

**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**

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**APPELLANT'S OPENING STATEMENT**

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**INTRODUCTION & CONTEXT**

1. This appeal relates to planning permission sought for an outline application for up to 170 dwellings (Use Class C3) with associated open space and vehicular access off Warwick Road, Banbury. All matters reserved except for access. The proposals seek to offer over an above affordable housing policy, namely 40% instead of 30%.
  
2. The overall housing requirement in Cherwell is contained in two parts of its Part 1 Local Plan. The first element of the housing requirement is provided for in the adopted CLP 2011-2031 Part 1.<sup>1</sup> Policy BSC1 of the Local Plan states provision will be made for some **22,840 homes** in the period of 2011 – 2031 (**1,142 homes per annum**). The second element is requirement for Cherwell to deliver 4,400 dwellings towards Oxford's unmet housing needs, as provided for in the adopted Partial Review Local Plan<sup>2</sup>. Both of these are a material consideration for this appeal and site.

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<sup>1</sup> Core Document 5.1

<sup>2</sup> Core Document 5.2. Also see Jeff Richard's POE, paragraph 7 of the Summary: 'Policy PR1 of the Partial Review Plan confirms that Cherwell will deliver **4,400 homes** to 2031 in order to help Oxford's unmet housing needs – such delivery was planned to come forward from 2021.

3. In the context of Cherwell’s overall housing requirement, the market and affordable housing to be provided by the proposals before this appeal would contribute to meeting not only Cherwell’s own housing needs, but also the unmet housing needs of Oxford. The latter need is one which CDC are keen to wish away, or simply push to one side in respect of its approach to calculating housing land supply requirement, and fail to acknowledge of the consequences of identified shortfalls.
4. In terms of how well CDC is doing on both of these fronts, this will need to be carefully examined. As at April 2023 (current base date) the level of under delivery stands at **1,392 homes** against Part 1 of the LP (2015) housing requirement. Against the Oxford unmet needs, the under delivery (in the period of 2021-2023) stands at **680 homes**. Combining the two, there is a shortfall of some **2,072 homes** against its total housing requirement (almost 10% of Cherwell requirement). As the Appellant’s evidence will demonstrate, this is a ‘serious and significant level of under-delivery’.<sup>3</sup>
5. There is also agreement that these shortfalls can be expected to rise by the end of the plan period in 2031<sup>4</sup>. Under-delivery against the Part 1 of the LP (2015) housing requirement is expected to be **3,416** homes by 2031 and the level of under-delivery against Oxford’s unmet needs is expected to be **2,995** homes. Combined, that is an expected under-delivery of **6,411** homes. These are serious numbers that demonstrate continued failure. And that can only be described as a failure of the Council’s housing delivery strategy – a failure in delivery to date, and a failure (by many thousands of homes) to deliver against minimum housing requirement by the end of the plan period.

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<sup>3</sup> See POE JR

<sup>4</sup> See the HLS SOCG paragraph 2.10, page 11

6. This scheme also recognises the specific acute need for affordable homes, with almost half of it being affordable (40%) and 10% over the policy requirement at 30%. For the reasons to be set out at the inquiry, this response is appropriate. The housing, both market and affordable, offered by this scheme is very much needed.
7. It is against that acute background need that we are here at this inquiry. These are currently numbers, but sitting behind those numbers are people. People with real needs going unmet now. People who need and deserve a place to live, work, and build futures.

### ***Timetable***

8. There is a timetable within which it may be possible to complete the inquiry within 7 days (with closings remotely on 13 June). For this to be achievable, time estimates must be respected. That no new evidence is produced by any party, including unseen technical information from interested parties.
9. The Appellant's view is that, in principle, the issues in this case are not complicated. It is anticipated that once these issues crystallise at the start, many of the differences will narrow and the evidence will be able to be taken more efficiently.

### ***Plans and Permission Sought***

10. The Appellant and the Council have been negotiating conditions for this proposal. These are anticipated to be included in the final agreed SocG. The plans on which the Inspector is being invited to determine the appeal are contained therein.<sup>5</sup>

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<sup>5</sup> See SoCG at paragraph XXX

## ***Section 106***

11. At the time of writing, the draft S106 agreement is advanced and a draft has been shared with the Inspector. The latest draft is with CDC and OCC to review and provide comments, as of 3<sup>rd</sup> June. The outstanding points relate to public open space provision and bird nesting mitigation.

## **MAIN ISSUES**

12. The main issues have been identified in the Inspector's post CMC note at paragraph 5. There are no objections to the way in which the Inspector has set out these issues. The openings will seek to follow that framework as set out below.
13. It is noted that in their rebuttal, the Council sought to add two more policies to the reasons for refusal. The Appellant had already anticipated this and addressed the same in the relevant proofs of evidence.<sup>6</sup> No point is taken on it and the Appellant does not think they're prejudiced. However, it will be important to explore why it was omitted in the first place, and why these policies – apparently quite important to the Council's case – was added later in the process.

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<sup>6</sup> See Section 5 of the Landscape POE of BC

## **CONSIDERABLE COMMON GROUND**

14. Major development such as this one are often hampered by technical constraints. None are present in this case. The reasons are narrow and aesthetic in nature. To this end, the following can be taken as agreed.

- i. The site is sustainably **located** in relation to the local community and facilities.<sup>7</sup>
- ii. There are no concerns around **flooding** or **ecology** related matters, subject to the planning conditions to be agreed by the main parties;<sup>8</sup>
- iii. No **designated landscape** involved<sup>9</sup>, and not *within* a Conservation Area. The site does not include any listed buildings within it <sup>10</sup>;
- iv. No **highways** concerns both in terms of traffic generation and safety. No objection from local and national highways to the proposal;<sup>11</sup>
- v. **Residential amenity** is not a concern between the main parties;
- vi. On **landscape and visual impact**, the Council's landscape officer did comment on the application when it was submitted.<sup>12</sup> It is also agreed that the new public open space within Parcel B would give rise to some beneficial change, creating new viewing opportunities of the landscape between Banbury and Hanwell;<sup>13</sup>
- vii. There is common ground on **heritage** matters; including the significance and setting of assets.<sup>14</sup> On the HCA the disagreement relates to scale within 'less than substantial', whereas on the LBs it is whether there is any harm at all.

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<sup>7</sup> Paragraph 2.7 of the Planning Statement of Common Ground

<sup>8</sup> See paragraphs 6.5, and 6.9 of the Planning Statement of Common Ground

<sup>9</sup> See paragraphs 6.22-6.23 of the Planning Statement of Common Ground

<sup>10</sup> Paragraph 6.29 of Planning Statement of Common Ground

<sup>11</sup> Paragraph 6.4 of the Planning Statement of Common Ground

<sup>12</sup> See 2.1 of the Landscape and Visual Statement of Common Ground

<sup>13</sup> See 3.2 of the Landscape and Visual Statement of Common Ground

<sup>14</sup> See Section 3 of the Heritage Statement of Common Ground

15. Importantly, there are no outstanding objections from any statutory consultee, save for the narrow concern from Historic England.<sup>15</sup> All other technical matters are agreed to be acceptable and/or addressed via a condition. These include the following: *Archaeology, Rights of Way, Environmental Health, Education contribution, waste management, healthcare contributions, crime prevention and building control.*<sup>16</sup>
16. Whilst most appeals are dominated by the few remaining differences between main parties, it is a testament to a pragmatic approach and swift changes when appropriate that have allowed for the scheme to look the way that it is before this inquiry. This should be given due weight. Crucially, we must keep this in mind when at an inquiry the tendency can sometimes be to give undue attention to the harms of a proposal instead of understanding the wider picture and all the benefits at stake.

## **DEVELOPMENT PLAN**

17. The proposal for housing like this scheme in Banbury is not only consistent with the spatial strategy of the Part 1 LP, it is also highly consistent with the emerging picture. For Cherwell District, it is clear that ‘most of the growth’ will be directed to locations ‘*within or immediately adjoining the main towns of Banbury and Bicester*’.<sup>17</sup> Not only does this sustainably located proposal give expression to this clear strategy, this strategy also supports other locations in the District where development needs to be more controlled (i.e. south of the District, the Green Belt etc). In other words, development consented here to meet the needs of the District’s needs means much less pressure to provide housing in more sensitive locations in Cherwell (of which there are many).

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<sup>15</sup> See Section 4 of the Heritage Statement of Common Ground

<sup>16</sup> See Section 6 of the Planning Statement of Common Ground

<sup>17</sup> LP, page 29, paragraph A11

18. In seeking to build sustainable communities, the spatial strategy which speaks to the overall distribution of housing in the Local Plan places Banbury only second to Bicester.<sup>18</sup> It is also the District's largest town with its own sub-region.<sup>19</sup> Part 1 of the LP has a clear expectation that development in and around the towns of '*Bicester and Banbury will ensure that the housing growth the District needs is focused on the locations that are most sustainable and most capable of absorbing this new growth.*'<sup>20</sup>
19. In circumstances where Cherwell District is on course to substantially under deliver against its housing requirements, Banbury will be central to addressing this in the short-medium terms. In doing so, it will also ensure that the growing need is addressed. In the emerging picture for Cherwell, there is an expectation of over 5,000 homes (only second to Bicester) to be built by 2040, of which we are told there is an expectation of 30%-35% affordable homes.<sup>21</sup> The current spatial strategy is entirely consistent with the emerging Reg 18 plan proposals which expect significant housing development in Banbury. Meeting Oxford City's housing needs is similarly part of that picture.<sup>22</sup>
20. Again, it is critical to keep in mind throughout this inquiry that the Council's own present and future strategies are relying on sites like the appeal site location to meet its growing needs, and give expression to its 2040 vision. When the law tells us that decisions should be made in accordance with the development plan, this is precisely what was meant, as to be explored as part of the appeal.
21. Turning to the main issues.

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<sup>18</sup> LP, page 12, paragraph xiv - xx

<sup>19</sup> LP, page 175-

<sup>20</sup> LP, page 127, C1

<sup>21</sup> Cherwell Local Plan Review 2040, Banbury Vision 2040

<sup>22</sup> See sections 6.24-6.46 of D M-C's POE

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

22. The last appeal decision to grapple with this issue in Cherwell District is dated 5 March 2024 – post December 2023 NPPF changes. In that case, the Inspector reached some important conclusions that are directly relevant and material to this appeal. The first was the Inspector reaching a view that she considered one housing requirement for the District as a whole should be used when calculating housing land supply.<sup>23</sup>
23. Despite the Heyford Park Inspector’s clear reasoning on the use of a single housing requirement, that issue remains a significant difference between the parties at this appeal i.e. whether housing land supply should be measured against the local housing need just for Cherwell, or whether it should be measured against together with Cherwell’s portion of Oxford’s unmet needs.<sup>24</sup> That is despite there being no material change in the Council’s evidence.<sup>25</sup> Remarkably, and notwithstanding the position in the *Heyford Park* appeal and absence any material change in the evidence, the Council still claims to be able to demonstrate **5.72** years against the local housing need (excluding the Partial Review).<sup>26</sup> This is totally without credibility and one might say pure fantasy. We shall explore this more during the inquiry.
24. A further major difference between the parties has been addressed (in a different way perhaps) by the recent *Heyford Park* decision – namely whether the provisions under NPPF paragraph 226 bite. Whether Cherwell could be said to be a 4 Year or 5 Year supply authority. In that appeal, the Council’s position against a combine (single)

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<sup>23</sup> *Heyford Park* – APP/C3105/W/23/3326761 – Paragraphs 67-75

<sup>24</sup> See 2.1 of the Housing Land Supply Statement of Common Ground

<sup>25</sup> See Jon Goodall proof paragraph 7.6 which confirms that “there is no change to my evidence, or case on behalf of the Council, in relation to the requirement against which supply is to be assessed”

<sup>26</sup> See 3.4-3.5 of the Housing Land Supply Statement of Common Ground

housing requirement was it was only able to demonstrate a 3.32 year supply<sup>27</sup>, and so the Inspector, having concluded that a single figure was the correct approach to take when calculating the five year supply requirement, did not find it necessary to address the question.<sup>28</sup> This may require addressing as part of this appeal.

25. Contrasting this with the Appellant's case, where a supply position taking into account Oxford's unmet needs, against a combined housing requirement (consistent with the Heyford Park appeal), would at best yield **2.19 years**.<sup>29</sup> Whilst the evidence has somewhat moved on in some elements, this calculation is much more consistent with the recent *Heyford Park* appeal decision. However, even if that Appellant's position and that of the Heyford Park Inspector is found to be wrong, the supply position against Cherwell's needs alone, at best, would be only **3.88 years**.
26. Notwithstanding these stark numbers, and the way in which the Council remains in denial about them, the following points are worth stating beyond the need to demonstrate the requisite amount of deliverable HLS as required by national policy.
27. **First**, the merits of this scheme, as will be demonstrated, are compelling. Whilst of course our principal position remains throughout this inquiry that the *titled balance* is engaged, this is one of those proposals that overcomes the harm even if that were not the case being advanced. Such is the power of what is on offer here.
28. **Second**, the affordable offer that has been raised by the Appellant by 10% is a substantial consideration that should also focus minds. This, of course, is only possible and available via a cross-subsidy of the market housing.

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<sup>27</sup> See paragraph 77 of the *Heyford Park Decision*

<sup>28</sup> See paragraph 82-83 of the *Heyford Park Decision*

<sup>29</sup> See 3.7-3.9 of the Housing Land Supply Statement of Common Ground

29. **Finally**, for the Council's case to succeed a number of unattractive assumptions must be accepted. That the history of under-delivery is not material and should not colour our understanding of the future. This would not be reasonable. That the acceptance of significance shortfall in housing delivery by the end of the plan period should be similarly ignored. Again, this would be odd. The Reg 18 plan offers the **1,293dpa** which you're being asked to similarly disregard for now, and of course you're being asked to completely ignore Oxford City's unmet needs for present purposes (**680dpa**).
30. These and similar arguments were rejected in a recent appeal at *Heyford Park*,<sup>30</sup> a result that the Council is seeking to challenge on – as far as we understand it – housing numbers and calculations. This tells us that the Council is clearly in denial about what is needed, what is necessary to do about it and when an Inspector explains it to them in an appeal decision, they seek to find legal error where there is none.
31. The Inquiry will hear from **Jeff Richards BA (Hons) MTP MRTPI** on this matter on behalf of the Appellant. He will demonstrate just how persistent the delivery has been against the housing requirement for Cherwell as well as for Oxford City. Alone they make for dire reading, combined they demonstrate a shocking track record.
32. His evidence is commended to the inquiry.

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<sup>30</sup> CD 10.1

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

33. There is a significant amount of common ground around this issue as a starting point. The Council initially appointed independent assessors MCA Landscape Architects to carry out a review. It commends the LVA as ‘*very thorough and methodical assessment*’.... ‘*commendably objective*’. It gives recommendations what should be done with the two parcels in order to mitigate harms, raising a concern around the site’s relationship with Hanwell and the edge of Banbury.<sup>31</sup>
34. The main parties are agreed on matters of process, methodology and the baseline. That this is a not a ‘valued landscape’ for the purposes of NPPF 180(a). No point is taken in relation to the methodology of both the LVA and the approach overall. The baseline LCAs are similarly agreed and in particular where it places the two parcels of land for this appeal. It is common ground that the Cherwell Landscape Sensitivity Assessment (CLSA) identifies Parcel A (on which built development will take place) has a ‘low-moderate’ sensitivity to 3-storey residential development. And on Parcel B on which there will be zero built development, it is agreed that it has ‘moderate-high’ sensitivity to residential development.<sup>32</sup>
35. It is not in dispute that the visual effects of ‘moderate or above’ have only been identified at the appeal site boundary, beyond which, not be any higher than ‘moderate / minor.’<sup>33</sup>

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<sup>31</sup> CD 3.12 – Section 8, page 48 – July 2023

<sup>32</sup> See Section 3 of the Landscape and Visual matters Statement of Common Ground.

<sup>33</sup> See Section 3 of the Landscape and Visual matters Statement of Common Ground.

36. It is of course inevitable that *any* proposal for built development on a greenfield site will result in negative effects. For this reason, the phrasing of the main issue starts from the correct stance with the expectation that there will be harm, but then the question becomes the extent to which any adverse effects could be said to be unacceptable.
37. By the end of the inquiry, the Inspector will be able to reach the following conclusions;
- i. These proposals are an appropriate to the context; the impacts are likely to be quite localised and there is a robust landscape strategy in place to respond;
  - ii. The appeal proposals have been designed to retain the existing mature landscape fabric which, alongside the provision of over 50% of the Appeal Site as new public open space, would serve to maintain a sense of separation between Banbury and Hanwell;<sup>34</sup>
  - iii. From the PRoW network there will no real risk of coalescence between Banbury and Hanwell. On the contrary, the changes proposed within Parcel A would **not** give rise to any new view opportunities of Hanwell;<sup>35</sup>
  - iv. Any adverse effects caused by the proposals would be limited to specific locations, limited in geographic scale, and there are no views affected that could be deemed as valued highly by the general public.
38. Ultimately, as the evidence will show, the development – in its scale, form and appearance would reflect and enhance the positive characteristics of the area. It would ultimately appear as a natural and logical addition to Banbury.

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<sup>34</sup> 4.20-4.22 of BC POE

<sup>35</sup> 4.23-4.35 of BC POE

**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).**

39. On this important issue of any impact on heritage matters, the Inspector will have the benefit of the evidence from **Edmund Stratford BA (Hons), MCIFA**. There is a common ground document which speaks the latest position. It is common ground that there are three heritage assets impacted, as reflected in the Inspector’s main issues.
40. We also have common ground in relation to all matters relating to significance and setting of the heritage assets, as well as methodological approaches.<sup>36</sup> Given where the appeal site is for present purposes, it is also common ground that only the setting of the Hanwell Conservation Area is impacted. Further, as to the Grade 1 listed St Peter’s Church and Grade II\* listed Hanwell Castle, it is also common ground that only their setting may be *potentially* impacted.
41. Finally it is also common ground that whatever the harm identified to the setting of the assets, it is agreed that the harm would be ‘less than substantial’ to the HCA. On the two listed buildings, the difference between the parties is more fundamental, with the Appellant’s case being no impact at all, whereas the Council’s view is the same as they’ve taken in relation to the HCA – namely ‘less than substantial’ harm.
42. Surprisingly, notwithstanding the position on the harms, the Council were not prepared to agree that those harms (on their own) could not be overcome by the benefits. This will need to be explored in detail. As the Appellant’s case will demonstrate, wherever the Inspector’s judgement lands, the benefits of this proposal would plainly outweigh the harms as identified both by the Appellant and the Council.

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<sup>36</sup> See Section 3 of the Heritage Statement of Common Ground.

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

43. This issue is addressed in Mr. Murray-Cox’s evidence in relation to the specific criteria set out in Policy Villages 2 of the CLP 2031 Part 1, and the NPPF paragraph 180 (then 174). The way in which the reason for refusal is worded suggests that more information would satisfy the Council’s concerns around this issue.
44. The Council’s reading of national policy appears to suggest that there is a need to undertake some sort of sequential assessment in order to meet policy. No such assessment is required, nor is one necessary here. The same applies to local policy in relation to Policy Villages 2. In sum, this short point will be addressed in the RTD to the satisfaction of the inquiry and hopefully the Council’s position.<sup>37</sup>

**Other Considerations**

45. Beyond the specific areas identified by the Inspector, there will be an array of other considerations to which significant weight ought to be attached.
46. On the question of **affordable housing need**, the evidence of the Appellant will also demonstrate just how acute the need is locally, and how this reflects the picture nationally. The offer is beyond policy compliant – 40% instead of 30%. This is not to sway the decision-maker by attaching more weight than would be expected, but rather it speaks to the seriousness with which the Appellant is treating the urgency to meet this need in Cherwell. This is not available without the market housing. At the time of writing, there is no dispute between the parties as to the proposed tenure split.

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<sup>37</sup> See paragraphs 5.18-5.28 of D M-C POE

47. As **Annie Gingell BSc (Hons) MSc MRTPI** will demonstrate how the need has grown exponentially, from the 2014 SHMA (**407** affordable dpa) to the 2022 HENA (**853** affordable dpa), meaning that between 2022 and 2032, Cherwell is hoping that the equivalent of **8,530** affordable dwellings over a decade is a tall order. Which is why the Appellant is keen to assist in this important endeavour, hence the 10% extra on offer.
48. But that's not all for the broader picture. The inquiry will be shown some disturbing evidence of the reality faced by those on the local Housing Register, what is actually available to them in Cherwell, what the private rented sector looks like in this part of Oxfordshire and the significant, and what must feel like insurmountable challenges, faced by local charities. This all adds to the broader stark local picture.
49. Cherwell is just not meeting these local needs. A number of sites relied upon in the 5YHLS will just not meet this need. There is now a serious affordability crisis here. This proposal offers a unique opportunity to counter this challenge.
50. Vistry Group, the Appellant in this matter, is a leading provider of affordable mixed tenure homes delivered through a Partnerships-led approach. They seek to explain to the inquiry how they see the national context, the affordability pressures and their impact on society, and how a business cannot divorce itself from such a reality on the ground. Whilst a national builder, they have strong ties locally too.<sup>38</sup>
51. Ultimately, against that background, in granting consent to this scheme, the Inspector will be giving consent to **68 affordable dwellings** on this site.

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<sup>38</sup> Appendix 1 to D M-C POE

52. In **design** terms, the evidence of **Mike Carr** will demonstrate how this proposal has been design and landscape led from the start. There has been strong and consistent coordination between the experts and disciplines around landscape, heritage and design. Whilst of course it is right to acknowledge that this proposal is in outline, from the start, the design approach sought to keep the following in mind;
- a. Provide a significant (both in size and quality) landscape gap between the proposals in Banbury and Hanwell village;
  - b. The Warwick Road context, the sense of separation, arrival / departure from Banbury;
  - c. Land to the east (Parcel B) assessed as visually sensitive (especially as compared to Parcel A) to be retained as open space;
  - d. A key focus on retaining and enhancing pedestrian links within the attractive green spaces; and
  - e. To provide at this early stage a planning indicative street structure within the development envelope.
53. Ultimately, the proposal is in outline form. However, as the illustrative masterplan, the CGI illustrations, the Design and Access Statement, the Landscaping Strategy proposed, and the fact that detail is on offer – this is a well-designed scheme. The developer has produced sites in closed proximity to the present one. It understands what it means to respond positively to context, reflecting the local character and ultimately seeking to build a place where people may wish to call home.

54. The contributions to be heard from the **Interested parties** is important for the inquiry. We are highly conscious of the local strength of feeling around this site and what is perceived to be the likely impact it will have on Hanwell. We hope for a positive and enlightening process that will seek to respond to local concerns in the most positive way possible. In terms of specific concerns raised by the local community, we have sought to address them in the relevant Proofs of Evidence.<sup>39</sup>

### **PLANNING BALANCE**

55. The starting point of any assessment is Section 38(6) of the Planning Compulsory Purchase Act 2004: that a planning application will be determined in accordance with the LP unless material considerations indicate otherwise. To this end, there is the exercise of assessing the harms against the benefits in order to reach a balanced conclusion. This balance, the Appellant shall contend, will come down in favour of granting consent, with or without the application of the *tilted balance*.

56. One of the unique features of these proposals relates to 5.3ha (53% of the site) being retained as **open space** creating new habitats or nature. This large amount of open space enables the provision of a low-density development appropriate mindful of the proximity to Hanwell.

57. There will be **significant environmental benefits** which would be delivered. The site wide CO2 emission reductions of greater than 31% over Part L Building Regulations standards through a combination of fabric efficiency measures and the utilisation of renewable energy. This also goes beyond the Council's own objectives for new

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<sup>39</sup> i.e. Section 3 of Mike Carr POE, Section 7 of D M-C's POE

dwellings as set out in the emerging Local Plan.<sup>40</sup> Further, the proposals seek to achieve a net gain Biodiversity, with 38% for habitats and 10% for hedgerows, which is similarly more than the emerging Local Plan position of 10%.<sup>41</sup>

58. On the **design front**, the Appellant has sought to offer more information than is necessary at the outline stage. As set out in Mr Carr's evidence above, this iterative design is a positive response to this context.<sup>42</sup>

59. One hopes that by the end of the inquiry some clarity shall emerge. In the meantime, it would be extremely useful to remind the inquiry of the overwhelming benefits at stake and which are currently being held up.

- a) Delivering 170 new homes in a sustainable location, *substantial weight*
- b) 68 no. affordable dwellings above policy, *substantial weight*
- c) Significant environmental benefits; *significant weight*
- d) High quality design led response to Banbury and wider local area; *moderate weight*
- e) The economic benefits of employment and local community spending, as encouraged by NPPF 81, *significant weight*.<sup>43</sup>

60. The following significant amount of benefits can be attribute **moderate weight**;

- i. Improvements to the PRoW and better connectivity;
- ii. Highways improvements and SuDS;
- iii. Enhancement to open space and play provision;
- iv. Significant financial contribution to education provision;

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<sup>40</sup> Core Policy 4 will require that new dwellings achieve a 63% reduction in carbon emissions as compared to the baseline emission rate set by Building Regulations Part L 2021

<sup>41</sup> Core Policy 12 will require a minimum of 10%

<sup>42</sup> NPPF 139 invites that 'significant weight' be given to high quality design

<sup>43</sup> See 6.47-6.49 of D M-C POE and Appendix DMC2

- v. Financial contribution towards increasing the capacity of the GP surgery;
- vi. Net gain for biodiversity of 38 % for habitats and 10% for hedgerows;
- vii. Generating significant additional Council Tax Revenues from new households generated from the development.

61. The benefits of this proposal are overwhelming. In the context of a *titled balance*, this is plainly a proposal that should be granted consent *without delay*. In the alternative, in so far as such a reality exists here of a ‘flat balance’, there are no harms alleged that **significantly** and **demonstrably** outweigh the benefits of these proposals.
62. In this instance, just as the Appellant’s witness **David Murray-Cox MRTPI** will do, the NPPF recommends that any proposal which accords with the development plan as a whole should be granted consent *without delay*.<sup>44</sup>

### **CONSEQUENCES OF DISMISSAL**

63. The consequences of dismissing this appeal must also be considered. This site is highly unconstrained and sustainable. It allows for the second largest settlement in Cherwell to meet a need that’s there now and only growing into the future. There are no technical constraints and no new Local Plan in sight. And in so far as it gives an understanding of the direction to travel, it supports this proposal.
64. We have a Council that’s in denial about this need, wishes to ignore the reality to suit its own narrative. Where Inspectors have shown them the way, they still resist. What stands in the way here are qualitative objections (landscape) and poorly judged objections around heritage. There are no fundamental show stoppers.

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<sup>44</sup> See a simple and compelling summary and conclusion in D M-C POE at Section 9

65. To not allow such a scheme to proceed here, it is highly likely that pressure will be placed on other more constrained areas. Cherwell has significant amount of Green Belt and other land constraints. To withhold consent would sterilise this site and mean consideration will have to be had for green belt sites.

## **CONCLUSION**

66. There are no ‘in principle’ objections to this proposal. The lack of constraints and the desperate need for housing – even on the Council’s case – makes this a compelling case.

67. For all the aforementioned reasons, and for the reasons to be heard at the inquiry, this is a proposal that should not have been refused consent. We commend our case to this inquiry. The Inspector is respectfully invited to allow this appeal.

**HASHI MOHAMED**

Landmark Chambers

180 Fleet Street

London

**3 June 2024**