising unwarranted objections. MC was put in the absurd position where he had to acknowledge that the latest landscape assessments were contrary to the case he's being asked to advance.¹⁵ In particular how the Council considers further development closer to Hanwell as acceptable.
31. In addition, the following came out of the cross examination of MC's evidence:
- i. Despite nothing at all changing about the proposals, in his two assessments (July 2023 and April 2024) he sought to add comments portraying harm from the development, whilst deleting positive assessments;

¹⁴ XX MC

¹⁵ CD 6.3 2022 Landscape and Character assessment

- ii. He did not have a signed statement of common ground prior to writing proof;
- iii. His assertions that Hanwell Chase ‘drawing a line’ was based on his supposition and nothing more;
- iv. The assertions that the site is not ‘at’ Banbury is not supported by his evidence.¹⁶ He does not say that it is Hanwell either. Accepts that Hanwell Chase means ‘Banbury has come to the site’;
- v. His whole approach to mitigation is to mean the whole development disappearing, not softened or made acceptable over time – even though he accepts that the mitigation could be done to a ‘high standard’;
- vi. Accepted the latest LCSA accepts development to Parcel A with similar densities to what is proposed¹⁷;

Landscape and Character Impacts

32. In light of the above contrasting positions between the two experts, the starting point for this assessment is that (a) the common ground that this is not a ‘Valued landscape’ in NPPF terms; (b) MC accepted that in circumstances where the SoCG conflicts with his evidence, the former ought to prevail¹⁸; (c) Parcel B being kept free from development is a net benefit particularly in relation to relationship with Hanwell; (d) the most up to date LCSA suggests acceptance of up to 3 storey, minimum 30 dph density;¹⁹

¹⁶ In particular considering CD 6.1, LSCA and CD 6.3

¹⁷ CD 6.3, page 12, paragraph 2.14 and pages 124 and 125

¹⁸ XX MC

¹⁹ The wording in the LSCA (Para 2.14 is “*Residential development includes dwellings of up to 3 storeys with associated access and infrastructure, including lighting and public open space, at a density of **no less than 30 dwellings per hectare (dph)***”

33. The sensitivity of a site is a function of value and susceptibility. BC's assessment is that the Appeal Site overall is no more than ordinary and does not have any elevated landscape value or importance above the rest of the local or wider context. The value of Parcel A is no more than **medium**²⁰. This makes sense given the lack of relevant designations, and agreement that it is not a valued landscape. The CLSSA concluded that the value of Parcel A was low.²¹ However, the Council now wishes to overstate the role of the site as playing a particularly important function in the wider landscape context. As BC repeated many times, it is merely part of wider parcels of land between Hanwell and Banbury. **Parcel B** is obviously more sensitive than **Parcel A** which has **higher** susceptibility to residential development²².
34. BC's conclusions on **Parcel A** is that there is an overall **medium** sensitivity²³, consistent with the latest CLSA. MC offers no credible alternative assessment.
35. As to the magnitude of change, BC's evidence shows that there will be major alteration to the characteristics within the site. The long-term effect going from **moderate to moderate / minor**.²⁴ MC's evidence fails us in that it does not seek to grapple with this in any way, and more importantly fails to grapple with the long term view.
36. As to the eventual significance of effects, they may be summarised as follows.
- i. Parcel A: long term landscape effects of moderate found within the site;
 - ii. Parcel B: long term landscape effects of moderate / minor

²⁰ See BC PoE Para 3.26.

²¹ See Landscape and Visual Matters ScG.

²² See BC PoE Para 3.29.

²³ BC POE Para 4.43 (Table EDP 4.1)

²⁴ BC POE Para 4.43 (Table EDP 4.1)

- iii. Beyond the site: no landscape effects higher than moderate / minor
37. BC accepts that the **Rights of Way users** will have their visual amenity affected.
- i. As to PRow 191/6/30, the magnitude of change is **major-moderate** adverse level of effect;²⁵
 - ii. On Gullicotte Lane, looking into the future at Year 15, the result would be **major** adverse magnitude of change, being experienced only by receptors immediately adjacent to the Appeal Site;²⁶
 - iii. On PRow 239/7/20, and PRow 239/7/10, beyond the boundaries of the Appeal Site, the results here would be a **moderate-minor** adverse level of effect;²⁷
 - iv. As to PRow 239/8/20, PRow 239/9/10 both demonstrate, in the long term with mitigation planting **moderate-minor** adverse level of effect; and
 - v. PRow 239/4/10 , 239/5/10, 239/3/10, PRow 418/1/20 and PRow 138/1/10 all demonstrate the result being a **minor** adverse level of effect.
38. The Council sought to make something out of the impact on **Warwick Road**, as becoming an altered view. As BC explained, beyond the site's southern boundary and the road route's junction within Main Street, the magnitude of change and road-side vegetation would mean the resulting effects are going to be **minor**.²⁸

²⁵ BC POE Para 4.61 (Table EDP 4.2, PVP 2).

²⁶ BC POE Para 4.61 (Table EDP 4.2, PVP 3).

²⁷ BC POE Para 4.61 (Table EDP 4.2, PVP 5 and 6).

²⁸ BC POE Para 4.61 (Table EDP 4.2, PVP 9).

39. The Inspector will struggle to find an assessment that's as comprehensive in any materials produced by the Council or MC.
40. On **visual effects**, it is common ground that these would only be **moderate or above** at the appeal site boundary. Beyond it, no higher than **moderate/minor**. Further, in the wider context, the proposals would be unlikely to form a clearly identifiable component of views beyond 500m.²⁹ The evidence of BC has not been substantially challenged in relation to the visual effects, and the methodological approach has been accepted. On any rational view, the visual impact of the scheme will be localised and will not give rise to any significant harms.
41. **On mitigation**, MC on behalf of the Council offer no evidence. They have refused to engage beyond the starting principle that no development should be consented. This is not only an odd position to take, but it is also not what is to be expected in a planning inquiry, where if an otherwise unacceptable proposal be made acceptable via mitigation is part of the process. Particularly where there is in-principle objection based on landscape related matters (i.e. Green Belt or AONB).

Banbury and Hanwell

42. The Council's attempts to rely on assessments dating back 30 years³⁰ to demonstrate coalescence today are simply not credible for the following reasons.
43. In so far as the wording of **C15 (1996)** is able to assist us in preventing coalescence, this is a completely outdated policy. It was generic in its application in that all the

²⁹ See paragraph 3.3 of the landscape and visual matters ScG

³⁰ CD 5.3, C15 of saved 1996 policies – see also ScG where agreed the 1995 landscape assessment is out of date

examples used for Banbury next to villages, there were no places omitted. The fact that development has occurred since then is a function of the reality of the times we live in, and not a measure by which to judge the limits of such developments. The gap may have narrowed, but that does not mean that coalescence has occurred – and as accepted by NW – the baseline is that there is no coalescence currently.

44. The **Banbury landscape sensitivity and capacity assessment (2013)** did not appraise the current site.³¹ Site J does not address this appeal site but was interested in Banbury 5, which is now Hanwell Chase.³² The Council's XX seeks to draw lessons from what is omitted rather than what it says about another site. In so far as the bullet point relied upon relating to woodland buffer, it clearly expects the buffer to remain 'north of the area' and 'enhanced to protect the setting of the adjacent HCA'.³³ Given the layout, design and approach set out in the evidence, there is no inconsistency. Further and in any event, this is an assessment dating back over a decade and since superseded.
45. In the LP policy for Banbury 5, these appeal proposals seek to retain and enhance the boundaries that already exist, and establishing a further buffer between the site and Hanwell village as demonstrated in the landscaping strategy.
46. The **Green Buffer Report dated September 2013**³⁴ similarly speaks to an outdated time, proposing a green belt via the back door. Similar to **C15** it seeks to surround the whole of Banbury with Green Buffer areas that curtail most development, blind to any needs based assessment.³⁵ Indeed, even taken at its highest, all the main purposes set

³¹ CD 6.1

³² 4.10 – Site J (Local Plan Proposed Submission)

³³ 4.10.24, first bullet point

³⁴ CD 6.2

³⁵ See page 8 of the Buffer report

out justifying the Hanwell Green Buffer are met by these proposals; namely to provide a gap to prevent coalescence between Hanwell and Banbury, with a view to also conserving the setting of the CA, the Church and the Castle.³⁶ The totality of these proposals seek to do just that. Finally, this report was clearly designed to surround Banbury and other settlements in Cherwell with a green buffer to stop all forms of development.³⁷ Notwithstanding this, none of these buffers end up getting designated since the report. And crucially, there are plenty of examples of previously recommended green buffers being developed.

47. The **Cherwell DC Local Plan Inspector's Report** is quite illuminating in how it sees the demarcation of Hanwell and Banbury. Indeed it suggests that from the north of Duke's Meadow Drive, where there is the now built Hanwell Fields, a separation of 500 m could be measured from the village of Hanwell to the north. Further, in order to preserve the setting of the CA and avoid coalescence, there will need to be careful consideration taken in the design and layout of a scheme.³⁸ This is precisely what is sought here, and for this reason more design evidence than usual was presented.
48. In so far as the **HEELA from 2018** assists, it was appraising a much wider context containing Parcel B and further beyond.³⁹ It's clearly not helpful or relevant.
49. Against that backdrop, it is entirely rational that the Council wishes to completely ignore their most up to date **CLSA 2022 assessment**. It supports development on this site and closer to Hanwell (not being sought by the Appellant) as part of Parcel A⁴⁰, but

³⁶ See bullet points on page 9/10

³⁷ See study area on page 44, and the relevant buffer area for Banbury at pages 45/46

³⁸ CD 6.12, paragraphs 172-173

³⁹ CD 6.4, page 57 and page 142 considering HELAA030

⁴⁰ CD 6.3, pages 125 - 130

clearly indicates that Parcel B and further east should be kept free from development.⁴¹ It speaks to the density levels sought by this scheme.⁴² It highlights as two key sensitivities as specific areas to be explored as part of this appeal, namely the ‘sense of settlement separation between Banbury and Hanwell’ and the rural setting to Hanwell CA. There has been no credible evidence presented that could suggest that these are not addressed. On the guidance and recommendations, we meet them in that it is common ground that the pattern of hedgerows and hedgerow trees are maintained. And the Inspector can note that the design approach put forward is unchallenged – and therefore there will be a successful integration of the development in the landscape through sensitive design and siting.⁴³

50. The **Interim Sustainability Appraisal of the Regulation 18 Local Plan** itself tells us that this site (and land to the east) has space to accommodate development and retain a landscape gap. In fact, the Interim SA even goes as far as to explain how this area might be the next area to look for potential sites (after those to be retained / proposed for allocation). Given the evidence in the CLSA 2022, that is unsurprising.
51. Bringing this up to the present day latest evidence, the emerging plan does not preclude this development. Indeed **Core Policy 45** as drafted seeks to replicate C15, but without citing Banbury and Hanwell as a gap that’s ‘more vulnerable than others’.⁴⁴ This is in stark contrast to all the gaps mentioned in C15 back in 1996, even though the Council’s core case has repeatedly told us that communities are *even more* vulnerable today.

⁴¹ CD 6.3, pages 131-137

⁴² CD 6.3: See page 12 of the CLSA 2022, LS BAN13

⁴³ See page 125 of the CLSA 2022.

⁴⁴ CD 5.6, paragraph 3.253

52. Focusing specifically on the wording of the policy, there can be no doubt that the physical and visual separation between the two separate settlements will be maintained. Will people notice another development from the Warwick Road, sure. But is that so egregious that anyone experiencing this landscape from the footpaths or driving past will see merged / coalesced settlements, hardly. A settlement with such low density sitting in its historical core, the CA cascading down to the east, with plenty of vegetation keeping the setting of the listed assets far from view, it will certainly not be confused or mistaken for a further extension to the north of Banbury.
53. This point goes nowhere.

Conclusion

54. This assessment must **not** be heard without context either; Banbury remains a top tier sustainable settlement towards which much needed development is directed, in line with the Local Plan spatial strategy – in 2015 as well as the new LP emerges.
55. In so far as this development is concerned, there is no specific gap policy stopping it from coming forward. In so far as there is a specific concern around coalescence, even taken at its highest, the identity of Hanwell is pretty unique. The sense of separation, and therefore separate identities of, Banbury and Hanwell, would clearly be retained. Banbury might have moved closer, but no rational person will struggle to see the difference between the two, or be absent minded enough to perceive the two together.

Main Issue (c) – Whether the proposed development would harm the setting of nearby heritage assets (Hanwell Conservation Area, St Peter’s Church and Hanwell Castle).



The appeal site and its heritage context (Source: ES PoE Appendix ES 1)

56. The credibility points about the respective witnesses in this discipline apply to heritage related matters, only much, much worse. Dr Doggett did not take an assessment worthy of its name. His whole ‘Proof of Evidence’ was made up of mere generalisations, unsupported assertions, and slurs against the Appellant’s comprehensive analysis. The less that’s said about his evidence the better.

57. The other startling (and quite bizarre) exchange with Dr Doggett related to his disavowing of agreed common ground. It remains baffling, for example, that he was confidently disagreeing that the settings of the Church and Castle ought not to be conflated with the setting of the HCA. This is such an obvious point that his disagreement remains – even now – odd and without explanation.
58. Turning to Mr Stratford’s evidence (“ES”), on the other hand, was comprehensive, authoritative and frankly untouched following hours of cross examination. His evidence need not be repeated, but the following salient conclusions are worth repeating.
59. **First, the significance of the HCA** is not in dispute between the parties. It is derived overwhelmingly from the character and appearance of the built form and spaces within the extents of the designated area.⁴⁵ The appeal site does form a part of the setting to the HCA and contributes to its significance.⁴⁶ Attempts to gallop through the history once again by Mr Ormondroyd sought to connect the appeal site to an area of such value that suggest the site is far more sensitive. This was comprehensively rebuffed by ES.
60. Ultimately the site makes a small contribution to the significance of the HCA, with only viewpoint 28 being the sole key view where the site could be considered to make any contribution to the experience of the HCA. The finding in these circumstances of low level of LTSH is credible, particularly considering the extent to which the setting and significance would remain unchanged.⁴⁷ Dr Doggett’s assessment, in so far as it can be called as such, seeks to suggest a harm that’s without credibility and devoid of logic.

⁴⁵ POE ES 3.30-3.40

⁴⁶ POE ES 3.41-3.58, Appendix ES 3 and Appendix ES 4

⁴⁷ POE 3.77-3.87

61. **Second, the Church of St Peter** and its significance is similarly not in dispute. It has been appraised and assessed comprehensively by ES.⁴⁸ Its setting is defined largely by immediate surroundings in the HCA.⁴⁹ Crucially, the appeal site is not readily appreciable in combination with the Church from the settlement. No doubt the Council's case has now morphed into one that seeks to suggest the site is part of an important tapestry of arable fields that make significant contribution to the significance of the Church. This is not borne out by the reality. Neither does the Council's evidence support such a proposition. Dr Doggett was categorical in saying that he didn't bother analysing the effects on these specific assets in his evidence.
62. Ultimately, there will be limited change to the setting and no change to views of or from the Church. No loss of any elements of the setting of the Church that presently could be said to make a positive contribution to its significance – either from the wider HCA area or indeed from the landscape beyond. **There will be no harm.**
63. On **Hanwell Castle**, again there is no evidence to contradict the case put forward by the Appellant's witnesses. The Castle's setting is clearly defined by its immediate surrounds in the castle grounds character area of the HCA.⁵⁰ The site does not form part of any kinetic views of the castle on approach from Banbury, nor has it ever formed part of wider grounds / parkland of the castle either.⁵¹ Despite the line of questioning during XX, there is no evidence that the site makes any contribution to the heritage interest or understanding of 'what matters and why' in respect of the castle or

⁴⁸ POE 3.88-3.95

⁴⁹ POE 3.96-3.111

⁵⁰ POE 3.142-3.168

⁵¹ POE 3.145-3.148

contributes to any experience of the asset. For all these and reasons contained in the ES POE, there will be no harm to Hanwell Castle.⁵²

64. Finally, HE's responses have clearly led to their overstatement of the effects of the proposals on heritage assets. There is no evidence that anyone from HE has actually visited the site, and even conflating 'kinetic views' with 'kinetic experience' underlines how HE's responses do not align with their own published guidance on the matters in question.
65. **In sum, the only credible evidence to the inquiry is that there will be limited impact to the setting of the HCA, at the lowest end of 'less than substantial'. There is no rational basis to conclude, and certainly not relying on Dr Doggett's evidence, that there will be any harm to the Church and/or Castle.**

Main Issue (d) – Whether the proposed development would conflict with national policy regarding Best and Most Versatile agricultural land

66. There is no dispute that the site is BMV land in Cherwell District. It amounts to c.12 ha, partly Grade 2 (western part) and partly Grade 3a (eastern part). We agree with the Inspector's specific main issue that focuses this issue around whether the proposal conflicts with *national policy* on BMV land. The following is added.
67. **First**, as far as 180(a) is concerned, there is no specific requirement for individual decision-takers to consider whether development is necessary, whether areas of poorer quality are available (as part of some sequential test) or whether the land is being used

⁵² POE 3.169

for food production or the like. The same is the case in relation to 180(b). And NPPF 181 is purely engaged with plan making rather than decision-taking.

68. **Second**, if the Council's odd suggestion that we are in open countryside (and not *at* or *in* Banbury) is held, it follows that Policy Villages 2 does not even apply. In any event, even if it does, there is nothing in the policy that suggests development here would not be appropriate. There is no sequential test introduced here either.⁵³
69. **Third**, the Council's position is similarly at odds with numerous appeal decisions presented by the Appellant on the correct approach.⁵⁴
70. **Finally**, it is the Appellant's case that only limited weight ought to be given to the loss of the agricultural land, as set out in DMC's evidence.⁵⁵

Other considerations

71. On the approach to **design** the Appellant housebuilder has significant experience in the immediate vicinity to the site, and Cherwell generally. This is important because they are fully alert to the expected constraints, the costs of materials and what will be required in order to secure Reserved Matters at a later stage. And it was for this reason that Mr Carr was instructed to provide a clear direction of travel. Indeed his involvement in a Vistry site nearby made his evidence even more necessary, and further warrants attaching significant weight. The Council will seek to downplay this in any event, and this should be ignored for the following reasons.

⁵³ See POE of DMC at 5.24

⁵⁴ **CD10.12** – Coalpit Heath, paragraph 57. **CD10.11** – Langton Road, Norton, paragraph 76. **CD10.8** – Bloxham, paragraph 110, and **CD10.25** – Gotherington – paragraph 147.

⁵⁵ See POE of DMC at 5.26

72. **First**, the fact that the Appellant is willing to provide such significant detail at this stage of the process speaks to how confident they are about what's achievable on site. It speaks to the need to be sensitive about the site as a whole (keeping Parcel B free from development) and crucially to keep the separation between Banbury and Hanwell clear.
73. **Second**, the design approach has been informed by the landscape character assessment. The evidence presented on this, the landscaping strategy being pursued, the illustrative layout put forward, and how the scheme seeks to be sympathetic to its surroundings all fed into what the design picture looks like today. Indeed, in answer to the Inspector, NW was able to confirm that they were – at this stage of the process – content that the design approach was the best available. We agree.
74. **Third**, the heritage context of building in the setting of the CA and two other heritage assets similarly informed the design approach. Mr Carr was able to understand the relationship and contribution the site makes to the assets, and in so far as they are impacted, how such an impact may be mitigated.
75. **Finally**, the evidence of Mr Carr was not contested or contradicted in any way. We ask the Inspector to give it the fullest possible weight.
76. It is worth repeating that the Council has not contested a single piece of evidence presented on **affordable housing**. For reasons set out in the evidence, this means they have not contested the evidence presented on the needs, how the past delivery has been poor, the devastating impact in relation to the affordability indicators and also what

future supply looks like in this current climate. Instead, the distraction is about 50% is what's needed in Oxford or 35% in open countryside.⁵⁶

77. The simple reality is that this is a proposal going above and beyond what's needed for a site next to the settlement limit of Banbury – namely by providing 40%. This is greater than the current Local Plan and will go some way to assist the Council's needs.
78. In the *Heyford Park* appeal the Inspector had the benefit of the Council's agreement that the need was acute in Cherwell. She gave it significant weight.⁵⁷
79. The **Vistry Group** – the developer of this site – took the unusual step of providing a letter to the Inquiry as part of the evidence by DMC.⁵⁸ There are four key takeaways; **firstly** it is a letter that sets out in detail the national and local urgency around the housing crisis. This is a central material consideration for this appeal.
80. **Second**, it gives a cogent account of what they're doing about it, and why this site needed to have a higher affordable offer. The Appellant did not need to offer more but the fact that it has, as well as not seeking to develop over half the site, speaks to the quality of their approach generally.
81. **Third**, we can see how Vistry see themselves as part of society and their work delivering a social purpose.
82. **Finally**, none of this evidence was contested and is therefore commended to the inquiry.

⁵⁶ Indeed in the main ScG at 6.17: “Policy BSC3 of the adopted Cherwell District Council Local Plan 2011-2031 Part 1 (2015) requires qualifying developments (i.e. 11 or more gross dwellings) **in banbury**” (emphasis added).

⁵⁷ CD 10.01, paragraph 96

⁵⁸ Appendix 1 of DMC POE

PLANNING BALANCE

Benefits

83. There are some profound consequences to the Council's ability to meet its spatial plans (as adopted in 2015 and as part of the PR) if a sustainably located site like this one cannot come forward.⁵⁹ We know the need is there and it continues to go unmet. It was not contested at the appeal the proposition that one of the consequences is that more pressure will come to sites which are (a) unsustainably located; (b) green belt sites on edge of settlements; and (c) many other sites with more constraints than the present.
84. It is against that background that we turn to the **overwhelming benefits**. These benefits are incontrovertible and as set out in the openings, they are not repeated here save to underscore the following.⁶⁰
85. **First**, there is a profound benefit of the scheme providing a significant amount of contribution to market housing as a whole. This should be given **substantial benefit** given the failure of the authority to meet this need now and into the future. The scheme also offers almost half affordable housing, again this attracts **substantial benefits** in a context of a need that has never been met, and only getting worse.
86. **Second**, over 50% of the site (including Parcel B) is to be kept open and undeveloped. There will be significant amount of landscaping, green infrastructure, recreational space and woodland planting to mitigate against the harms. The density is appropriate and in line with what is to be expected locally in Banbury. The overall **environmental benefits** should be given **significant weight**.

⁵⁹ See paragraphs 63-65 of the opening remarks

⁶⁰ See paragraphs 55-62 of the opening remarks

87. **Third**, there is a significant amount of other benefits which collectively amount to enhancements and improvements to the site as a whole – this should be given **moderate weight** in the balance.⁶¹ This includes the 38% net gain.
88. **Fourth**, the scheme has expended significant resources to address the issue of **design** as explained above. The delicate response to ensure that a sense of separation with Hanwell is maintained has required a multi-disciplinary approach between three disciplines (design, heritage and landscape) meaning that the over-arching design approach is not an accident. There are some important characteristics about Hanwell and the CA, the landscape character assessments, and how the scheme is integrated into the boundary with Hanwell Fields that are all part of the comprehensive design approach.
89. Indeed the Council does not suggest a different way was possible and available to the Appellant, and that this was not utilised or pursued. With that in mind, **NPPF 139** signals the need to attach ‘significant weight’ to such an approach.
90. **Fifth**, the economic benefits both in the short term and long term are important considerations as directed by **NPPF 81**. The infographic provided as part of the evidence by Mr Murray-Cox (“DMC”) remains uncontested. This should be afforded **significant weight**.
91. Turning now to the limited harms.

⁶¹ See paragraph 60 of the opening remarks

Harms

92. The loss of BMV has been acknowledged by the Appellant and this loss is not significant in any way in a District like Cherwell. In any event, it would appear that the Council have completely misunderstood national policy on this.
93. The only heritage harm is the HCA, and less than substantial at the lowest possible end. The Council's case is just not credible. Only limited weight is attributable to this.
94. The landscape harm to a non-designated site providing much needed housing, where some harm is inevitable, will be offset by significant enhancement and mitigation, as well as great design. Again, the weight to be attached is plainly limited.

CONCLUSION

95. Sir, for all the reasons set out above and as heard at the inquiry, there is a compelling need for this development. The District is reliant on such proposals to be granted consent, otherwise there is no realistic prospect of them meeting their needs.
96. The harms are limited and short-term. You're respectfully invited to allow the appeal.

HASHI MOHAMED
Landmark Chambers
180 Fleet Street, London

25 June 2024

Appendix 1: Warwick Road, Banbury

Appeal Ref. 3338211

Appellant's Roundtable Summary Notes

Disputed Sites

Canalside, Banbury 1, Cravan Site

Table JRT6 – Canalside, Banbury 1, Cravan Site						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	33	30	63
Appellant Delivery	0	0	0	0	0	0
						-63

- Allocated in Part 1 Plan as part of a wider mixed use development area.
- Outline application (ref. 22/01564/OUT) for 63 apartments.
- Submitted by a Mr Rooney – Mr Rooney is the landowner not a developer.
- Submitted – some **2 years ago**.
- Resolution to grant in July 2023 – **nearly 1 year ago**
- It's effectively seeking a **renewal/replacement** of a previous outline permission for 63 apartments granted in June 2019 and not implemented.
- So, record of non-implementation.
- Even if granted, it is still a limb b site requiring clear evidence.
- Once permission is in place, the site needs to be sold, conditions discharged, reserved matters prepared and progressed – no evidence on Mr Rooney's or, indeed, an actual developer's intentions on any of this.
- Council also refers to local lead in times and delivery rates (as it does on many sites), but that is not the test. The test is whether this site meets the definition of deliverable in NPPF to be included. Only once it meets the definition should it be included, and it's of course then appropriate to consider realistic lead in times and delivery rates.

Bankside Phase 2, Banbury 4

Table JRT7 – Bankside Phase 2, Banbury 4						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	0	50	50
Appellant Delivery	0	0	0	0	0	0
						-50

- Allocated in Part 1 Plan for approximately 600 homes
- Current outline application (ref. 19/01047/OUT) for up to 820 homes submitted in March 2021
- Resolution to grant in July 2021 – nearing **3 years ago**.
- Still no decision.
- Further revised parameter plans also now submitted in February 2024 – not clear given the elapsed time or amended plan, whether it needs to return to committee.
- Even when granted still a limb b site requiring clear evidence.
- Hallam is a land promoter not a developer. The land remains owned by New College Oxford.
- The site will need to be:
 - marketed, a preferred bidder identified (in discussion with New College) and the sale completed;
 - conditions will need to be discharged;
 - committee report included pre-commencement conditions including need for:
 - phasing plan
 - a masterplan and design code
 - those will need to be agreed to inform RMs and, in my experience, can take a considerable period of time to agree
 - RMs progressed and determined
 - For a site of this scale, first RMs may be for infrastructure rather than homes
 - There is no evidence on any of this.

South of Salt Way – East, Banbury 17

Table JRT8 – South of Salt Way – East						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	50	75	75	100	100	400
Appellant Delivery	50	50	50	47	40	237
						-163

- Forms part of allocated site in Part 1 plan for 1,345 homes.
- Outline permission (ref. 14/01932/OUT) for 1,000 homes granted in Dec 2019
- Reserved Matters for 2 development parcels for Persimmon Homes was permitted in April 2023 – agreed as deliverable
- Further RM for 95 homes on phase 2 submitted by Charles Church (Persimmon) – that was submitted in March 2024- some 11 months after the base date.
- No other Reserved Matters applications.
- Despite being at an early stage of determination, my evidence identified objections including an objection on several grounds on highways.
- Also, now an objection from Housing Strategy & Development Team on scheme lower quantum and type of affordable homes compared to requirements.
- Other key consultee responses remaining missing.
- At this time, and particularly considering we are working to a 1st April 2023 base date, which we are now 14 months beyond, only the homes with detailed consent should be included – that is still 237 homes in the 5 year period.
- The Council includes 400 homes which is higher than even the homes with detailed consent and the homes currently the subject of an RM.

Land Opposite Hanwell Fields Recreation, Adj To Dukes Meadow Drive, Banbury

Table JRT9 – Land Opposite Hanwell Fields						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	28	50	78
My Delivery	0	0	0	0	0	0
						-78

- Not allocated
- Outline planning application (ref. 21/03426/OUT) submitted by Manor Oak Homes.
- Resolution to grant April 2022 and finally granted on 3 May 2024.
- So, outline permission only, received a year after the base date and very recent.
- Still a Limb b site requiring clear evidence.
- Council themselves have confirmed that Manor Oak won't build it – they will dispose of site – see SOCG and CD 14.5 for dales particulars.
- No evidence on outcome of sale – who developer is, or what their intentions are.
- Not clear when RM will be submitted, what issues might get raised and whether it will be in an acceptable form for LPA.
- At current time, and bearing in mind this is a site that received outline permission 13 months after the base date and, now into the 2024/25 monitoring year, we have no application that provides the details for actual homes on this site, it should not be included in the Councils 2023-2028 housing land supply.

North West Bicester Phase 2

Table JRT11 – North West Bicester Phase 2						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	50	50	100
My Delivery	0	0	0	0	0	0
						-100

- Part of an allocation for 6,000 homes.
- Outline application submitted in 2014 and was approved in 2020.
- Initial Reserved Matters for 500 homes submitted by Cala Homes in July 2021 but withdrawn in November 2022.
- Reserved Matters for infrastructure for Phase 1A was approved in February this year.
- A further Reserved Matters for internal roads was submitted in June 2023 and remains pending determination – amended plans were recently submitted at end of May.
- A Reserved Matters application for 123 homes was submitted but Cala in July 2023 - it remains pending determination.
- Amended plans were submitted in March but objections remain.
- SOCG suggests Council is targeting decision and discharge of design code by August – not clear if that will be achieved and, even if it were, it is some 18 months after the base date.
- Evidence on deliverability should have been available at the base date – it was not available then and, now into the 2024/25 monitoring year, there is still an absence of clear evidence to support the sites inclusion as a deliverable site.

South West Bicester Phase 2

Table JRT13 – South West Bicester Phase 2						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	60	0	60
My Delivery	0	0	0	0	0	0
						-60

- Part of an allocation for 726 homes
- Outline permission (13/00847) was granted in May 2017.
- Various RMs are in place and are covered by other rows in the trajectory - these are not disputed.
- The disputed 60 units is the residual units from the outline permission.
- No RM for these residual units has been submitted.
- Instead, a hybrid app for an 82 unit extra care scheme (detailed) and outline for 14 dwellings submitted in Nov 2023 has been submitted by Preferred Homes ad Countryside – 7 months after the base date.
- Now a recent resolution to grant in March 2024.
- S106 will need to be completed before a detailed permission is in place – it will clearly be well beyond the base date (1st April 2023) and even well beyond the base date for the next monitoring period (and 5 year period 2024-2029).
- As a result, and now into the 2024/25 monitoring year, this is not be included in the Council’s supply as a deliverable site for the 5 year period 2023-2028
- It is does get approved, and clarity on the use is obtained, then it is a site that can be included in future annual updates and 5 year periods.

Former RAF Upper Heyford

18/00825/HYBRID relating to the delivery of 1,175 homes in total, of which 488 are claimed to be deliverable in the five year period

Table JRT17 – Upper Heyford 18/00825/HYBRID						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery			488			488
My Delivery			138			138
						-350

- Hybrid permission in place for mixed use development including outline for 1,175 homes
- Various rows in the trajectory relate to Reserved Matters pursuant to outline permission and are not disputed.
- This row relates to Phase 10, on which RM is in place for **138 homes** and is not disputed
- However, the Council include 488 homes as deliverable.
- And yet no further reserved matters
- JG proof page 85 for site suggests further reserved matters were due in February 2024 – these have not materialised.
- At the current time, and now into the 2024/25 monitoring year, there is only clear evidence in place for 138 homes.

21/03523/OUT relating to the delivery of 31 homes and 15/01357/F relating to the delivery of 89 homes

Table JRT15 – 15/01357/F relating to the delivery of 89 homes						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	19	30	40	0	89
My Delivery	0	0	0	0	0	0
						-89

Table JRT16 – 21/03523/OUT relating to the delivery of 31 homes						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	10	21	31
My Delivery	0	0	0	0	0	0
						-31

- These permissions cover 2 parts of a combined larger site - See plans on pages 62 and 63 of Jeff Richards’ evidence.
- The northern site has outline permission – it was submitted in 2015 and approved in Sept 2023.
- The southern part has full permission for 89 dwellings – submitted 2015 and approved in Sept 2023.
- Both progressed by Pye Homes
- Evidence that neither permission will be implemented.
- Site now to be progressed by DWH who submitted a full application for 123 homes in October 2022 – so whilst other permissions were being determined.
- It received a resolution to grant in March 2024 - nearly a year after the base date.
- However:
 - S106 will now need to be agreed and we are now beyond the next monitoring year base date.
 - In addition, looking at the council’s online portal and a full amended pack of information has been submitted and appears to be being consulted on.
 - So its not clear when this application will be determined.
- This is site clearly has a long and complicated planning history. It remains the case that, now into the 2024/25 monitoring year (and 14 months beyond the base date) permission for a scheme that is intended to be implemented has now been granted
- It should not be included in the Council’s supply as a site that meets the definition of deliverable at the current time.

OS Parcel 2778 Grange Farm North West Of Station Cottage Station Road
Launton

Table JRT18 – OS Parcel 2778 Grange Farm North West Of Station Cottage						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	30	35	65
My Delivery	0	0	0	0	0	0
						-65

- Outline consent granted in April 2022.
- Reserved Matters application by Greencore submitted in December 2023 after the base date.
- It remains pending and is listed as needing to be presented to committee – no indication has been provided on any timeframes for that.
- Indeed, an application has now been submitted in March 2024 to remove a condition requiring live work units – that remains pending determination and, if approved, will result in a fresh outline permission.
- Now into the 2024/25 monitoring year (and 14 months beyond the base date) permission for a detailed scheme remains absent.
- It should not be included in the Council’s supply as a deliverable site for the 5 year period 2023-2028.

Land at Deerfields Farm Canal Lane Bodicote

Table JRT19 – Land at Deerfields Farm Canal Lane						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	26	0	26
My Delivery	0	0	0	0	0	0
						-26

- Outline application for 26 units permitted in 2022.
- There has been a Non Material Amendment application (NMA) (approved in March) to amend the access plans and the covering letter with that application does refer to the consultant, Surface Planning, being instructed by Minster Property Group seeking to take forward the permission as a 100% affordable scheme.
- Importantly, there has been no reserved matters submitted since the outline consent was granted in 2022. The letter with the NMA provided no information on intended timings for any RM.
- We now into the 2024/25 monitoring year (and 14 months beyond the base date) permission for a detailed scheme remains absent as indeed does any actual application for a detailed scheme.
- As a result, this is not be included in the Council’s supply as a deliverable site for the five year period 2023-2028 – it did not have the necessary clear evidence at the base date and, now into the 2024/25 monitoring year, there remains an absence of clear evidence now.

OS Parcel 3489 Adjoining And South West Of B4011, Ambrosden

Table JRT20 – OS Parcel 3489 Adjoining And South West Of B4011						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	25	35	60
My Delivery	0	0	0	0	0	0
						-60

- This is an unallocated site.
- An outline planning application was submitted in 2022 and was approved in December 2023 – so 8 months after the base date. Clear evidence should have been available at the base date.
- Such clear evidence was not available at 1st April and, now into the 2024/25 monitoring year, remains unavailable now.
- Despite outline permission having been granted, Hallam Land are not a housebuilder.
- The Council refers to pre-app with Mulberry Homes but there is no information on that before the inquiry. The Council’s text in the SOCG suggests an application may be expected in the summer.
- Pre-application is not itself clear evidence.
- There is no RM currently, and we do not know if it will actually be submitted this summer, what form it will take and, even once submitted whether it will be in an acceptable form to Officers.
- We are now into the 2024/25 monitoring year (and 14 months beyond the base date) permission for a detailed scheme remains absent as indeed does any actual application for a detailed scheme.
- As a result, this is not be included in the Council’s supply as a deliverable site for the five year period 2023-2028 – it did not have the necessary clear evidence at the base date and, now into the 2024/25 monitoring year, there remains an absence of clear evidence now.

Land North of Railway House, Station Road, Hook Norton

Table JRT21 – Land North Of Railway House, Station Road						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	25	18	43
My Delivery	0	0	0	0	0	0
						-43

- Outline consent approved in August 2022 for 43 homes.
- Now a Reserved Matters application validated in April 2024 (42 homes) – so a year after the base date, and now into the 2024-2029 five year period.
- Despite being in early stages, my evidence identified substantial points of objection raised by highways team. Issues were also raised by housing services.
- There is an absence of a full range of consultee response at this time:
 - Drainage/LLFA
 - Design
 - Landscape
- It's been identified as an application that will need to be determined at committee.
- We now into the 2024/25 monitoring year (and 14 months beyond the base date) permission for a detailed scheme remains, there are existing objections, more objections may materialise and there is absent any clear timescale for determination.
- As a result, this is not be included in the Council's supply as a deliverable site for the five year period 2023-2028 – it did not have the necessary clear evidence at the base date and, now into the 2024/25 monitoring year, there remains an absence of clear evidence now.

Small Sites (less than 9 units) with Planning Permission and Small Site Windfalls

Small Sites (less than 9 units) with Planning Permission

Table JRT23 – Banbury Small Sites (1 to 9 dwellings)						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	31	31	0	0	0	62
My Delivery	25	25	0	0	0	50
						-12

Table JRT24 – Bicester Small Sites (1 to 9 dwellings)						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	15	15	15	0	0	45
My Delivery	13	12	12	0	0	37
						-8

Table JRT25 – Other Areas Small Sites (1 to 9 dwellings)						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	70	70	62	0	0	202
My Delivery	56	56	50	0	0	162
						-40

- Many authorities apply a lapse rate – see Mr Richards examples at paragraph 6.152.
- Why, we want to include housing in the supply that we expect to see delivered.
- Don't think anyone would disagree that permissions do lapse, and typically that is higher for small sites.
- Accept that small sites with planning permission do fall under limb a) of the definition of deliverable where they should be considered deliverable unless there is clear evidence that homes will not be delivered in 5 years.
- Such evidence has been provided – Mr Richards Appendix JR3 and paragraph 6.158 show lapsed permissions since 2011 equate to 26%.
- One that basis, a 20% lapse rate is reasonable and supported by evidence.

Small Site Windfalls

Table JRT27 – Small Site Windfalls						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	125	125	250
My Delivery	0	0	0	100	100	200
						-50

- NPPF paragraph 72 sets out when a windfall provision can be included. It requires compelling evidence and have regards to historic windfall rates and expected future trends.
- The Council has recently increased its windfall allowance from 100 dwellings in years 4 and 5 (in its 2022 AMR) to 125 dwellings in years 4 and 5 (in its 2023 AMR).
- That is despite a decline in small site permissions (see Mr Richard’s proof, Table JRT26).
- Rather than compelling evidence for an increase in windfall units, the evidence points to a decrease.
- A windfall allowance of 100 homes in years 4 and 5 is to be preferred.

Sites Identified by the Council in the Partial Review Local Plan to Meet Oxford’s Unmet Needs

Land West of Oxford Road, North Oxford

Table JRT28 – Land West of Oxford Road, North Oxford						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	0	30	30
My Delivery	0	0	0	0	0	0
						-30

- An allocation in the Partial Review Plan for 670 homes.
- A development brief for the site has been agreed, but no more.
- There is no application that has been submitted.
- Now into the 2024/25 monitoring year, there is virtually no evidence, let alone clear.

Land South East of Kidlington, Kidlington

Table JRT29 – Land South East of Kidlington						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	0	30	30
My Delivery	0	0	0	0	0	0
						-30

- Allocated for 420 homes in the partial Review Plan.
- Outline application for 370 homes submitted by Barwood Development Securities Limited and the Trustees of the Philip King Homes Trust in April 2022
- It received a resolution to grant in October 2023, but no decision has been issued.
- Even when granted still a limb b site requiring clear evidence.
- Barwood are a land promoter not a developer.
- The site still needs:
 - The S106 signed and a decision notice issued;
 - The site to be marketed, a preferred bidder identified and the sale completed;
 - Conditions will need to be discharged;
 - RMs progressed and determined
- There is no evidence, now into the 2024/25 monitoring year, on any of this.

Land at Stratfield Farm, Kidlington

Table JRT30 – Land at Stratfield Farm, Kidlington						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	0	20	20
My Delivery	0	0	0	0	4	4
						-16

- A minor permission for 4 homes is in place, this is included in the Appellant’s delivery figures
- The site is allocated for 120 homes in the Partial Review Plan.
- A development brief was agreed in November 2021
- An outline planning application by Manor Oak Homes was submitted in May 2022.
- A resolution to grant was obtained in October 2023, but no decision has been issued.
- Even when granted still a limb b site requiring clear evidence.
- The Council has evidenced on other disputed sites considered earlier that Manor Oak are marketing and disposing of other sites and that may occur here.
- The site still needs:
 - The S106 signed and a decision notice issued;
 - The site to be marketed, a preferred bidder identified and the sale completed;
 - Conditions will need to be discharged;
 - RMs progressed and determined
- There is no evidence, now into the 2024/25 monitoring year, on any of this.